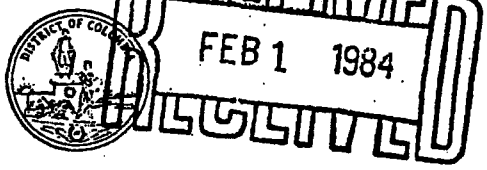
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Wilkes, Artis, Hedrick & Lane, Chartered



Application No. 14044, of 2148 O Street Associates, Limited Partnership, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.46 to use the first floor of the subject premises as an institution of higher learning for Cornell University (seminar rooms, lecture rooms, library, studio, Cornell Club, faculty and administrative offices) in an R-5-B District at premises 2148 O Street, N.W., (Square 69, Lot 821).

HEARING DATE: October 19, 1983
DECISION DATE: November 2, 1983

FINDINGS OF FACT:

1. The subject property is located on the southeast corner of the intersection of 22nd and O Streets, N.W. and is known as premises 2148 O Street, N.W. It is zoned R-5-B. The site is 6,300 square feet in size and is improved with a four story plus basement masonry building.

2. The applicant owns the building and has leased the first through fourth floors to Cornell University for ten years with an option to renew, to be used by the University in conjunction with its Cornell-In-Washington Program.

3. The surrounding area is zoned R-5-B and is primarily residential in use, including both rowhouse structures and large apartment houses. Because of its location within a block of both the Dupont Circle retail frontage along P Street and the CR mixed use portion of the West End, and because of its proximity to the Francis Recreation Center and Junior High School on the edge of Rock Creek Park, the area is and will continue to be filled with pedestrian activity.

4. In the immediate neighborhood of the subject property to the north, there is the four story August apartment house and a five story convalescent home across O Street which is nearly ninety foot wide. To the east, across a fifteen foot wide public alley along O Street there is a two story apartment building followed by two and three story rowhouse structures. To the south there are two and three story rowhouse structures. To the west, across the ninety foot wide 22nd Street, there are two story rowhouses with the six story Congressional Quarterly office building

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located diagonally across 22nd Street, on the northwest corner of 22nd and O Streets.

5. The structure, formerly a thirty-five unit apartment building which has been vacant for over a year, contains 26,077 square feet of gross floor area on four floors and in the basement. The upper three floors have been renovated and have been used as faculty and student residential units for the Cornell-In-Washington Program since September, 1983. The first floor and basement are vacant and unrenovated. Some windows are broken and others boarded up. The existing structure covers the entire site except for a four foot, eight inch set back from the alley and an eight foot wide access way to a twenty-four foot square court containing the rear entrance.

6. Under Paragraph 3101.46 of the Zoning Regulations, a college or university which is an academic institution of higher learning, including a college or university, is permitted as a special exception provided that:

A. Such use is so located that it is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions;

B. The applicant shall submit to the Board 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 buildings, parking and loading facilities, screening, signs, streets, and public utility facilities, athletic and other recreational facilities, and a description of all activities conducted or to be conducted herein, and of the capacity of all present and proposed campus development;

C. Within a reasonable distance of the college or university campus, the Board may also permit the interim use of land or improved property with any use which the Board may determine is a proper college or university function; and,

D. Before taking final action on an application for such use, the Board shall have submitted the application to the District of Columbia Office of Planning and the District of Columbia Department of Transportation for review and report.

7. The applicant proposes to use the first floor of the subject premises as an institution of higher learning for Cornell University for seminar rooms, lecture rooms, library, studio, Cornell Club, faculty and administrative

offices. The upper three floors are used as a residence facility for the staff and students. Such floors are not past of the subject application nor is the basement which is vacant and which the applicant intends to lease in accordance with the uses permitted in the R-5-B District.

8. Cornell University is an academic institution of higher learning established pursuant to a charter from the State of New York in 1865. The main campus is located in Ithaca, New York. It is fully accredited and authorized to confer degrees. Cornell University qualifies as a university under the Zoning Regulations.

9. The Cornell-in-Washington Program has been in existence for three years and is designed to offer honor students from all colleges within Cornell University an opportunity to earn full academic credit for a semester in Washington, D.C. Students take courses from Cornell faculty, conduct individual research or design projects and work as interns.

10. There are three components of the program. Eligible students in one component may enroll in courses in the others. The first component is the Public Policy Program which is designed to allow students to take advantage of the rich resources of the nation's capital to study American public policy and the institutions and processes through which it is formulated and implemented. A major part of the Program is the opportunity to work as an intern. The second component is in the College of Industrial and Labor Relations where juniors and seniors are eligible to participate. All students work in internships related to their major fields of study and are eligible to participate in one or more seminars. The third component is the Architecture Program, which is designed to provide a period of intensive exposure to the characteristics of urban development within the framework of a design studio. The program is structured to provide opportunity to combine an academic term with a period of professional employment. A student may elect to take courses in the fall or spring term and combine this with an internship in the summer.

