

Fisher IMP Review

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Preface

This document is a compilation of twenty memos on various elements of Fisher's Institutional Master Plan (IMP), three of which (#3, 4, and 5) were previously sent as separate comments.

Its goal is to consider the degree to which the plan meets the requirements of the Scoping Determination and fulfills the commitments made by Fisher to the BRA in its letter of August 13, 2013 (see copy appended to memo #7).

These are being filed with the BRA in my capacity as an individual, and not as a NABB board member or member of the Good Neighbor Committee (GNC) that has been negotiating the terms of a Good Neighbor Agreement (GNA) with Fisher.

In addition, I am including four backup memos on mitigation topics that I wrote on behalf of the GNC, which were used as part of our GNA negotiations with Fisher.

While each memo is meant to be self-supporting, I have created a suggested reading order shown in the table of contents below.

At 237 pages, the document is approximately the same length as the IMP, but with substantially more in-depth analysis. Readers who do not have the time or interest in perusing the entire document should review summary memo #1 and material changes memo #2, along with any of the one-page summaries at the beginning of the other memos.

I hope that these prove useful to the BRA in its Adequacy Determination review.

Respectfully submitted,



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Table of Contents

Memo #	Subject/Title	Page
Overview		
1	Summary and Rescoping Request	5
2	IMP Material Changes	8
Fisher Plan Adequacy		
3	Fisher Student Housing Plan	10
4	Fisher and the Mayor's Housing Plan	19
5	Fisher Non-Dorm Adequacy	26
6	Scoping Determination Requirements: Campus Demographics And Employment	30
Fisher's No-Growth Pledge		
7	Fisher's No-Growth Commitment	43
Fisher Plan Economics		
8	Fisher Economic Development	53
9	Economics: Fisher Expansion Outside of Back Bay	59
Serving Boston and Minority Students		
10	Fisher Performance In Serving Boston and Minority Students	67
IMP and Mitigation		
11	GNA Agreement Pledge	74
12	Comments on Fisher IMP Chapter 7: Transportation	78
13	Fisher IMP Comments on Smoking	89
14	Fisher's IMP Comments on Student Behavior and Enforcement	92
Fisher Community Contributions		
15	Value of Fisher Community Contributions	98
16	Fisher PILOT Compliance	105

Memo #	Subject/Title	Page
Memos on Specific IMP Projects		
17	Fisher IMP Project 1: Conversion of 10/11 Arlington Street	108
18	Fisher IMP Project 2: Conversion of 111 Beacon Street	111
19	Fisher IMP Project 3: Adding 48 Dorm Beds on Beacon Street	117
20	Fisher IMP Project 4: The College Terrace	122
Backup to Mitigation Section: Memos Written on Behalf of the Good Neighbor Agreement Committee		
21	GNA Committee Proposals: Traffic/Parking/Logistics	129
22	GNA Committee Back Street Update	185
23	GNA Committee Observations on Smoking	193
24	GNA Committee Proposals: Student (and Staff) Behavior	214

1. Summary and Rescoping Request

1. Summary and Rescoping Request

My review of Fisher's IMP suggests that it is substantially deficient along a number of critical dimensions, and therefore should not be given a positive Adequacy Determination by the BRA.

Key Findings

- The plan is fundamentally inadequate, in that both the Student Housing Plan and the plans for additional non-dorm space do not meet the expansion needs of the school over the 10-year IMP period; nor is there any provision for growth after 2024. It also does not meet the goals of the Mayor's new housing plan calling for a 50% reduction in the share of non-dorm students by 2030.
- The level of information provided in IMP Chapter 3 falls well short of the "thorough explanation" required in section 3 of the Scoping Determination, making appropriate plan evaluation problematic. In particular, Fisher provides no quantitative support for its interesting Chapter 3 claim (*Academic Plan Limits Effects of Enrollment Growth*) that due to a projected reduction in intensity of use per student, there will be little if any increase in aggregate intensity of use in its facilities in the next ten years.
- Fisher has failed to honor the commitments that it made to the BRA in its letter of August 13, 2013,¹ in which it agreed to: (a) a no-expansion commitment beyond the properties that it owned at that time; (b) develop student housing expansion options outside of the residential Back Bay; and (c) enter into a Good Neighbor Agreement with its neighbors that would be appended to the IMP.
- The IMP fails to demonstrate any substantial economic benefit to the City of Boston. I was astonished to learn that Fisher only employs 26 Boston residents (9% of its total staff), and that if the staff-to-student ratio remains constant, it will only add 9 additional Boston residents by 2024. Of the nine major vendors it names, only one even has a branch office in Boston.
- Fisher's discussion of transportation, smoking and student behavior mitigation issues do not reflect the seven months of GNA negotiations to date between Fisher and the Good Neighbor Committee (led by Chief of Neighborhood Engagement Jerome Smith). Instead, the IMP narrative wrongly attempts to suggest to the BRA that Fisher has already dealt with the neighbors' concerns -- thereby implying that these issues are no longer barriers to IMP approval.

As anyone who has attended our GNA meetings knows, the neighbors and Fisher continue to have strongly differing opinions on a number of subjects -- yet the existence of these disputes have been expunged and replaced in the IMP by a fantasy world in which Fisher has heard our problems and has unilaterally 'taken care of them.'

- Fisher is a serial violator of city and state regulations, most egregiously:
 - Its behavior with respect to 111 Beacon Street (e.g., operating 111 as an institutional building for four years without zoning approval)
 - Its multiple roof extensions on the Fisher Mall and other buildings without proper ISD inspections and BBAC Certificates of Appropriateness
 - A long history of transportation-related violations, including blocking fire exits next to its loading dock.
 - Allowing smoking on its premises directly adjacent to entrances/exits.

¹ See copy appended to memo #6.

Rescoping Recommendations

Based on the arguments advanced in my memos, I request that the BRA rescope the Fisher IMP to correct the following critical issues that the College failed to address properly in its May 2015 document:

1. Fisher should develop a Student Housing plan that fully meets its enrollment growth-based needs and reflects an agreement with the City regarding the City's Housing Plan (i.e., reducing the fraction of off-campus students by 50% in 2030).
2. Fisher should develop a plan for non-dorm needs that meets adequacy and longer-term sustainability tests, with options that include adding non-dorm space outside of the residential Back Bay.
3. Fisher should provide the "thorough explanation" of demographic and employment trends required in section 3 of the Scoping Determination.
4. Fisher should explain in detail the underlying assumptions behind its statements made in Chapter 3 of the IMP (*Academic Plan Limits Effects of Enrollment Growth*) that due to decreased intensity of use per student, there will be little if any increase in aggregate intensity of use – and why, if this is the case, Fisher needs additional square footage to meet its planning needs.
5. Fisher should explain in the IMP how it will implement (or has implemented) the commitments that it made to the BRA in its August 13, 2013 letter; i.e.
 - Holding 115/139/141 Beacon for investment purposes only
 - Executing a GNA with its neighbors that it could then append to the IMP
 - Committing to no further growth in residential Back Bay beyond the properties it owned as of August 13, 2013
 - Developing options for growth outside of Back Bay.

In particular, Fisher should address the issue of the permanency of its commitments and willingness to enter into binding contracts with the community.

6. The City should require Fisher to complete its GNA negotiations with its neighbors (successfully or unsuccessfully) and implement any agreement elements before the IMP is allowed to continue. At that time, Fisher should append the GNA to the IMP and revise the IMP in a manner consistent with the GNA terms.
7. Fisher should be required to develop plans that increase the benefits for the City of Boston and which minimize prospective damage to abutter/proximate abutter properties. As two possible options:
 - Fisher should develop plans to increase its employment of Boston residents (who only constitute 9% of Fisher Back Bay employees) and Boston vendors
 - Fisher should consider options for expansion outside of Boston that will increase construction jobs in Boston
8. Fisher should correct all violations of city, state and federal law in advance of any IMP review.

2. IMP Material Changes

2. IMP Material Changes

At the BRA public meeting on June 22, 2015, Fisher in its PowerPoint presentation made two material changes in the IMP:

- It published a new Non-Expansion Zone map, showing areas in residential Back Bay and Beacon Hill in which it would not seek to grow further (beyond the four projects in its IMP) for a ten-year period.
- It stated that it would be prohibiting smoking by its students and staff on A/B Beacon, beginning in January 2016

Leaving aside the acceptability of these concessions to the neighbors, each represents a material change in the IMP as filed on May 13, 2015.

The changes in smoking policy, in particular, impacts Project 2 (Conversion of 111 Beacon Street) and Project 3 (Adding 48 Dorm Beds on Beacon Street), since students and staff regularly smoke in front of these buildings. Accordingly, the smoking prohibition arguably is a “material change” from an 80A-6 perspective:

SECTION 80A-6. Project Changes and Lapse of Time. The Applicant shall, and others may, notify the Boston Redevelopment Authority of any material change in a Proposed Project ...

In the event of a material change in a Proposed Project ... the Director of the Boston Redevelopment Authority shall determine whether the project change ... significantly increases those impacts of the Proposed Project... that are within the scope of the required review, and whether such increased impacts warrant resubmission of the ... master plan...; rescoping; supplementary documentation; or a further ... Institutional Master Plan...

As such, I ask the BRA to direct Fisher to revise and refile its IMP to reflect these changes, after which there should be a new comment period.

3. Fisher Student Housing Plan

3. Fisher Student Housing Plan

This memo examines Fisher's Student Housing Plan ("SHP") contained in Chapter 6 of its IMP. Memo #4 will review Fisher's compliance with the specific requirements of the Mayor's citywide housing plan.

My conclusion is that the SHP is *fundamentally inadequate*, in that Fisher will use up its new capacity well before the end of the 10-year IMP planning period. It also is *fundamentally unsustainable*, in that Fisher has no path for continued dorm growth in residential Back Bay, yet it has not begun to consider growth plans outside of the neighborhood (despite being required to do so by the Scoping Determination; and despite a letter to the BRA that it had begun this process in August 2013).

The magnitude of the shortfall (even after assuming approval of Fisher's +48 bed plan) is approximately 70 to 125 beds, depending on whether Stuart Street's 55-bed lease is renewed in the spring of 2017.

A fundamental reason for this inadequacy is Fisher's decision to withdraw its proposed conversion of 115/139/141 Beacon into 129 dorm rooms in the face of overwhelming community opposition, combined with the IMP's surprising failure since 2013 not to seek dorm space outside of the residential Back Bay.

An additional problem with the SHP is that the student enrollment numbers that Fisher shows in its IMP are substantially at variance with the data that it has provided for the Mayor's Housing Report. In the IMP, Fisher says that it had 763 undergraduates in the Fall 2014 semester; while in *City of Boston Student Housing Trends: 2014-2015 Academic Year*, Fisher reported 921 Boston undergraduates (a number that is 21% higher).

In a similar discrepancy, the numbers for students living off-campus in zip code 02116 vary by a factor of almost five between the IMPNF (116) and the IMP (25).

As such, BRA's Adequacy Determination decision becomes obvious. Since the plan is neither adequate nor sustainable, the BRA per its 80D-3 requirements should find that the conditions for a positive Adequacy Determination ruling have not been met. Instead, I urge the BRA to tell Fisher to come back with a revised IMP that is both adequate and sustainable – and with the same numbers that it reports to the Mayor for the City Housing Plan.

