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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14623, of 2148 O Street Associates, Limited Partnership, pursuant to 11 DCMR, Sub-section 3108.1 for a special exception under Section 210.1 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: July 8, 1987
DECISION DATE: July 30, 1987

FINDINGS OF FACT:

1. The site is located on the southeast corner of the intersection of 22nd & O Streets, N.W., and is known as premises 2148 O Street, N.W. The site is located in an R-5-B District.

2. The site is rectangular in shape with a frontage of 63 feet along 22nd Street and 100 feet along O Street. A 15 feet wide public alley abuts the site to the rear. The site comprises 6,300 square feet and is improved with a four story plus basement masonry building. The structure covers the site except for a four foot eight inch set back from the alley and an eight foot wide accessway to a 24 square foot court at the rear of the structure.

3. The applicant owns the building and has leased the first through fourth floors to Cornell University for ten years with an option to renew. The University uses the building in conjunction with its Cornell-in-Washington program. The University is currently in the fourth year of its lease.

4. 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 filled with pedestrian activity.

5. In the immediate neighborhood of the subject property to the north, there is a four story apartment house

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

and a eight story convalescent home across O Street. To the east, across the public alley, 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 22nd Street which is 90 feet in width, there are two story rowhouses. The six story office building of Congressional Quarterly is located diagonally across 22nd Street, on the northwest corner of 22nd and O Streets.

6. The structure, formerly a 35 unit apartment building, contains approximately 26,077 square feet of gross floor area on four floors and in the basement. The building was vacant for over a year before Cornell moved in four years ago. 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. Pursuant to Board approval in BZA Application No. 14044, the first floor was renovated for Cornell University for use as an institution of higher learning for Cornell University for a period of three years.

7. Pursuant to 11 DCMR Sub-section 3108.1 the applicant is seeking a special exception under 210.1 to continue to use the first floor of the premises as an institution of higher learning for Cornell University.

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 seven 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 externs.

10. There are two components of the program conducted on site. Eligible students in one component may enroll in courses in the other. 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 Capitol to study American public policies and the institutions and processes through which they are formulated and implemented. A maior part of the program is the opportunity to work as an extern. The second component of the program is the Architecture program, which is designed to provide a period of intensive exposure to the characteristics of urban development within framework of a design studio. The program is

structured to provide students with the 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 work with an intership in the summer.

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

12. Use of the first floor is for lecture and seminar rooms, a library with computer capability, an architectural studio, faculty and administrative offices and an office for the Cornell Club of Washington. 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 some evenings, with the major portion of the courses taught on Thursdays and Fridays. The architecture studio and the library are open at all times. The library is used for reserved reading and computer work.

14. The Cornell Club space is used as a repository for files and other materials related to the membership and activities of the Club. Monthly Board and periodic committee meetings are held in the Center. Approximately 15 persons attend the committee meetings. The Club also conducts receptions at the beginning of each semester for the Cornell-in-Washington students.

15. The uses are entirely self-contained within the masonry building and do not generate noise which will project to the exterior of the structure. There are no outdoor recreational facilities associated with the program.

16. The centralization of the residential space with the educational space effectively eliminates trips that would have been generated if students had to travel to another location. The University actively discourages students from bringing private automobiles to the site. If a student insists on bringing a car to the program, he must provide written evidence to the Executive Director of the program that the car will be parked either in a private garage or off the area streets. The site was chosen by the University because of its close proximity to mass transit. A survey taken of the students during the Spring 1987 semester concluded that 97 percent of the students 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 four minute intervals during peak hours and six to eight minute intervals during off-peak hours.

18. There is a maximum enrollment of 75 students for the programs. During the Spring 1987 semester, there were 63 students enrolled in the program and 57 lived in the residential units on the upper floors of the structure. The remaining students lived in the neighborhood. Students must have high academic credentials in order 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 is 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 are secured and a gate has been constructed to secure the rear courtyard area. At the beginning of each semester, the students are given an orientation by the local police department to educate them about certain aspects of urban living. Maintenance of the building, including trash removal, is performed by a private contractor.

20. The University has no long range uses intended for the site other than those proposed in the application. There will be no interium use of off campus property.

21. Cornell representatives testified that in addition to complying with all applicable laws and regulations regarding handicapped access, they would work with the owner in undertaking a study to determine whether the building feasibly may be made accessible to the handicapped. The lot lines coincide with the building line so that the building's entrance is in public space. As a result, a ramp from the street to the first floor providing handicapped access would have to be placed in public space.

22. Cornell representatives testified that they would work with the owner in studying the feasibility of available options for effective trash management in order to insure that the trash dumpsters are used only by Cornell and other occupants of the building, including options to minimize or eliminate the need for trash dumpsters adjacent to the alley, to employ a trash compactor in the building, or to secure access to and provide an enclosure for the trash dumpster.