11. The second, third and fourth floors of the subject building are used as a matter-of-right as residential units for housing faculty and students. Approval of the first floor for educational use will allow the University to consolidate the entire program into a single structure.

12. Use of the first floor will be for lecture and seminar rooms, a library, an architectural studio, faculty and administrative offices and an office to be shared by the Cornell Club of Washington and the University's Regional Public Affairs Office. The administrative staff will consist of the Executive Director of the program and one full-time secretary.

13. Courses are taught during the day and on some evenings, with the major portion of the courses taught on Thursdays and Fridays. The architecture studio will be open at all times and the library will be open both during the day and evening for reserved reading.

14. The Cornell Club's space at the subject site would be used as a repository for files and other materials related to the membership and activities of the Club. Monthly board meetings of approximately fifteen persons would be held there, in addition to periodic committee meetings of about six persons. The Club also intends to have a reception at the beginning of each semester for the Cornell-in-Washington students, the majority of whom would be residents of the building.

15. The proposed use as an institution of higher learning will not be objectionable because of noise since the use is entirely self-contained within the masonry building and is such that it does not generate noise. There are no outdoor recreational facilities. The upper floors of the subject building will be used as faculty and student residential units and therefore, should not be disturbed by the educational use of the first floor. Also, the faculty will supervise the students on the upper floors.

16. With respect to traffic impacts of the project centralization of the residential space with the educational space effectively eliminates the trips that would be generated if the students and faculty had to travel to another location. Also, the University discourages students from bringing private automobiles to the subject site. The site was chosen by the University for its close proximity to mass transit. A survey taken of the existing students in the program concluded that ninety-seven percent rely on public transportation and walking as their main forms of transportation.

17. The Dupont Circle Metrorail Station is approximately 1,600 feet from the site. Numerous bus routes operate on the street system leading to and from the Dupont Circle area. Service is provided to most areas of the city and the suburbs at two to for minute intervals during peak periods and six to eight minute intervals during off-peak hours.

18. There will be a maximum enrollment of seventy-five students. Currently, there are seventy-four students enrolled, of whom fifty-six live in the residential units on the upper floors. Sixteen of the remaining eighteen students live in the neighborhood. Only upper class and graduate honor students are selected to participate in the Cornell-in-Washington Program and the University expects its students to be exemplary residents while living in the City. The

maximum number of faculty and administrative staff using the first floor at any given time will be six.

19. The University has installed a security system for the safety of all students and residents of the building. Additionally, all windows and doors will be secured and a gate will be constructed to secure the rear court yard area. Maintenance of the building, including trash removal, is performed by a private contractor.

20. The floor area ratio for the proposed use is 0.82, which does not exceed the gross floor area of 1.8 prescribed for the R-5-B District.

21. The proposed use as described herein constitutes the University's entire long-range plan for development. There will be no interim use of off-campus property.

22. The Office of Planning, by report dated October 12, 1983, recommended that the application be approved conditionally. The Office of Planning reported that an institution of higher learning is permitted in an R-5-B District provided it does not adversely impact neighboring property because of noise, traffic or number of students. In this instance, the subject application is for the first floor only, for the academic functions of the Cornell-In-Washington Program. Because the educational use of the first floor will be self-contained within a masonry building, the adverse noise impacts of that use should be minimal. As for traffic, the fact that sixty-two of the eighty-two possible students and faculty using the facility will be housed in the same structure, together with the few private automobiles brought and used by students and the high level of transit service in the area, all minimize the need to drive automobiles to and from the building, creating minimal adverse impacts. Finally, the maximum number of students who will use the first floor facility is seventy-five, only nineteen more than would be coming and going without any use of the floor. Because the potential additional adverse impacts appeared to be marginal, the Office of Planning recommended approval of the subject application with the following conditions:

a. That the maximum student population not be increased beyond seventy-five.

b. That Cornell continue and expand its efforts to discourage students from bringing private automobiles.

c. That there be no use of the first floor for social gatherings or receptions, either by Program participants or Cornell Club members.

The Board concurs with the reasoning and recommendation of the Office of Planning. The Board will modify and expand the conditions recommended by the Office of Planning in the conditions it attaches below to the granting of the application.

23. The Department of Transportation, by memorandum dated September 21, 1983, reported that the applicant has made no provision for a parking facility to serve the proposed use. There is no practical way to provide off-street parking on the site. The DOT noted that the former use of the site, as a twenty-nine unit apartment building, also provided no off-street parking. The DOT also noted that no matter what use is made of the existing structure, the difficulty of providing off-street parking will remain the same. However, the availability of on-site housing to accommodate most of the students and faculty using the site, together with the high level of transit service in the area, will minimize the need to drive automobiles to and from the building. Additionally, there are several commercial parking garages within three blocks of the site, that could be available for University use. The Board concurs with the DOT report.