* * * * *

Detailed Discussion

Background

Sometime before August 11, 2015 (90 days after the IMP filing on May 13, 2015), the BRA staff must make an Adequacy Determination on the Fisher IMP, in which it will determine if Fisher's plan adequately meets the requirements of Article 80D as well as the specific requirements of the BRA's Scoping Determination issued on September 9, 2013.

One of the central elements of both documents is the need for a Student Housing Plan. From the Scoping Determination, here are the requirements that Fisher's housing plan must address:

3. CAMPUS DEMOGRAPHICS AND EMPLOYMENT

Student Population. *The IMP should provide a thorough explanation of past trends and future projections of the size and other characteristics of Fisher's student body. These data should be referenced as appropriate in other sections, e.g. the Student Housing Plan should make clear the relationship between student population and student housing goals, including targets for percentage of students housed.*

6. STUDENT HOUSING PLAN

*Article 80D mandates that institutions submit a Student Housing Plan as part of the IMP. The IMP should address both the requirements set forth in Article 80D, which are reproduced below, and the additional requirements set forth in this section. **Please also describe how Fisher arrived at its Student Housing Plan including examples of alternative student housing locations.***

Article 80 Student Housing Plan Requirements. *Pursuant to Article 80D, the IMP should address the following*

- *The number of full-time undergraduate and graduate students living in housing facilities owned or operated by the Institution, including a breakdown by type of degree of program (undergraduate or graduate) and type of housing facility (dormitory, apartment, or cooperative housing facility).*
- *The number of housing units owned or operated by the Institution, by type of housing facility (dormitory, apartment or cooperative housing facility).*
- *Any housing requirements or restrictions the Institution places on its students (e.g. eligibility for on-campus housing, requirement to live on campus).*
- *The process by which the Institution directs its students to housing facilities.*
- ***The Institution's short-term and long-term plans for housing its undergraduate and graduate students on-campus and off-campus.***
- *Impacts of the Institution's student housing demand on housing supply and rental market rates in the surrounding neighborhoods, including those neighborhoods adjacent to the Institution's campus and other neighborhoods where the Institution's students are concentrated.*
- *A plan for mitigating the impacts of the Institution's student housing demand on surrounding neighborhoods*
- ***Alternative student housing location analysis***

* * * * *

Looking at these requirements, I make the following observations:

<h4>1. Fisher's Housing Plan Does Not Provide Adequate Dorm Capacity</h4>

The inadequacy of Fisher's housing plan is easily demonstrated by comparing its dorm supply plan against demand:

- The demand for dorms at the College's 2012-2013 42% dorm share will grow to 462 by fall 2024 due to student enrollment growth. This is +173 beds versus the current 289 excluding Stuart Street, and +118 including Stuart Street's 55 beds.
- Against this, the dorm bed supply per the IMP will grow by +48 from 289 to 337 (not including Stuart Street's 55 beds, since the 2017 lease renewal is uncertain).
- As a result, the plan will fall short in 2024 by 125 beds. Even if the Stuart Street lease is renewed (+55 beds), capacity will be short by 70 beds.

I discuss the detailed calculations below:

1.1 Day School Enrollment: *Growing to 1,100*

The Fisher IMP projects that combined day school enrollment² will grow from 763 in Fall 2014 to 1,100 in Fall 2024. This translates to a 3.7% compound annual growth rate over the 10 year IMP period.

1.2 Target Dorm Student Share: *Hold at 42%*

In fall 2012, when Fisher had 820 day students, 344 (42%) lived in Fisher dorms or the leased Stuart Street facilities, with a lengthy waiting list. Based on this, Fisher strongly argued in its IMPND that this 42% dorm student share needed to be maintained, and that it was “a minimum.”³

Of those students who attend the full-time Day program, 42% are resident students in Fisher-sponsored dormitories, and the remaining 58% of students commute. In keeping with the transition to a greater baccalaureate emphasis, Fisher wants, at a minimum, to maintain that ratio – IMPNF pp. 6-7

*The beds proposed in this IMPNF represent **the minimum beds necessary** to allow the college to remain competitive in attracting the students it needs to fulfill its academic and financial goals. – IMPNF p. 18*

*Several of the Proposed Institutional Projects in this IMPNF involve producing additional beds. Although Fisher is never likely to be able to meet the full demand for student beds, in order to remain competitive and to attract the students it wants, Fisher will need, **at a minimum**, to create the number of beds that will maintain the ratio of beds to students that it has today – about 42%. – IMPNF p. 19*

1.3 Implied Dorm Bed Requirement

Based on a 3.7% CAGR and a 42% dorm share target, and assuming approval of Fisher’s IMP plan calling for +48 dorm beds, Fisher will need +125 dorm beds by fall 2024, assuming that it is not able to renew its 55 bed lease with Hostelling International.⁴

If the lease is renewed, the shortage therefore will be $135 - 55 = 70$.

² Apparently including master’s programs; see IMP 3-2.

³ From the data provided in Fisher’s June 18, 2013 BRA presentation, it is clear that as recently as 2010-2011, Fisher’s residential student share was 48%, not 42%. The 42% clearly seems to reflect the fact that Fisher ran out of dorm space, forcing students to find rental apartments. We therefore agree with Fisher that 42% should be considered a minimum.

⁴ Fisher’s lease with Hostelling International expires in June 2017. Although Fisher states that “Hostelling International has expressed a willingness to renew the College’s lease, as evidenced in a letter of intent,” our review of the letter (dated one year ago) only shows a willingness to consider a new lease, not a commitment to renew. “Should Fisher College seek a renewal of the lease during the 2016/2017 academic year, we will evaluate the availability of our beds for their continuing use for Fisher dormitory beds and, if it is determined that renewing the lease for some number of beds into the future is appropriate and in the Hostel’s interest, we will negotiate a new lease with Fisher at that time.” -- Hostelling Letter, June 25, 2014

Fisher Dorm Bed Capacity Requirement @ 42% Dorm Student Share

Fall	Total Students	Required Beds @ 42% Dorm Target	Bed Capacity (Excluding Stuart Street Lease; including IMP's +48 beds)*	Shortage Versus Capacity
2014	763	320**	289	31
2015	791	332	289	43
2016	821	345	289	56
2017	852	358	314	44
2018	883	371	314	57
2019	916	385	337	48
2020	950	399	337	62
2021	986	414	337	77
2022	1,022	429	337	92
2023	1,060	445	337	108
2024	1,100	462	337	125

* Based on the IMP's planned increases in 2017 and 2019

** Actual reported dorm usage 298 (source: *Boston Student Housing Trends 2014*)

1.4 Reason for the shortfall

A basic reason for the shortfall is that by withdrawing the dorm conversions of 115/139/141 Beacon from the plan, Fisher removed 129 beds from its 2024 supply. To make up for this, it should have looked to add capacity outside of the residential Back Bay, but it chose not to do this.

1.5 IMP treatment of the dorm supply inadequacy

Interestingly, Fisher did not calculate its dorm bed requirement or display a numerical shortfall in its IMP, perhaps because this would have highlighted the inadequacy of the +48 bed plan that it did present.

Instead, it referred to the shortfall using carefully crafted language that obscured its magnitude. For example, IMP 1-9 states, "increasing the number of beds in existing buildings will **at least help meet the demand** from prospective students for Fisher-owned housing." The use of the qualifier "at least help" obscures the fact that +48 beds only meets 28% of the total ten-year demand (48 divided by 173).

Similarly, Fisher noted in IMP 3-4 that it could not meet its IMPNF 42% dorm target because it agreed to remove the dorm conversions of 115/139/141 Beacon from the IMP. However, it did not say by how much it would fail to meet its goal:

*In its IMPNF, Fisher laid out a plan to keep constant the same percentage of students housed on campus over the ten-year term of its master plan as exists today. However, because the conversion of the three Rental Properties on Beacon Street has been removed from this IMP, **achieving that goal will not be possible** within the framework of this IMP. -- IMP 3-4*

The above quote notwithstanding, Fisher nevertheless claimed two chapters later that it will "support residential life in increments proportionate to student enrollment during the ten-year term

of this IMP.”

Fisher will obtain the zoning changes necessary to provide the facilities and conditions that can accommodate its evolving academic programs, to support residential life in increments proportionate to student enrollment during the ten-year term of this IMP. – IMP 5-1

Thus, the Fisher response to its dorm supply inadequacy is a strange combination of obfuscation, acknowledgement and dissimulation.

2. Fisher’s Housing Plan does not provide long-term sustainability

A second problem with Fisher’s housing plan is that even beyond the 10 year IMP period, it does not provide long-term sustainability, because it is mired in a 100% residential Back Bay real estate focus despite recognizing that it cannot sustain any growth plans within this neighborhood. Therefore it again is inadequate with respect to the terms of Article 80D-3, which sets 10 years as a minimum, but which requires that the IMP (a) “set out and define the longer term goals of the institution” and (b) “address the broad direction to be taken by the Institution with regard to its growth and services.” Given the fact that Fisher clearly will be running out of space in residential Back Bay, it therefore needs to address its longer term plans in this IMP.

*The Institutional Master Plan shall project its proposed development plan far enough into the future to cover at least the period of years for which the Institutional Master Plan may remain in effect before it must be renewed ... **the plan shall set out and define the longer term goals of the Institution, a minimum of ten (10) years into the future. These goals should address the broad direction to be taken by the Institution with regard to its growth and services.** -- Article 80D-3*

At one point at the end of the IMPNF process in 2013, Fisher appeared to recognize this, writing in a letter to the BRA:

*Fisher College recognizes the unique character and characteristics of our Back Bay location and realizes that **expansion beyond our current portfolio of properties should be carried out in areas which can better accommodate such growth.** To that end, while we are still proposing a modest increase of 48 dorm beds on the north side of Beacon Street - where the majority of our students are housed today - **we are also undertaking a careful review of several alternative scenarios for future growth in other areas of the City.** – Fisher letter to BRA, August 13, 2013*

Yet Fisher apparently never undertook this review of alternative scenarios in the ensuing two years, since there is no mention of it in the IMP. Instead, Fisher makes vague and non-committal comments about looking *eventually* to growth outside residential Back Bay (in a manner akin to ‘kicking the can down the road’). It seems in no rush to do any real planning or analysis, saying in the last of the following excerpts that it will start the process close to 2024:

*All of the Proposed Institutional Projects ... are described in detail in Chapter 5. Collectively, they advance the goals and objectives of Fisher for the next ten years. Fisher **will look to meet needs, beyond those anticipated in this plan or that unforeseen circumstances give rise to, outside the residential area of Back Bay.** -- IMP 1-9 to 1-10*

*As part of its compromise with the Neighborhood Association of the Back Bay (“NABB”) and neighbors, Fisher agreed not to convert the Rental Properties it owns on Beacon Street to 129 dormitory beds. In addition, it agreed that **when, in the future, Fisher needs additional beds, those beds will be located outside of residential Back Bay.** -- IMP 6-4*

*Having originally sought in its IMPNF to house an additional 129 students on Beacon Street, Fisher has vastly reduced the number of proposed beds in its IMP and **has taken on the burden of locating outside of residential Back Bay any more beds that might be needed in the future** -- IMP 5-5*

Fisher retains herein its proposal to introduce 48 beds to its existing dormitory buildings, in accordance with the City of Boston’s mandate that colleges maximize the utilization of their existing real estate

resources to absorb growth. As enrollment grows and moves in increments toward the school's ten-year goal of 1,100 students, Fisher will look in areas outside of residential Back Bay to meet its housing needs. – IMP 3-4

Indeed, Fisher seems contemptuous of suggestions made by knowledgeable local residents with deep experience in real estate, financial and strategy knowledge to consider selling some properties like 115/139/141 Beacon and use the proceeds to buy the needed dorm space (this will be the subject of a separate memo to be filed soon). Fisher instead replaces analysis with an emotional statement on why Fisher cannot sell any of its properties and that financial analysis is irrelevant:

It has been suggested by some neighbors that Fisher move out of its Back Bay location so that the area can become exclusively residential. That suggestion is ostensibly based only on the premise that Fisher's real estate is so valuable that the College could sell its buildings, as other former Back Bay institutions have done, and build a new campus in another location. This perspective fails to take into account that much more goes into evaluating a move away from a location that has housed the College for over seventy-five years than the return on pricey real estate. And, even more so, it ignores how intrinsically important Fisher's long term investment on Beacon Street is to accomplishing its academic mission. For Fisher College, the option to move out of its Beacon Street location is not on the table.... Because the value of Fisher's buildings is truly immeasurable, money is not a compelling argument for Fisher to relocate from its long-time home in Back Bay. – IMP 4-2 to 4-3

So from a long-term 80D-3 planning perspective, Fisher's IMP is inadequate.

