Government of the District of Columbia
Office of Zoning

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Alberto P. Bastida, AICP
Secretary to the Zoning Commission

DATE: August 2, 2004

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on August 13, 2004:

1. Z.C. Order No. 03-32-A (Case No. 03-32).

Linda Jenkins
Received By

8-2-04
Date

Attachments

ZONING COMMISSION
District of Columbia
CASE NO. 03-32
EXHIBIT NO. 31

441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001
Tel: (202) 727-6311 • Fax: (202) 727-6072
E-Mail: zoning info@dcoz.dcgov.org • Web Site: http://dcoz.dcgov.org/

ZONING COMMISSION
District of Columbia
CASE NO.03-32
EXHIBIT NO.31

ZONING COMMISSION ORDER NO. 03-32-A
Case No. 03-32
(Amendment to Approved Campus Plan and Further Processing – Cornell University)
July 29, 2004

Application No. 03-32 of Cornell University (the "Applicant"), pursuant to 11 DCMR §§ 210 and 3035, for an amendment to an approved campus plan and further processing for the campus of Cornell University's Cornell Center, located on the first floor and lower level of the building at the southeast corner of the intersection of 22nd and O Streets, N.W. at premises 2148 O Street, N.W. (Square 69, Lot 821). In accordance with 11 DCMR §§ 210 and 3035, this case was heard by the Zoning Commission under the rules of the Board of Zoning Adjustment, at Chapter 31 of 11 DCMR.

HEARING DATE: December 11, 2003

DECISION DATE: December 11, 2003 (Bench Decision)

CORRECTED* SUMMARY ORDER

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Applicant requests special exception approval of an amendment to an approved campus plan and further processing under the approved campus plan to permit an expansion of educational and related administrative uses to the basement of an existing building 2148 O Street, N.W. (Square 69, Lot 821).

The Commission provided proper and timely notice of the public hearing on the application by mail sent to the Applicant; Advisory Neighborhood Commission ("ANC") 2B, the ANC in which the subject property is located; and owners of property within 200 feet of the property that is the subject of the application. Notice of the hearing was published in the *D.C. Register* on October 24, 2003 (50 DCR 9023).

ANC 2B was automatically a party to this proceeding. With a quorum present at a duly called public meeting, ANC 2B unanimously approved a motion in support of the application.

* This Order reflects a change made on page 4 whereby the first paragraph was deleted and replaced with two paragraphs referencing construction involvement in the project.

By written report dated November 18, 2003, and through testimony at the public hearing, the D.C. Office of Planning recommended approval of the application subject to ten (10) conditions consistent with those previously adopted by the Board of Zoning Adjustment in approving a campus plan for the subject property (BZA Application No. 14623, December 2, 1987).

As directed by 11 DCMR § 3119.2, the Commission required the Applicant to satisfy the burden of proving the elements necessary to establish the case for a special exception under 11 DCMR § 210. No person or entity appeared at the public hearing in opposition to the application or requested to participate as a party in this proceeding. Accordingly, a decision by the Commission to grant this application would not be adverse to any party.

Based on the record before it, the Commission concludes that the Applicant has met the burden of proof under 11 DCMR §§ 210 and 3104.1, and that the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. It is, therefore, **ORDERED** that the application is **GRANTED**, subject to the following **CONDITIONS**:

1. The use of the first floor and lower level shall be limited to the academic and administrative functions of the Cornell in Washington program and other Cornell academically related programs.

2. The Certificate of Occupancy for the first floor and lower level 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 program.

3. The Cornell in Washington program shall have a maximum enrollment of 75 students. The maximum number of Cornell in Washington faculty and administrative staff using the first floor and lower level at any given time be eight (8) to ten (10). Additionally, up to approximately ten (10) Cornell researchers or other academically related personnel may occupy the lower level.

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 discourage students who reside in the structure from bringing private automobiles to the Washington metropolitan area. Students who do bring private automobiles shall be required to provide evidence that he/she 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 shall 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, the 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 office space will be moved to the lower level space as shown on the Conceptual Plan for the lower level submitted in this case.

Pursuant to 11 DCMR § 3100.5, the Commission has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Commission be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: **3-0-2** (Carol J. Mitten, Anthony J. Hood, and Peter G. May to approve; John G. Parsons and James H. Hannaham not present, not voting.)

BY ORDER OF THE D.C. ZONING COMMISSION
Each concurring member approved the issuance of this order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
DIRECTOR, OFFICE OF ZONING

FINAL DATE OF ORDER: _____.

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN (10) DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.