24. The Police Department, by report dated September 6, 1983, recommended approval of the application because the proposed project would have little impact on the Police Department.

25. The Fire Department, by memorandum dated September 20, 1983, reported that the proposed use would not affect adversely the operations of the Fire Department.

26. There was opposition to the application at the public hearing and of record by individual property owners, the Dupont Circle Citizens Association and the Residential Action Coalition. The opposition argued that the subject site was in a residential neighborhood but the proposed use was a commercial use and was inappropriate for a residential area. The opposition suggested that the subject structure be developed for apartment use. The opposition further argued that the proposed use included too many activities and that such activities involved many people which would result in a further exacerbation of the already existing traffic problems in the area. Concern was expressed that there would be many social functions which in addition to the traffic problems arising from the presence of the students themselves would involve strangers coming into the neighborhood with their cars creating a further traffic impact. One resident complained of students parking in the alley causing a tie-up in trash pick-up and constituting an impediment for fire engines.

27. A letter from ANC Single Member District Commissioner 2B07 was filed in the record stating opposition to the

application on the grounds that the proposed use was a commercial use. No parking is to be provided and the use would intensify the parking situation in the neighborhood. Also, many residents expressed extreme opposition to the application. The letter was on the personal stationery of and signed by the Single Member District Commissioner. The applicant objected to the Board's giving "great weight" to this report since the report failed to comply with the requirements of Section 108.1 of the Rules of Practice and Procedure before the BZA. The letter was deficient with respect to Sections 108.1 C, D, G, H and I. The Chairman of the BZA determined that although the resolution may not be entitled to "great weight" as would be required by statute if the resolution was actually the resolution of the ANC, the resolution would be part of the record and be considered by the Board.

28. The Board, in addressing the concerns of the opposition, finds that the applicant is seeking its relief through a special exception and not a use variance. The proposed use is not a commercial use. It is permitted in a Residential District with BZA approval. The applicant has no burden to establish that the first floor of the subject premises cannot be used for residential purposes. As to the issue of traffic impact the Board finds that based on Finding No. 17, the DOT report and on the conditions imposed below by the Board, the traffic impact will be minimal. As to the concerns about the effect of social functions, the Board will impose condition on the approval limiting social functions.

29. At the Board's request, the applicant submitted after the hearing a revised architectural drawing which showed the applicant's intention to landscape the site after the renovation of the interior and exterior of the building is complete. The University submitted copies of its rules and regulations that will be used to govern the students. Finally, the applicant informed the Board that it purchased the building in June 1, 1983, and that the building, which had previously been used as a thirty-five unit apartment building, had been vacant for over one year and was in a state of disrepair when it was purchased.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires compliance with the requirements of Paragraph 3101.46 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof.

The Board also concludes that the granting of this special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map and

will not tend to affect adversely the use of neighboring properties in accordance with said Zoning Regulations and Map. The proposed use on the first floor of the subject building will provide a central and convenient location for Cornell students. The Board concludes that the operation of the facility will not impose any adverse conditions upon the neighborhood as a whole or, specifically, upon adjacent or neighboring property owners.

The Board further concludes that the letter submitted by the ANC commissioner is not entitled to "great weight" since it did not comply with the requirements of the Board's Supplemental Rules of Practice and Procedure for an ANC report. The Board notes that the issues raised in the letter were the same as other issues raised in opposition, and those issues have been addressed in this Order. The Board is mindful of community concerns over the impact of the proposed use. The Board will therefore limit approval of the application to a three year period, in order to assess the actual impact of the use as operated. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

a. The Cornell-In-Washington Program shall have a maximum enrollment of seventy-five students.

b. The University shall continue to discourage all students in the Program from bringing private automobiles to the Washington metropolitan area.

c. The University shall prohibit students who reside in the subject building from bringing private automobiles to the Washington metropolitan area unless the student presents evidence that the student has arranged for off-street parking for the term of enrollment in the Cornell-In-Washington Program. Further, the University shall not authorize or permit any student to apply for residential parking permit privileges.

d. The University shall strictly enforce its rules and regulations regarding the conduct of the students.

e. Social events at the site shall be limited to a maximum attendance of 100 persons and shall relate exclusively to student and faculty activities except for the Cornell Club reception for incoming students at the beginning of each semester.

f. The exterior of the subject site and the interior on the first floor shall be renovated and landscaped

in accordance with the revised architectural drawings submitted as Exhibit Nos. 29A and 36A.

g. Approval shall be for a period of THREE YEARS from the date of this Order.

VOTE: 3-1 (Douglas J. Patton, Charles R. Norris to grant; Walter B. Lewis to grant by proxy; William F. McIntosh opposed; Carrie L. Thornhill not voting, not having heard the case).

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

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

FINAL DATE OF ORDER: JAN 31 1984

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.

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