3. There is no alternative housing location analysis

In response to Fisher's August 13, 2013 letter to the BRA saying that it was "undertaking a careful review of several alternative scenarios for future growth in other areas of the City,"(and in response to strong community pressure), **the BRA in its September 9, 2013 Scoping Determination required that Fisher in its Student Housing Analysis must include an "alternative student housing location analysis."**

This was not a casual addition to the Scoping Determination. It was the sole addition to what otherwise was a word-for-word recitation of the Student Housing Plan requirements listed in Article D-3.

However, as noted in (2), the IMP does not include any alternative housing location analysis.

As such, the IMP is inadequate and the BRA should require that Fisher revise its plan by adding a detailed alternative housing location analysis.

4. Fisher's numbers do not tie to the Mayor's Housing Report

One ongoing concern that I have had with Fisher is its limited and sometimes contradictory/confusing reporting of numbers (see memo #6), which makes the task of conducting analysis more difficult. The same issue exists here.

In the IMP, Fisher reports numbers for day students, showing 788 students in 2013-14 and 763 students in 2014-5. However, in its submissions to the Mayor's Housing Report and updates, it reported 978 and 921 Boston undergraduates, respectively.

Fisher Boston Enrollment: IMP Versus City Housing Data

Fall	IMP	City	Difference
2013	788	978	190
2014	763	921	158
% Change	-3.2%	-5.8%	

Since Fisher is the source of both datasets, it is unclear what constitutes the 158-190 student difference. My initial thought was that the difference is made up of full-time DAPS students⁵ (who are considered full time if they take 2 classes or more in a semester). However, this seems to conflict with Fisher's IMP statements about DAPS student registration being 68:

The 68 students registered for DAPS classes in Boston in fall 2014 would have taken classes spread out over the five class days. The number of DAPS students currently attending classes in Boston ranges from 16 to 22, depending on the day of the week. – IMP 3-4 to 3-5

To try to establish some consistency, I have used the IMP day school numbers exclusively in this report, and the City numbers in the companion City Housing memo (but applying the 3.7% growth rate resulting from the day school IMP targets).

However, as will be pointed out in memo #6, I believe that Fisher's inconsistent numbers are a violation of Section 3 of the Scoping Determination, which states:

Student Population. *The IMP should provide a thorough explanation of past trends and future projections of the size and other characteristics of Fisher's student body. These data should be referenced as appropriate in other sections, e.g. the Student Housing Plan should make clear the relationship between student population and student housing goals, including targets for percentage of students housed. – Scoping Determination Section 3*

Accordingly, I suggest that the BRA require Fisher to reconcile its numerical reporting with its housing reports to the City.

5. Fisher's IMP non-dorm numbers do not tie with its IMPNF figures

In the same spirit as (4), Fisher's IMPNF stated, "in the 2013 spring term, about 116 Fisher students were living in rental units in the 02116 zip code" (IMPNF p. 18).

In the IMP, Table 6.2 on page 6-3 shows only 25 students living in Back Bay (zip code 02116).

⁵ The Division of Accelerated Professional Studies is Fisher's evening/weekend school.

Table 6.2. Students in Boston Neighborhoods

<u>Neighborhood</u>	<u>Number of Students</u>
Back Bay	25
Chinatown	16
Dorchester	41
Roxbury	22
Brighton	15
Roslindale	13
Mattapan	12
TOTAL	144

6. Conclusions

Fisher's Student Housing Plan is *fundamentally inadequate*, in that the College will use up its new capacity well before the end of the 10-year IMP planning period. It also is *fundamentally unsustainable*, in that Fisher has no path for continued dorm growth in residential Back Bay, yet it has not begun to consider growth plans outside of the neighborhood (despite being required to do so by the Scoping Determination; and despite a statement to the BRA that it had begun this process in August 2013).

An additional problem is that the student enrollment numbers that Fisher shows in its IMP are substantially at variance with the data that it has provided for the Mayor's Housing Report. In the IMP, Fisher says that it had 763 undergraduates in the Fall 2014 semester; while in *City of Boston Student Housing Trends: 2014-2015 Academic Year*, Fisher reported 921 Boston undergraduates (a number that is 21% higher).

In a similar discrepancy, the numbers for students living off-campus in zip code 02116 vary by a factor of almost five between the IMPNF (116) and the IMP (25).

As such, BRA's Adequacy Determination decision becomes obvious. Since the plan is neither adequate nor sustainable, the BRA per its 80D-3 requirements should find that the conditions for a positive Adequacy Determination ruling have not been met. Instead, I urge the BRA to tell Fisher to come back with a revised IMP that is both adequate and sustainable – and with the same numbers that it reports to the Mayor for the City Housing Plan.

4. Fisher and the Mayor's Housing Plan

4. Fisher and the Mayor's Housing Plan

This memo reviews the extent to which Fisher's IMP adequately addresses the Mayor's dormitory goals expressed in *Housing a Changing City Boston 2030* ("City Housing Plan" or "City Plan"). Memo #3 addresses Fisher's Student Housing Plan from an IMP perspective only.

In brief, the City Plan calls for close consultation with major colleges, with a goal of "reducing the number of undergraduates living off campus in Boston by 50 percent" over fifteen years.

Since the City Plan states that "the City will continue to work with colleges and universities **through the Institutional Master Plan process** [emphasis added] to set ambitious goals for on-campus housing and forge agreements with neighborhoods on the specific locations for that housing," I decided to test the extent to which Fisher's IMP reflects the process and targets laid out in the plan.

My conclusion is that except for cursory references, Fisher largely has ignored the City Housing Plan. Given the Plan's centrality to the Mayor's long-term vision for the City, I ask that Fisher be required to address this issue via a revised IMP.

* * * * *

Detailed Discussion

The Mayor's Housing Plan

In October 2014, Mayor Walsh issued his landmark report *Housing a Changing City Boston 2030*, in which the City "outlines a plan to produce 53,000 new units of housing. This plan will accommodate the projected 20 percent growth in Boston's households, generate \$21 billion in new development, and create 51,000 construction jobs through the year 2030." In short, this is a major policy initiative for the Walsh Administration.

An important element in the plan is its goal of reducing substantially the number of college and university students living off campus and crowding out non-student residents. To do this, the City has set a goal of creating 16,000 new undergraduate dorm beds by 2030, supporting continued enrollment growth while reducing the number of undergraduates living off campus in Boston by 50 percent:

Between 1995 and 2010, undergraduate enrollment grew by 13 percent. The City wants to ensure that by 2030, on-campus housing for undergraduates not only keeps up with future growth, but also substantially reduces the number of undergraduates living in off campus housing in Boston – Housing Plan p. 14

Goals (1): *Create 16,000 new undergraduate dorm beds to accommodate growth while reducing the number of undergraduates living off campus in Boston by 50 percent – Housing Plan p. 15*

To achieve these goals, the City will "partner with colleges and universities to set specific student housing commitments, creating clear plans and timetables for every institution to achieve its housing goals (p.15)."

As noted in the report detail, the City plans to work closely with large universities to set specific student housing commitments, and it will work to set ambitious goals with each school via the Institutional Master Plan process:

Actions

1. Partner with colleges and universities to set specific student housing commitments

The City must work with all large universities to establish firm commitments to house a greater percentage of their student bodies on-campus and ensure that any growth in enrollment also corresponds with a growth in housing. These plans will set numerical targets for dorm creation, as well as deadlines for decreasing dependence on private rental housing. Dorm creation targets should also include a growth factor commitment, so that if enrollment plans increase, the commitment for increased housing production should increase in a corresponding fashion. These plans should be negotiated with the BRA and finalized by the end of 2016.

3. Work with the community to establish approved locations for both on- and off-campus student dormitories

The City will continue to work with colleges and universities through the Institutional Master Plan process to set ambitious goals for on-campus housing and forge agreements with neighborhoods on the specific locations for that housing. Additionally, the City will work with neighborhoods, universities, and the development community to identify areas that are suitable for off-campus student housing. This housing will be subject to specific requirements such as university-employed live-in residential advisors. The City will partner with developers, universities, and community members to establish specific criteria for locating and developing off-campus dorms by fall 2015.

– Housing Plan pp. 81-82

Given that Fisher College is now a “large institution” by virtue of its having filed an IMP, the above actions and goals apply directly to the College. It therefore is appropriate to test the degree to which Fisher’s IMP acknowledges and complies with the City’s *Housing Plan* goals.

Fisher IMP: Treatment of Mayor’s Housing Plan

To what extent does Fisher deal with the Mayor’s Housing Plan in its IMP? In a nutshell, it acknowledges the plan’s existence and its goal of increasing the amount of campus housing (in a cursory manner), but then says that: (a) it cannot meet the city’s goals; (b) says nothing about setting intermediate goals beyond adding 48 beds to existing properties; and (c) argues that since its students are not taking up much housing space in any one neighborhood, its failure to meet the plan’s goals is unimportant. Fisher instead will look for more dorm space at the end of its 10-year IMP plan (suggesting that it will do nothing until then):

Fisher is unlikely to be able to meet the City’s policy of housing an even greater percentage of its college students in college managed housing. However, increasing the number of beds in existing buildings [by +48] will at least help meet the demand from prospective students for Fisher-owned housing. – IMP 1-9

Fisher students have small concentrations in the seven neighborhoods listed and an even lighter presence in several other neighborhoods. Fisher’s nonresident students are distributed throughout the City and outside of Boston - because many of them live at home - so they do not cluster in numbers large enough to have a discernable impact on the housing supply and rental market rates in Back Bay or in other Boston neighborhoods, and therefore no plan for mitigating the impact of student housing on the surrounding neighborhood is necessary. – IMP 6-3

Fisher retains herein its proposal to introduce 48 beds to its existing dormitory buildings, in accordance with the City of Boston’s mandate that colleges maximize the utilization of their existing real estate resources to absorb growth as in accordance with the City of Boston’s mandate that colleges maximize the utilization of their existing real estate resources to absorb growth. As enrollment grows and moves in increments toward the school’s ten –year goal of 1,100 students [approximately in 2025], Fisher will look in areas outside of residential Back Bay to meet its housing needs. – IMP 3-4

Fisher Dorm Statistics

Given the above, how deficient is the IMP *vis a vis* the Housing Plan?