23. The Office of Planning, by memorandum dated May 20, 1987, stated that after a preliminary review of Application

No. 14623, it was determined that a prehearing report would not be filed because the hearing on the case would develop the issues sufficiently to enable the Board to reach a decision. In considering the original application, Application No. 14044, the Office of Planning, by report dated October 12, 1983, recommended that the application be approved with certain conditions. The Office of Planning's recommendations regarding the imposition of a maximum enrollment of 75 students and car restrictions were incorporated by the Board as conditions in Order No. 14044.

24. There was no report filed by the Department of Public Works (DPW) in this case. In Case No. 14044, DPW, 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 Department of Public Works noted that the former use of the site, as an apartment building, also provided no off-street parking. DPW also noted that no matter what the use is, off-street parking will remain the same. The availability of on-site housing to accommodate most of the resident faculty, students and graduate student advisors 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 are available for university use. The Board concurs with the DPW reports in the prior case and adopts the rationale of that report in the instant case.

25. A letter from the Chairperson of Advisory Neighborhood Comission 2B dated June 26, 1987 was filed in the record stating that the ANC voted 4-0, with one abstention, to approve the subject application subject to the same conditions that were included in the previous BZA Order and for a period of six years.

26. There were two letters in support of the application filed in the record in this case by area citizens. In a letter dated July 6, 1987, a resident of Newport Place stated that the use of the property has not resulted in any adverse impacts on the area. The letter specifically noted the lack of any adverse traffic impacts. Five residents of the building immediate east and across the alley from the subject building expressed their support of the application in a letter dated June 29, 1987.

27. There was opposition to the application at the public hearing by an individual property owner and the Residential Action Coalition. The opposition argued that the continued use of the first floor as an institution of higher learning for Cornell University was a commercial use that is inappropriate for a residential area. The

opposition expressed concern over the size of the Cornell Club, the trash management, and the possibility of the upper floors functioning in the future as something other than a residence for Cornell students. The Board disagrees with these concerns and finds that each one of these concerns is addressed adequately by the conditions imposed in this order.

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 Section 3108.1 of the Zoning Regulations. The Board concludes that the applicant has met the burden of proof. The use is so located that it is not likley to become objectionable to neighboring property owners because of noise, traffic, number of students or other objectionable conditions.

By the previous BZA application the Board approved the plan for the use of the building. The Board notes that although the Office of Planning and Department of Public Works submitted no reports to the record on the subject application, both agencies recommended approval of the previous application.

The Board further concludes that the granting of the 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 the said Zoning Regulations and map. The proposed use on the first floor of the subject building has provided a central and convenient location for Cornell faculty and students. The Board concludes that the operation of the facility has not imposed any adverse conditions upon the neighboring as a whole or, specifically, upon adjacent property owners. The Board further concludes that it has accorded to the ANC the "great weight" to which it is entitled.

Accordingly, it is ORDERED that the application is GRANTED subject to the following CONDITIONS:

1. The use of the site shall be limited to the Cornell-in-Washington program.

2. The Certificate of Occupancy for the first floor of the building shall be issued for the period of time that Cornell can demonstrate to the Zoning Administrator that the second, third, and fourth floors of the building are occupied only for residential purposes by students and faculty affiliated with the Cornell-in-Washington.

3. The Cornell-in-Washington program shall have a maximum enrollment of 75 students. The maximum number of faculty and administrative staff using the first floor at any given time will be six.

4. The University shall continue to implement its program discouraging all students in the program from bringing private automobiles to the Washington metropolitan area.

5. The University shall prohibit students who reside in the structure 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.

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

7. 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.

8. The University, as tenant, will comply with all applicable local and federal laws and regulations regarding access to the building for the handicapped. To the extent that any ramps or other means of handicapped access are deemed required, the applicant is granted the flexibility under the approved Campus Plan to do so.

9. The Cornell-in-Washington program shall in conjunction with the owner, study ways to implement a trash management program. If a more appropriate location for the dumpsters is identified pursuant to that study, applicant is granted the flexibility under the approved Campus Plan to adjust the location of trash storage, not exclusive of possible interior locations.

10. The Cornell Club will restricted to its current space, which is designated as Room 9 on the approved Campus Plan submitted in this case.

VOTE: 5-0 (Charles R. Norris, Paula L. Jewell, William F. McIntosh, Lindsley Williams and Carrie L. Thornhill to grant)

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

DEC 22 1987

FINAL DATE OF ORDER: _____

UNDER 11 DCMR 3103.1, "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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