As a starting point, Fisher’s IMP states that it had 763 full time day students in Fall 2014, which will grow to 1,100 by Fall 2014. Based on a 3.7% annual growth rate extrapolation, this suggests that Fisher will have 1,321 students by Fall 2029.

However, the 763 number is at odds with Fisher’s report to the City that in Fall 2014 it had 921 undergraduates in Boston -- a difference of 158.⁶ The 921 figure may be due to the inclusion of evening/weekend DAPS (Division of Accelerated Professional Studies). Of the 921 total undergraduates, the report suggests that 298 students live in dorms, 268 live at home and 355 live outside of home or dorms.

[Note: Including Fisher’s 55 leased beds at the Stuart Street hostel and 289 beds in Fisher dorms, the College controls 344 dorm beds. Therefore 344 minus 298 = 46 beds are either being rented to students of other colleges (in particular, the Boston Architectural College) or are vacant.]

Table 1: Fisher Fall 2014 Full Time Boston Undergraduates

	Number	% of Total
Dorm Students	298	32.4%
Living at Home	268	29.1%
Other Non-Dorm	355	38.5%
Total Full Time Undergraduates	921	100.0%

Source: 2014 Housing Trends

Growing the 921 students in Fall 2014 by the same 3.7% compound IMP annual growth rate as for day students suggests a Fall 2029 total full time undergraduate enrollment of 1,594. Assuming the same 32.4% of total students living in dorms, Fisher will need an additional 218-227 dorm beds by 2029-2030:

**Table 2: Fisher Fall 2029 Full Time Boston Undergraduates
Assuming a 3.7% growth rate and no change in percentage mix**

	Enrollment Fall 2014	Enrollment Fall 2029	% of Total	Difference 2029 versus 2014
Dorm Students	298*	516	32.4%	218/227**
Living at Home	268	464	29.1%	196
Other Non-Dorm	355	615	38.5%	260
Total Undergraduates	921	1,594	100.0%	673

Source: 2014 Housing Trends and Weingarten Analysis

* Fisher current dorm capacity is 289; excess is accommodated at leased Stuart Street facility

** 218 reflects the 298 current dorm student` number; 227 reflects Fisher’s current 289 bed capacity excluding Stuart Street and assumes termination of the Stuart Street lease

⁶ City of Boston Student Housing Trends: 2014-2015 Academic Year (2014 Housing Trends)

However, if one applies the Mayor’s goal of halving the share of non-dorm students who don’t live at home in favor of additional dorm housing (leaving the stay-at-home student ratio unchanged), then Fisher will need +534 additional beds by Fall 2029 versus its currently owned 289 bed capacity.

**Table 3: Fisher Fall 2024 Full Time Boston Undergraduates
Assuming a Halving in the share of Other Non-Dorm Students**

	Enrollment Fall 2014	Enrollment Fall 2029 based on current ratios	Enrollment Fall 2029 based on 50% reduction in Other Non- Dorm	% of Total Based on 50% reduction in Other Non- Dorm	Difference 2029 versus 2014
Dorm Students	298*	516	823	51.6%	525/534**
Living at Home	268	464	464	29.1%	196
Other Non-Dorm	355	615	307	19.3%	-48
Total Undergrads	921	1,594	1,594	100.0%	673

Source: 2014 Housing Trends and Weingarten Analysis

* Fisher current dorm capacity is 289; excess is accommodated at leased Stuart Street facility

** 525 reflects the 298 current dorm student number; 534 reflects Fisher’s current 289 bed capacity excluding Stuart Street

Comparison: Fisher IMP Versus the Mayor’s Housing Plan

If we compare the above targets to Fisher’s Student Housing Plan contained in its IMP and which covers ten years through fall 2024 (five years less than the Mayor’s plan), it is clear that the IMP’s +48 bed plan comes nowhere close to meeting the City’s target.

To illustrate, Table 4 recasts Table 3 to show enrollments for the ten-year period through fall 2024. (Given that in 2024, the City’s fifteen-year plan will only be two-thirds complete, the target share for Other Non-Dorm Students will be reduced by 37%, not 50%).⁷

The results indicate that by Fall 2024, Fisher will need +330 additional beds versus its currently owned 289-bed capacity.

⁷ 37% reflects the year 10 reduction in “Other Non-Dorm” students, based on a 4.5% compound annual reduction in percentage share (100% to 50% in 15 years)

**Table 4: Fisher Fall 2024 Full Time Boston Undergraduates
Assuming a 37% Reduction in the share of Other Non-Dorm Students**

	Enrollment Fall 2014	Enrollment Fall 2024 based on 37% reduction in Other Non- Dorm	% of Total Based on 37% reduction in Other Non-Dorm	Difference 2029 versus 2014
Dorm Students	298	619	46.6%	321/330*
Living at Home	268	386	29.1%	118
Other Non-Dorm	355	322	24.3%	-33
Total Undergrads	921	1,328	100.0%	407

Source: *2014 Housing Trends* and Weingarten Analysis

** 321 reflects the 298 current dorm student number; 330 reflects Fisher's current 289 bed capacity excluding Stuart Street

Conclusions

From the above, it is clear that Fisher's IMP plan does not deal with the City's Housing Plan dorm mandates except in a cursory manner, nor does it come close to meeting the City's dorm targets.

Given the Plan's centrality to the Mayor's long-term vision for the City, I ask that Fisher be required to address this issue via a revised IMP.

Postscript: Fisher Reporting Error

A review of Fisher's data submissions to the City shows an important data error that I discuss here.

In Appendix Table A2, Fisher reports that 288 students live off campus, which is 67 students less (19%) than the 355 students listed in Table 3. This was a sufficiently large number that I decided to review the discrepancy in detail.

My conclusion after looking at how Fisher derives its 288 figure is that Fisher (or the City) has made an egregious reporting error. The 288 figure clearly is the sum total of 20 students living in the Stuart Street hostel (which I list as dorm space) plus 268 students living at home. However, none of these students are "housed off-campus," in that they are not looking for dorm rooms. They either want to live at home (presumably for economic reasons) or already live in a dorm room at Stuart Street.

So how many Fisher students actually are housed off-campus (and not at home), who the City would like to move into dorms over the next fifteen years? The answer is:

- 921 total undergrads
- Less: 298 students currently housed in dorms
- Less: 268 students living at home
- Equals: 355 students housed off-campus (not living at home)

This 355 figure, which is the number I used in Tables 3 and 4, should have been used by Fisher and the City in Appendix Table A2.

In sum, the number of Fisher students housed off-campus (not living at home) is greater than Fisher's number, by a factor of $355/288 = 1.23$ times.

5. Fisher Non-Dorm Adequacy

5. Fisher Non-Dorm Adequacy

This memo examines the adequacy of Fisher’s IMP provisions for additional non-dorm space.

My conclusion is that Fisher’s non-dorm space plan is *fundamentally inadequate*, in that the College is only adding a net increase of +13,000 gross square feet, which represents a 14% increase over the 95,000 square feet currently used for classrooms, laboratories, faculty offices, administration, maintenance and institutional support services. To meet Fisher’s needs through 2024 will require +32,500 square feet, leaving a gap of 19,500 square feet. Put another way, Fisher’s plan only covers 40% of its ten-year growth needs.

The plan also is *fundamentally unsustainable*, in that Fisher has no path for continued growth in residential Back Bay (assuming that Fisher is being honest when it says that it will retain 115/139/141 Beacon solely as rental buildings and will not attempt to convert them for institutional use). It also has no plan for growth outside of residential Back Bay.

These conclusions come with an important caveat, which is that there is no substantial reduction in intensity of use per student resulting from internships, travel abroad and online studies. While Fisher claims that new educational programs using these approaches will result in lower intensity of use per student (allowing more students to share the same facilities), it has not provided data to substantiate this claim, nor has it agreed to commit to facilities limitations (i.e., limiting the number of students and staff based on formulaic maximums). Until it does, I cannot take accept Fisher’s claims at face value and am concerned that they are being made in an insincere attempt to counter community concerns that increased Fisher intensity of use will degrade the quality of life in residential Back Bay.

Accordingly, I make the following suggestions to the BRA:

- In general, unless Fisher can demonstrate that its plan can meet adequacy and longer-term sustainability tests, the BRA should reject the IMP and require Fisher to develop a new plan based on adding non-dorm space outside of the residential Back Bay.
- With respect to Fisher’s reduced intensity of use argument, the BRA should require Fisher to provide a detailed quantitative analysis showing how it plans to reduce the physical intensity of non-dorm use per student, and what this means for the aggregate square footage requirement (by year) for the ten-year IMP period. It also should encourage Fisher to engage with members of the local community to create formulaic guidelines that will limit overall intensity of use growth.

* * * * *

Detailed Discussion

1. Current Fisher Non-Dorm Space

Fisher’s IMP states that 60% of its 158,896 institutional gross square feet, or **95,338 square feet**, are used for purposes other than housing, dining and student services. To simplify, we will refer to these as “non-dorm space.”

The buildings owned or leased by Fisher which are in institutional use total 158,896 square feet. Approximately 40% of this space is dedicated to housing, dining and student services; another 40% is dedicated to classrooms, laboratories and faculty offices. The remaining space is for administration, maintenance and institutional support services. – IMP 2-2

Based on a statement made by Steve Rich in a 2013 BRA IMPNF meeting, Fisher in 2012-13 was operating at full capacity and needed more square footage to support its growth plans. This presumably is why Fisher uses 2012-2013 as a baseline level in the IMP:

Fisher had 820 students enrolled in 2012/2013, which has served as Fisher's baseline enrollment in the IMPNF and IMP – IMP 3-1

Using 2012-2013 as a baseline, the College needs additional non-dorm space to support planned enrollment growth (+34.1% growth from Fisher's 820 day school enrollment in 2012-13 to 1,100 in 2024-25).⁸

2. IMP Additional Non-Dorm Space

How much additional capacity will be added in the IMP?

The only additional non-dorm space comes from the conversion of 10/11 Arlington, which will add 17,250 gross square feet. From this must be subtracted 4,225 square feet at 116 Beacon that will be converted for dorm use (source: IMPNF). This means that the total incremental non-dorm gross footage in the plan is $17,250 - 4,225 = 13,025$ square feet.

[Note: Fisher's IMP is also seeking to add 111 Beacon's 8,232 square feet. However, since the College has been using this property since 2010 without zoning approval, 111 Beacon does not provide new non-dorm space.]

Against the current 95,338 square feet, this 13,025 increment represents a 13.7% increase in non-dorm capacity, which is not a very large addition on an absolute or percentage basis.

3. Comparing Supply Versus Demand

Obviously, if supply is only increasing by 13.7% and demand is increasing by 34.1%, Fisher's non-dorm expansion plan is inadequate (and therefore should not pass the BRA's Adequacy Determination test)

How large is the shortfall? If the current supply is 95,338 square feet and enrollment will grow by 34.1% by 2024, this means that by 2024 Fisher will need 127,892 square feet, for an increment of +32,554 square feet. Comparing this to the IMP plan's +13,205 square feet, this means that **Fisher's shortfall will be $32,554 - 13,205 = 19,349$ square feet.**

Looked at another way, the IMP only meets 40% of the incremental capacity demand. It therefore is inadequate.

5. No Vehicle for longer-term growth

Beyond the IMP ten year planning horizon, Fisher's plan provides no vehicle for additional growth, so is not sustainable going forward.

With the conversion of 10/11 Arlington (and 111 Beacon, which is already being used for institutional use without zoning approval), the only additional property that Fisher owns that could be converted for non-dorm use is 115/139/141 Beacon, which Fisher pledged to the BRA in August 2013 that it would retain for investment purposes only. Assuming that it will continue to

⁸ In the absence of Fisher forecasts of DAPS and staff growth (required in the Scoping Determination), I assume that these also will grow at 34% versus the 2012-2013 levels.

honor this pledge (disturbingly, the IMP only agrees to honor it “in the foreseeable future,” and an attempt by NABB and abutters to restrict possible institutional use via deed restriction proved abortive), then Fisher has no ability to grow further in residential Back Bay.

*While several specific parts of the IMPNF have drawn questions and criticism from our neighbors, the overriding opposition from the community has been to the conversion of three investment properties on the south side of Beacon Street into new student dormitories. These properties are numbered 115, 139, and 141 Beacon Street. Given the volume of letters and other feedback that the City and Fisher have received in opposition to this part of the plan, **we have decided to eliminate this set of three projects from the IMP and retain ownership of the buildings exclusively as investment properties.** – August 13, 2013 BRA letter*

*The three conversions to dormitories proposed in the IMPNF were met with strong disapproval from neighbors who insisted that the buildings remain in rental housing use. Several months of intense discussion and public meetings with neighbors and abutters, prior to filing the IMPNF, as well as in the years following, resulted in Fisher agreeing to remove from the IMP the proposed conversion of the three Rental Properties ... Fisher also agreed that **no such use conversion would occur in the foreseeable future. These three buildings will remain in commercial use.** – IMP Preamble 1*

Since Fisher has made no plans for non-dorm expansion outside of residential Back Bay, it has left itself with no vehicle for continuing growth. Thus, its plan is inadequate.

6. Issue: Fisher’s “Reduced Intensity of Use Argument

The above analysis assumes no change in the intensity of use by each student and staff member versus current levels.

However, Fisher in its IMP states that its new academic plan will result in students spending more time off-campus in internships or study-abroad semesters. As a result, Fisher is arguing that a given number of non-dorm square feet can support more students (it is unstated as to what the effect will be on faculty and staff levels):

Academic Plan Limits Effects of Enrollment Growth

Having made the transition to a college with increased emphasis on a full four-year college education, Fisher continues to explore and incorporate new educational opportunities for all of its students. Fisher's academic plan for the future is to provide an array of educational and experiential offerings that will not only affect the academic experience for their students but also likely offset the anticipated yearly growth in the daily student population on Beacon Street. Fisher's academic plan consists of several components; the two that will make the most difference for the number of students in daily attendance on Beacon Street are 1) internships and foreign study programs - namely, increasing opportunities for experiential learning; and 2) new teaching modalities - in particular, taking advantage of instructional methods provided by new technologies.

Increasing substantially the number of students who are "off campus" for a term in a full-time internship or a study abroad program will reduce the number of students "on campus" every semester. Other students will engage in part-time internships where they spend full days at a workplace to gain experience as part of their course of study. This approach ensures that students get a deeper immersion in the world of work and also reduces the daily student population on Beacon Street.

*New learning methodologies, where students are enrolled in either blended (class attendance combined with online instruction) or fully online courses, mean that on any given day there will be fewer students on campus. Where today a typical student comes to campus five days a week, **Fisher expects that many students will come only four days a week distributed over the five weekdays, thus substantially reducing the number of students each day.***

Taken together, these new elements of Fisher's instructional model are intended to have the effect of reducing the overall census of students on Beacon Street every day. When these programs are fully developed over the next several years, it would not be unreasonable to expect that there would actually be no substantially greater number of students on Beacon Street on any given day than the 820

students who were enrolled in 2012, the year the IMP process got underway and the year of the baseline enrollment for this IMP. – IMP 3.3-3.4

Looking at the Fisher argument, I have the following reactions:

1. While the reduced intensity of use argument is intriguing, Fisher has not provided any quantification or supporting analysis; i.e.:

- How many students currently spend how much time in internships and semesters abroad, and how much will this grow over the next ten years?
- To what extent would there be a further reduction in intensity of use if student classes are increasingly held on-line rather than via physical classes?
- If, as Fisher argues, students will only need to attend classes four days a week, does this really mean a 20% intensity of use reduction? Or will peakload capacity remain the same? Don't many students already avoid Friday classes, so as to have long weekends?
- Even if there is a reduction in student intensity of use, what does this mean for staff levels? Fisher's IMP section on employment suggests that staff levels will increase proportionally to total student levels:

The increase in enrollment made possible by the IMP projects will result in an increase in new faculty and staff. As student enrollment increases and new programs and courses are introduced, additional faculty, both full and part time, will be hired to maintain current student and faculty ratios. Staff additions include those needed in facilities, Residence Life staff, counseling, student services, dining and Campus Police. – IMP 9-2

2. Offsetting the touted intensity of use reductions, Fisher's need to be competitive with other schools may mean that it will be forced to INCREASE the non-dorm square footage per student

- Fisher's current 95,338 non-dorm square footage divided by a baseload 820 day students suggests 116 square feet per full time student. If we instead use the 978 enrollment figure fall 2013 figure submitted to the City for housing plan use (which includes DAPS as well as day students), there is only 97 square feet per student. Assuming that each non-day student is .25 of a full time student, the square feet per FTE (full time equivalent is 111.
- As noted in my June 2013 memo to the BRA titled *Fisher IMPNF (Un)Sustainability*, Suffolk had 134 square feet per FTE in 2013, while Boston University had approximately 150.
- Thus, Fisher's non-dorm space is already substantially deficient (with, for example, minimal on-campus athletic facilities). This suggests a need to grow more than the 32,554 non-dorm square feet needed to keep pace with enrollment growth.

3. The reduced intensity of use argument is a double-edged sword for Fisher, since a careful analysis could demonstrate that the College does not actually need new non-dorm space.

- Even if the gross number of students and staff increases by 34% in the next ten years versus the 2012-2013 baseline, **there will be no need for additional non-dorm space if the intensity of use per student decreases by 25.4% or more**; i.e.: 100% current square feet (indexed) x 1.34 (student enrollment increase) x .746 (25.4% intensity of use reduction) = 100% required square feet index in 2024 (i.e., no net change).

- At the extreme, if we assume that by 2024-2025 all students (starting from a zero base in 2012-2013): (a) take a year off out of four abroad;⁹ (b) spend one day out of five off-campus on internships (when they are not studying abroad); and (c) take 50% of their non-internship classes on-line rather than in physical classes, this would reduce the intensity of use by 70%.¹⁰ At these levels, Fisher does not need 10/11 Arlington.

4. If Fisher’s argument can be supported with hard analysis, then in principle it would be possible to reach an agreement with the community in which the College would agree to a set of formulas by which overall intensity of use in residential Back Bay could be limited to a defined level. For example:

- It should be easy to calculate the cumulative use level of the residential Back Bay buildings by all students, based on the number of credits physically taken on campus.¹¹ This number can then be set as a maximum aggregate usage level.
- Similar formulas can be created for faculty and staff.

I therefore believe that if Fisher’s intensity of use argument is a serious proposal rather than a debating point without real substance that is cynically meant to negate neighbors’ complaints about Fisher’s IMP plans harming local quality of life, it should be possible to conduct a detailed and serious analysis of the concept. Fisher should then be willing to demonstrate its good faith by agreeing to a quantitative restriction on aggregate intensity of use, based on these plans.

However, the statements in IMP 3.3-3.4 are far from constituting a serious plan or demonstrating that Fisher is making this proposal in good faith. I therefore recommend that the BRA tell Fisher that if it wishes to pursue this avenue, it needs to do far more quantification as well as community engagement.

⁹ Many Fisher students do not graduate in four years, so one year abroad out of six is only a 16.7% reduction, not 25%.

¹⁰ $100\% \text{ (current intensity of use index)} \times .75 \text{ (study abroad)} \times .80 \text{ (one day/week off campus)} \times .50 \text{ (on-line study)} = 30\% \text{ of current intensity of use, or a 70\% reduction}$

¹¹ This metric will equilibrate full and part time students.

6. Scoping Determination Requirements: Campus Demographics And Employment

6. Scoping Determination Requirements: Campus Demographics And Employment

This memo examines the adequacy of Fisher's submissions in response to Section 3 of the Scoping Determination, in which the BRA requires Fisher to include detailed quantitative information on student enrollment and staff levels (as the basis for other IMP analyses such as the Student Housing Plan).

My conclusion is that the level of information provided falls well short of the "thorough explanation" called for in the Scoping Determination, making evaluation of the IMP much more difficult.

In some cases (i.e., better information to reconcile three substantially different sets of enrollment and segmentation data that Fisher has provided to various parties), I have been asking for such reconciliations for the past two years without obtaining satisfactory answers from Fisher. I also wrote specific comments to the BRA in July 2013 asking for more quantitative information, which may have contributed to the Scoping Determination's "thorough explanation" requirement.¹² In large part, Fisher in its IMP has ignored these requests/SD requirements.

The cursory nature of the documentation provided in the IMP is illustrated by the fact that:

- Fisher has chosen to convert Chapter 3 of its IMP from the Scoping Determination's "Campus Demographics and Employment" into "The Fisher Community" -- apparently in order to allow Fisher to add substantial non-statistical verbiage about the nature of its students and the quality of its public safety department, while papering over the paucity of quantitative information provided
- This chapter, which is eight pages long, only includes student enrollment and demographic information in parts of the first four-plus pages, and then follows this with four pages of puff verbiage about its faculty and public safety department.
- Except for some data about Fisher's public safety staff (11 employees)¹³ listed in the context of touting the department's size and capabilities, all information about faculty and staff levels was put into two brief paragraphs in Chapter 9 (Economic Development).

As a result, there is a lengthy list of necessary information that is lacking in the IMP.

Going forward, I ask that the BRA require Fisher to produce the requested information (giving the community ample time to absorb and respond); and failing that, to find that Fisher's IMP has failed the Adequacy Determination test, because it does not provide an adequate response to Section 3 of the Scoping Determination requirements.

* * * * *

¹² See Michael Weingarten, *Information Requests*, July 2013.

¹³ The total number may be higher than this, since Fisher says that the staff includes "seven full-time certified police officers: a chief, two lieutenants, one shift supervisor and three patrol officers. There are also three part-time patrol officers and one full-time Public Safety Officer. The Department is supplemented by contracted security guards."

Detailed Discussion

1. The Scoping Determination Requires Detailed Data and Explanations

The Scoping Determination (SD) includes the following requirements for campus demographics and employment:

3. CAMPUS DEMOGRAPHICS AND EMPLOYMENT

Student Population *The IMP should provide a thorough explanation of past trends and future projections of the size and other characteristics of Fisher's student body. These data should be referenced as appropriate in other sections, e.g. the Student Housing Plan should make clear the relationship between student population and student housing goals, including targets for percentage of students housed. The IMP should include, at a minimum, an explanation of past growth trends and an explanation of Fisher's target student enrollments for five years and 10 years in the future. Include information on full-time and part-time Boston students as well as your online student population and trends projected for each...*

Employment. *Provide information on Fisher's current employee population, disaggregated by faculty/staff, full-time/part-time, contract employees, Boston residents/non-residents, as well as projected employment over the term of the IMP.*

Reviewing these requirements, we note that the SD uses the phrase “thorough explanation of the size and other characteristics of Fisher’s student body.” Having a through explanation is important, since “these data should be referenced as appropriate in other sections” like the Student Housing Plan.

On this basis, we will test the adequacy of Fisher’s responses contained in Chapters 3 and 9 of the IMP.

2. At best, Fisher has provided a cursory response to the Scoping Determination

Most of the IMP’s data responsive to SD Section 3 (“Campus Demographics and Employment”) are contained in IMP Chapter 3. This is not a coincidence, since the IMP’s ten chapters mirror those of the SD.

Interestingly, however, Chapter 3, unlike all other IMP chapters, is titled “The Fisher Community” rather than “Campus Demographics and Employment.” Based on my reading of the chapter, the retitling suggests a desire to shift the discussion from a quantitative discussion of enrollment and employment trends, to: puff verbiage about Fisher’s Public Safety department (2.5 pages out of 7+ pages in the chapter); the general nature of the student body (most of the first page); and a half-page about the faculty and staff. Apparently, Fisher believes that the 11-member security force deserves five times as much coverage as the 274-count other faculty and staff.

As a result, roughly half the chapter is non-responsive to the subject of Campus Demographics and trends, leaving us with 3+ pages about student information (excluding most of page 3-1, which is a relatively data-free puff section about Fisher’s diverse student body). Any data regarding faculty/staff is put into two short paragraphs in Chapter 9 (Economic Development).

Even without examining what is contained in these pages, the brevity of Fisher’s scoping response suggests that the information contained is likely to be inadequate. This was confirmed as we reviewed the proffered information in detail.

2. Fisher's IMP Campus Demographics information is inadequate

2.1 Inconsistent enrollment size and segmentation data

Fisher does not provide a clear sense of its total Boston student body size, since it has provided inconsistent information sets to different parties:

- In the IMP, Fisher says that fall 2014 Boston day school enrollment was 763 (page 3-3), and DAPS Boston student enrollment for fall 2014 was 68 (page 3-4), for a total of 831 (not calculated by Fisher).
- In submissions to the City for *City of Boston Student Housing Trends: 2014-2015 Academic Year*, Fisher reports 921 Boston undergraduates
- In submissions to the US Department of Education, Fisher shows for 2013-2014 (for all of its campuses) 1,229 full time students and 701 part time students, for a total of 1,930 students.

There also are significant discrepancies regarding segment demographics:

- **Number of students from Boston**
 - On pages 1-1 and 3-1, Fisher says that 22.5% of students come from the City of Boston. If so, 22.5% of 763 total day students suggests that there are **172 City of Boston students**.
 - In Appendix C, Fisher refers to “**over 125 students** from the city of Boston in its Day Program.”
 - This is a 37% differential.
- **International students**
 - On page 3-1, Fisher says that 16% of students are international. If so, 16% of 763 day students suggests that there are **122 international students**.
 - In Appendix C, Fisher refers to “**over 100 students** from 35 countries over the globe”
 - This is a 22% differential.
- **Hispanic students**
 - On page 3-1, Fisher says that of students who reported race/ethnicity, 27.3% were Hispanic
 - Based on data submitted by Fisher to the US Department of Education, the percentage of students who reported race/ethnicity and who are Hispanic is 15.7%
 - Neither percentage is very reliable, since 42% of students did not report race/ethnicity¹⁴
- **African-American students**
 - On page 3-1, Fisher says that of students who reported race/ethnicity, 21.4% were Black or African-American
 - Based on data submitted by Fisher to the US Department of Education, the percentage of students who reported race/ethnicity and who are Black or African-American is 17.6%

¹⁴ Using data reported to the US Department of Education, only 17% of total undergraduates were “African-American” or “Hispanic” (9 and 8%, respectively), while “Unknown” was 42% and “White” 33%.

- Neither percentage is very reliable, since 42% of students did not report race/ethnicity

There is a similar issue with respect to the registration for DAPS students:

- As noted above, Fisher claims that fall 2014 enrollment was 68.
- However, if the 921 Boston undergraduates in the City Housing report represent a combination of day school plus DAPS, there would appear to be 158 DAPS students (921-743)
- This is a 132% differential

One contributing problem is that Fisher tends to refer to day students as though they comprise the entire school enrollment, ignoring the existence of DAPS students (both full-time and part-time). For example:

Fisher College's Boston campus has an enrollment for academic year 2014/2015 of 763 students. – IMP 1-1

Fisher had 820 students enrolled in 2012/2013, which has served as Fisher's baseline enrollment in the IMPNF and IMP... Fisher enrolled 763 fulltime undergraduates in its bachelor's and associate degree programs in Boston in academic year 2014/2015 – IMP 3-1

[The] new elements of Fisher's instructional model are intended to have the effect of reducing the overall census of students on Beacon Street every day. When these programs are fully developed over the next several years, it would not be unreasonable to expect that there would actually be no substantially greater number of students on Beacon Street on any given day than the 820 students who were enrolled in 2012 – IMP 3-4

Seeing these continuing data inconsistencies is particularly concerning, given that the author has been asking Fisher for explanations for two years, without success.

2.2 Inadequate segmentation/crosstab data: Fisher does not provide adequate segmentation and/or cross-tabulation data for each school that is responsive to the SD requirements. In particular:

2.2.1 Day School

The IMP states that 22.5% of day school students come from the City of Boston (172 students) and that 36% of students (275) are pursuing associate degrees. It also provides data on racial/ethnicity shares (of those reporting), with 27.3% Hispanic and 21.4% African-American.

However, given that: (a) Fisher is de-emphasizing its associate degree program in favor of its bachelor's program (IMP 1-4 to 1-7, 3-3); and (b) Fisher says that the associate program has been a traditional entryway to college for inner city and first-in-college students (IMP 1-7),¹⁵ what percentage do City of Boston, Hispanic and African American students represent of total associate and of total bachelor degree students? If these groups are disproportionately represented in the associate program, to what degree will Fisher's shift to Bachelor degree

¹⁵ "The associate degree and certificate programs continue to serve an important educational role. These credentials are important to many students, particularly first-generation students testing the higher education waters, adult learners seeking advancement and countless others who recognize the inherent value of higher education." – IMP 1-7

"Fisher's Boston-raised students contribute to the diversity of its student body -- of which the college is especially proud--with over 125 students from the city of Boston in its Day Program, many of whom are members of minority groups and first in their families to attend college." – Appendix C

enrollment have the effect of reducing the number and share of students from these demographics?

A second segmentation issue relates to the need for data supporting Fisher's new "off campus" academic plan, as seen below:

Academic Plan Limits Effects of Enrollment Growth...

Increasing substantially the number of students who are "off campus" for a term in a full-time internship or a study abroad program will reduce the number of students "on campus" every semester. Other students will engage in part-time internships where they spend full days at a workplace to gain experience as part of their course of study. This approach ensures that students get a deeper immersion in the world of work and also reduces the daily student population on Beacon Street.

New learning methodologies, where students are enrolled in either blended (class attendance combined with online instruction) or fully online courses, mean that on any given day there will be fewer students on campus. Where today a typical student comes to campus five days a week, Fisher expects that many students will come only four days a week distributed over the five weekdays, thus substantially reducing the number of students each day.

Taken together, these new elements of Fisher's instructional model are intended to have the effect of reducing the overall census of students on Beacon Street every day. When these programs are fully developed over the next several years, it would not be unreasonable to expect that there would actually be no substantially greater number of students on Beacon Street on any given day than the 820 students who were enrolled in 2012, the year the IMP process got underway and the year of the baseline enrollment for this IMP. – IMP 3.3-3.4

To understand the potential impact of this plan on overall intensity of use and the need for additional space, we need to see information on:

- The share of students registered at the College but studying abroad
- The share of student credit points taken as internships off-campus
- The share of student credit points taken as on-line classes versus physical classes.

For each of these, we need to see how the shares have changed over time.

2.2.2 DAPS: Fisher does not provide segmentation data on its full-time versus part-time students or any calculation of its students on an FTE (full time equivalent) basis, despite this segmentation being an explicit SD requirement.¹⁶ Nor is there any data regarding the share of DAPS students attending classes in Boston versus satellite facilities; or students taking on-line versus physical classes (the latter also explicitly required in the SD). Again, we need this information to assess the net impact of DAPS Boston campus on intensity of use.

2.2.3 MBA Program: There is no data about the current and anticipated size of Fisher's *new MBA program*, or how it overlaps with other Fisher divisions.

- Is it going to be a daytime program like the undergraduate day division, thereby contributing to daytime intensity of use? If so, will MBA students be eligible to reside in Fisher dorms (thereby increasing the demand for dorm beds)?
- Or will it be an evening/weekend program like DAPS, thereby contributing to evening intensity of use?

¹⁶ From the SD: "Include information on full-time and part-time Boston students as well as your online student population."

- If the MBA program enrollment is included in the 1,100 overall enrollment, Fisher needs to tell us how many of the 1,100 will be students from this program.

2.2.4 Other Master’s Programs: There is no information regarding’s Fisher’s plans for *other masters programs*. In the IMPNF, Fisher touted this as something that would be occurring during the IMP ten-year term:

To round out the academic program and in response to demand, Fisher will introduce a Master in Business Administration degree (MBA) in 2014; other Master degrees are expected to be introduced during the ten-year term of this IMP. – IMPNF p. 5

Similarly, in the IMP, there is reference to the MBA program being “the first master’s degree at Fisher,” which suggests that Fisher still intends to have other master’s programs. However, it says nothing else about them. What are Fisher’s plans for these programs, and what is their potential impact on intensity of use during the IMP planning period?

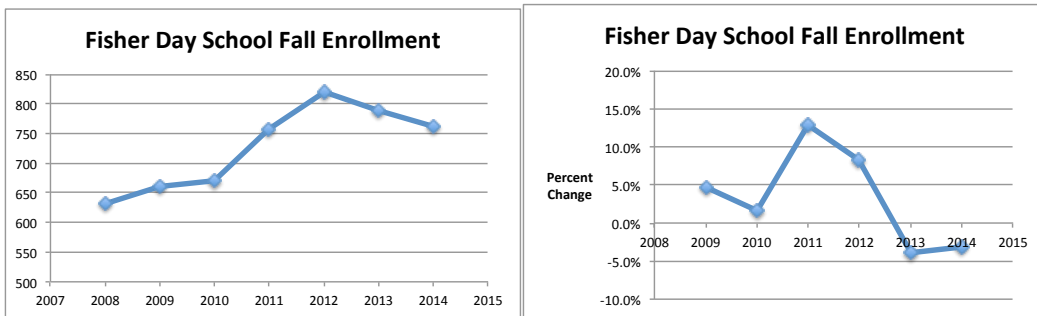
The first master’s degree at Fisher builds upon the career readiness model. The MBA program consists of 15 courses built around the Characteristics of Excellence in Business Education provided by the International Assembly for Collegiate Business Educators, from which accreditation is in progress. The program meets these characteristics through an integrative approach to content delivery, along with the use of learning activities that will build upon the core undergraduate skills of critical thinking and subject matter knowledge. – IMP 1-8

2.3 Inadequate trend data and discussion of underlying factors/assumptions

Since the SD (a) emphasizes that “the IMP should provide a thorough explanation of past trends and future projections of the size and other characteristics of Fisher’s student body;” and (b) “should include, at a minimum, an explanation of past growth trends and an explanation of Fisher’s target student enrollments for five years and 10 years in the future,” it is surprising how little information is devoted in Chapter 3 to trends and projections. Here are some areas of particular concern:

2.3.1 Day School and Master’s Programs: The only historical trendline data in the IMP is seven years worth of day school enrollment data from 2008 through 2014. This by itself is a strange number of years to report, since normally people either provide five or ten years worth of data. It leaves one wondering what information Fisher chose not to show for 2004-2007 and if it is trying to hide something.

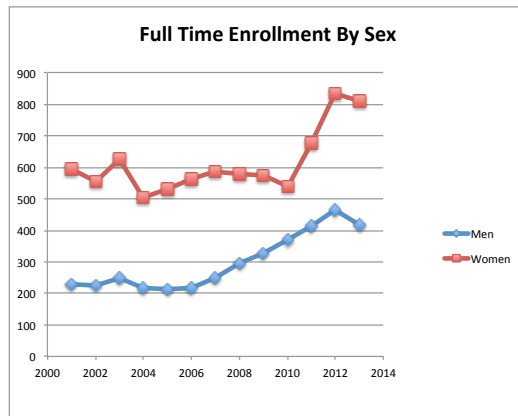
The historical trendline data that is shown is interesting, in that there was a substantial growth surge in 2011 and 2012, followed by an absolute decline in 2013 and 2014. While Fisher attributes some of the 7-year cumulative growth to BA enrollment share growing from 45% in 2008 to 64% in 2014, this by itself cannot explain Fisher’s boom/bust cycle without further data on BA share percentage by year. So the College needs to do a better job of explaining what has been going on.



Source: Fisher IMP data

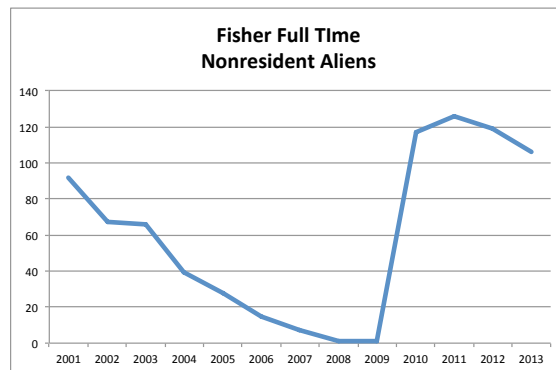
We also need to see trendline information on the share of Fisher students who are Boston residents. In the IMP, Fisher notes that as of fall 2014, City of Boston students comprised 22.5% of total 763 day school enrollment, or 172 students. This is not a very large number, considering the extent to which Fisher has touted its mission of teaching Boston residents. Accordingly, we would like to see how this trend has changed over time. In particular, has the percentage of Boston students been decreasing as the result of Fisher’s de-emphasizing its two-year associates program – given that “[Associate degree] credentials are important to many students, particularly first-generation students testing the higher education waters” [IMP 1-7]?

Fisher also needs to explain important historical demographic trends. The following chart based on US Department of Education data suggests that after years of static female enrollment and growing male enrollment, female enrollment surged from 2010 to 2012. This may explain the above-mentioned overall enrollment surge. Fisher needs to explain what was going on and the extent to which this affected Boston enrollment.



Source: US Department of Education statistics (from Fisher)

Similarly, there appears to have been some major gyrations in international enrollment, which is important because these students tend to be full-tuition payers. Fisher needs to explain the reason for the 2009-2011 surge, and why the enrollment has been declining for the past two years.



Source: US Department of Education statistics (from Fisher)

Going forward, Fisher forecasts that enrollment will grow to 1,100 by 2024 (including MBA students, per IMP 3-2). However,

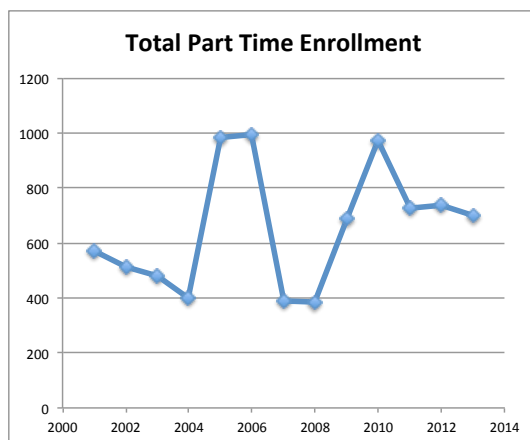
- There is no intermediate five year forecast for 2019 (required by the SD)
- Fisher gives no basis for the ten-year 1,100 estimate, and why the last two years of downturn is not the start of a long-term negative trend. In this regard, the BRA may want to ask Fisher for its best estimate of fall 2015 enrollment (which is 2.5 months away). As the saying goes, one point is a blip, two is a coincidence, and three is a trend. Is there a new downward trend here?
- Fisher gives no information on how much of the 1,100 will be MBA or other master's students, and therefore how much of the overall growth will come from these programs (and why). Nor does it provide any forecast on the share of BA versus AS students. It may be that Fisher in fact believes that its day school has reached its peak and virtually all of its growth will come from new master's programs. If so, Fisher needs to tell us this, so that we can assess the impact on intensity of use.

In addition, given Fisher's novel reduced intensity of use argument, the College needs to provide five and ten year forecasts (and accompanying explanation) for the share of:

- Students registered at the College but studying abroad
- Student credit points taken as internships off-campus
- Student credit points taken as on-line classes versus physical classes.

2.3.2 DAPS: The IMP contains no historical data or explanation on DAPS historical enrollment trends, nor any five or ten year forecast for DAPS (full time or part time). This is an egregious omission, which needs to be corrected, particularly since the SD requires that Fisher "include information on full-time and part-time Boston students." At Fisher, the part time students attend DAPS.

Reinforcing the need for better DAPS historical data on part-time students (presumably DAPS), the following chart using data from the US Department of Education shows a substantially gyrating trend. Fisher needs to explain what has been happening, and why it expects growth (if any) going forward.



Source: US Department of Education statistics (data from Fisher)

As with the day school, Fisher needs to provide forecasts and accompanying explanation for the share of students taking physical versus online classes.

3. Fisher's IMP employment information is inadequate

[From the Scoping Determination]: *Employment. Provide information on Fisher's current employee population, disaggregated by faculty/staff, full-time/part-time, contract employees, Boston residents/non-residents, as well as projected employment over the term of the IMP.*

Fisher's employment information and forecasts (with the exception of data on police security in 3-5) is contained almost entirely in the following two paragraphs from Chapter 9 on Economic Development:

EMPLOYMENT

As of December 31, 2014, Fisher has a complement of 285 full and part-time employees, of whom 33 are full-time faculty, 135 are part-time adjunct faculty and 93 are full-time staff. Most of Fisher's employees live in the Boston metropolitan region, and about 9% live in the City of Boston.

Future Employment

The increase in enrollment made possible by the IMP projects will result in an increase in new faculty and staff. As student enrollment increases and new programs and courses are introduced, additional faculty, both full and part time, will be hired to maintain current student and faculty ratios. Staff additions include those needed in facilities, Residence Life staff, counseling, student services, dining and Campus Police.

Looking at this information, I have the following comments:

- It is unclear as to whether the 285 employees include all of Fisher, or just those based in Boston. In its most recent IRS 990 form for the year ending 6/30/14, Fisher reported 580 employees. While the latter may include satellite facilities, the 295 difference suggests that Fisher has more employees in these facilities than in Boston, which would be surprising (since in some ways it would make Boston the satellite facility). Fisher needs to explain this difference better.
- Given that: (a) overall intensity of use and its impact on the local residential neighborhood is a central IMP issue; and (b) Fisher is claiming that IMP approval "will result in an increase in new faculty and staff," the College needs to provide information on how its IMP will affect the number of employees and therefore, the intensity of use in the neighborhood.
- In particular, Fisher's reliance on new master's programs as a vehicle for increasing student enrollment could result in increasing employment and intensity of use as these programs ramp up, since initial enrollment is likely to be small relative to the requirement for increased staff, with low resulting economies of scale.
- The fact that only 9% of employees (26 people) live in the City of Boston is not something that Fisher should be proud of. The College's growth is resulting in employment for non-Bostonians, yet it is the neighbors (all of whom live in Boston and pay property taxes) who must bear the burden. From an economic development standpoint, this is not what the **Boston** Redevelopment Authority is in business to foster.

4. Conclusions

The BRA included Section 3 on *Campus Demographics And Employment* in order to provide an analytical basis on which to assess the need for the proposed IMP projects. This is why the Scoping Determination emphasizes that Fisher needs to provide a thorough explanation of past trends and future forecasts.

As noted in the detailed comments above, Fisher has failed to provide anything close to a thorough explanation for enrollment (or employment) trends, and therefore is inadequate.

I therefore ask that the BRA require Fisher to produce the requested information (giving the community ample time to absorb and respond); and failing that, to find that Fisher's IMP has failed the Adequacy Determination test, because it does not provide an adequate response to Section 3 of the Scoping Determination requirements.

7. Fisher's No-Growth Commitment

7. Fisher's No-Growth Commitment

In August 2013, faced with overwhelming community opposition to its IMPNF, Fisher College sent a letter to the BRA (see Appendix) in which it withdrew the proposed conversion of 115/139/141 Beacon, said it would hold these “exclusively as investment properties” and pledged not to grow further in residential Back Bay beyond the properties it already owned:

*While several specific parts of the IMPNF have drawn questions and criticism from our neighbors, the overriding opposition from the community has been to the conversion of three investment properties on the south side of Beacon Street into new student dormitories. These properties are numbered 115, 139, and 141 Beacon Street. Given the volume of letters and other feedback that the City and Fisher have received in opposition to this part of the plan, **we have decided to eliminate this set of three projects from the IMP and retain ownership of the buildings exclusively as investment properties...***

Fisher College will commit to no further institutional expansion in residential Back Bay and Beacon Hill beyond the properties it currently owns. ...in the future we will only consider the neighborhood's commercial areas for new dorms or other institutional uses.

This commitment, ... is meant to assure the City and our neighbors that Fisher College recognizes the unique character and characteristics of our Back Bay location and realizes that expansion beyond our current portfolio of properties should be carried out in areas which can better accommodate such growth.

*... while we are still proposing a modest increase of 48 dorm beds on the north side of Beacon Street... **we are also undertaking a careful review of several alternative scenarios for future growth in other areas of the City.** – Fisher letter to BRA, August 13, 2013*

Two years later, I believe that that Fisher has tried to walk back its pledge as much as possible; e.g.:

- While agreeing in the August 2013 letter for the need to grow outside of residential Back Bay and promising to develop alternative scenarios for growth outside the zone, Fisher has done nothing in the past two years to implement these commitments. Indeed, in the June 22, 2015 BRA meeting, Carolina Avellaneda responded to a question on this topic by saying that there was “no need for additional properties” during the IMP ten-year period.
- Any discussion of the no-growth pledge in the IMP was conditional and pushed out implementation into some indefinite future.
- Fisher's recent attempt to codify the commitment, in the form of a “Non-Expansion Zone” map shared with the Good Neighbor Committee on May 18, 2015, contained two egregious loopholes that were immediately rejected by the Committee. A later version without one of the loopholes but with an unacceptable 10 year-term limit was shown to the GNC and then to the public at the BRA meeting on June 22, 2015.

I therefore regard the map as a cynical ploy to dupe the neighbors into allowing a new round of Fisher expansion in residential Back Bay beginning in 2025.

As a result, I believe that Fisher, aside from withdrawing the conversion of 115/139/141 from the IMP as a temporary accommodation tactic, has no intention of moving its growth outside of Back Bay and was being disingenuous when it suggested otherwise to the BRA in August 2013. The BRA should respond by telling Fisher that it needs more specificity on how Fisher plans to fulfill its August 2013 commitments.

I also believe that Fisher's showing the Non-Expansion map at the BRA meeting on June 22, 2015 constitutes a material change in its IMP. Accordingly, Fisher should be required to revise and resubmit its IMP to reflect this change.

* * * * *

Detailed Discussion

I. While agreeing in the August 2013 letter for the need to grow outside of residential Back Bay and promising to develop alternative scenarios for growth outside the zone, Fisher has done nothing in the past two years to implement these commitments.

In its August 2013 letter, Fisher said:

Fisher College recognizes the unique character and characteristics of our Back Bay location and realizes that expansion beyond our current portfolio of properties should be carried out in areas which can better accommodate such growth.

We are... undertaking a careful review of several alternative scenarios for future growth in other areas of the City.

Two years later, there is no indication in the IMP that any such review was ever undertaken – despite the fact that the September 2013 Scoping Determination required an “*alternative student housing location analysis*” (presumably in response to Fisher's letter sent one month earlier).

Instead, we see an emotional set of statements in IMP 4-4 (*Fisher, a Back Bay Institution*) explaining why Fisher's property in Back Bay is inextricably linked to its educational mission and why this cannot be replicated elsewhere.¹⁷

Fisher, a Back Bay Institution

... For Fisher College, the option to move out of its Beacon Street location is not on the table.

... Fisher's physical facilities and the education model that the College embraces are inextricably tied, making its current physical configuration a crucial component of its delivery of education services. Fisher College does not view its historic architecture and location as limiting, but rather as a key to its continued success. Fisher could not reproduce the scale and quality of the buildings it now inhabits in a new location. Nor would a new location be able to provide the deep effects on the student experience that the current historic architecture, beautiful location and urban surroundings provide...

... the value of Fisher's buildings is far greater than what they might return in the real estate market. The value of these buildings also stems from their fit with Fisher's educational model, the unparalleled living spaces it provides to students and from their rich history as a college with a unique mission in an iconic location. Moving to a new location cannot reproduce these qualities.
– IMP 4-4

¹⁷ While ostensibly this section is a defense on why Fisher cannot completely leave Back Bay (as Emerson successfully did with the BRA's help), it also appears to be an argument on why Fisher cannot move from Back Bay **at all** – since in Fisher's opinion, no buildings outside the Zone could replicate the unique educational and neighborhood parameters of its Back Bay properties.

II. Any discussion of the no growth pledge in the IMP was conditional and pushed out implementation into some indefinite future.

A careful review of the IMP revealed five references to future Fisher growth taking place outside the residential area of Back Bay. I review each below (showing first the IMP excerpt in italics, followed by my comments). The result suggests that aside from lip service being paid to eventual growth outside of Back Bay, Fisher is carefully avoiding making definitive commitments and/or leaving itself with loopholes. This leads to concerns about whether Fisher is simply ‘kicking the can down the road’ with no intention of ever growing outside of our neighborhood:

1. All of the Proposed Institutional Projects ... are described in detail ... Collectively, they advance the goals and objectives of Fisher for the next ten years. Fisher will look to meet needs, beyond those anticipated in this plan or that unforeseen circumstances give rise to, outside the residential area of Back Bay. -- IMP 1.9-1.10

The fact that: (a) none of the Proposed Institutional Projects involve expansion outside of Back Bay and (b) the projects will support Fisher’s goals and objectives for the next ten years barring unforeseen circumstances, suggests that Fisher will only consider growing outside of Back Bay after 2025 -- and there is no guarantee that it will do so, even then.

“Will look to meet needs ... outside the residential area of Back Bay” is a particularly troublesome phrase. By saying, “meet needs” rather than “meet **all** needs,” Fisher is avoiding making a guarantee that **all** future growth beyond the current IMP will take place outside residential Back Bay. By doing so, it leaves the following “in-Back Bay” options possible:

- Changing its mind once again about 115/139/141 Beacon and seeking to convert them for institutional use.¹⁸
- Seeking to buy additional properties in residential Back Bay that are currently being used for non-profit, institutional or educational use (as Fisher did with 10/11 Arlington and 111 Beacon).
- Seeking to buy additional properties in residential Back Bay even if they are currently zoned residential, and then filing an amended IMP asking for a zoning overlay.

2. Fisher retains herein its proposal to introduce 48 beds to its existing dormitory buildings, in accordance with the City of Boston's mandate that colleges maximize the utilization of their existing real estate resources to absorb growth. As enrollment grows and moves in increments toward the school's ten-year goal of 1,100 students, Fisher will look in areas outside of residential Back Bay to meet its housing needs. – IMP 3-4

¹⁸ As a pertinent example of Fisher changing its mind, here is what Fisher said in its IMPNF about its 2013 decision to convert 115/139/141 from investment into institutional properties: “In 1997, Fisher bought three buildings at 115, 139, 141 Beacon Street as an investment in its immediate environment. The buildings were in poor condition and required Fisher to further invest in them, as their distressed condition detracted from the neighborhood. The buildings comprise 8,700, 7,655 and 7,800 square feet respectively, totaling 24,155 square feet. Each building is divided into 12 small apartments which are rented at market rates. At the time of purchase, Fisher had no internal need to incorporate these buildings into institutional use, but by virtue of owning them, Fisher would have the option of converting them into academic or residential assets at some point in the future, when or if they were needed to meet the College’s space needs.” -- IMPNF pp.17-18.

Like excerpt 1, the statement “will look in areas outside of residential Back Bay” does not constitute a commitment to **only** look in areas outside of residential Back Bay. At best, the “looking” will only occur towards the end of the 10 year IMP period (around 2025).

3. The facilities needs that Fisher seeks to satisfy within the term of this IMP are described below. It should be noted, though, that Fisher's location in a fully built, dense urban neighborhood whose buildings are small and worthy of protection from intrusive renovation means that over time the College expects to look outside Back Bay should it choose to expand its enrollment and/or its programs beyond the capacity of existing facilities supplemented with those additional facilities proposed herein. – IMP 4-8

Like excerpts 1 and 2, the statement “**expects to look** outside Back Bay should it choose to expand” does not constitute a commitment to **only** look in areas outside of residential Back Bay.

And again, the “looking” will only occur towards the end of the 10 year IMP period (around 2025).

4. Having originally sought in its IMPNF to house an additional 129 students on Beacon Street, Fisher has vastly reduced the number of proposed beds in its IMP and has taken on the burden of locating outside of residential Back Bay any more beds that might be needed in the future -- IMP 5-5

Unlike excerpts 1-3, this statement appears to unconditionally commit to “locating outside of residential Back Bay **any** more beds that might be needed in the future.”

Even here, however, Fisher left itself with ‘wiggle room:’

- In the August 2013 letter, Fisher said that it “will commit to no further institutional expansion in residential Back Bay and Beacon Hill beyond the properties it currently owns.” Since it “currently owns” 115/139/141, this means that at some future time of its choosing, Fisher could decide to expand in Back Bay by converting these properties without violating its page 5-5 commitment.
- Since there is no definition of “residential Back Bay,” Fisher could buy or lease institutional/educational/office properties on Beacon, Marlborough or Commonwealth and claim that since they are not residential properties, they are not part of residential Back Bay – thereby not violating the page 5-5 commitment.
- There is nothing legally binding in the IMP, which can be amended by Fisher at any time for further BRA review.

5. As part of its compromise with the Neighborhood Association of the Back Bay (“NABB”) and neighbors,¹⁹ Fisher agreed not to convert the Rental Properties it owns on Beacon Street to 129 dormitory beds. In addition, it agreed that when, in the future, Fisher needs additional beds, those beds will be located outside of residential Back Bay. -- IMP 6-4

Similar to excerpt 4, the phrase “those beds **will be located** outside of residential Back Bay” initially appears to exclude future dorm growth in residential Back Bay (beyond the IMP’s plan for +48 dorm beds on Beacon Street, which was included in the August 2013 letter).

¹⁹ Statement #5 is incorrect when it suggests that Fisher made a compromise with NABB. Instead, Fisher in August 2013, faced with overwhelming community opposition, and wanting to head off an onerous BRA Scoping Determination in September, decided to make a unilateral and unconditional commitment to the BRA with no prior discussion with NABB.

However, it contains the same wiggle room elements as #4.

III. Fisher's recent attempt to codify the commitment, in the form of a "Non Expansion Zone" map shared with the Good Neighbor Committee on May 18, 2015, contained two egregious loopholes that were immediately rejected by the Committee.

On May 18, 2015, three business days after filing its IMP, Carolina Avellaneda sent an email to the six abutters who constitute the Good Neighbor Committee (GNC) and who have been negotiating a possible Good Neighbor Agreement (GNA) with Fisher. In this email, Fisher enclosed a map (attached as Appendix) that "documents the commitment to non-expansion in residential Back Bay that Fisher wants to make."

The map contained two shaded areas constituting Fisher's proposed "Non-Expansion Zone" ("Zone") -- including residential Back Bay and the entirety of Beacon Hill. With some geographic issues that were quickly resolved,²⁰ the map was well received by the GNC.

Upon review, however, the GNC members became upset when they discovered that at the bottom of the map in small type there was an asterisked condition saying, "this area excludes any buildings currently used for educational or institutional purposes." In other words, as it did in 2010 when it purchased 111 Beacon from Butera School of Art, Fisher could seek to purchase other properties with grandfathered protection (for example, Bay State College, which owns or leases six brownstones in residential Back Bay on Commonwealth Avenue). The prospect of never-ending Fisher attempts to grow in residential Back Bay shocked the GNC members, who immediately made it clear to Fisher that this exemption was a non-starter.

At the same meeting, the GNC members learned that the Non-Expansion Zone was not a permanent Fisher commitment, and would expire in ten years (unlike the August 2013 letter, which had no time limitation). This made the members equally upset. As a result, they came away from the meeting believing that:

- Fisher was unwilling to make a permanent non-expansion commitment in residential Back Bay. It instead some day would be renewing its attempt to use 1115/139/141 for institutional use, and the community would be faced with a never-ending series of 111 Beacon and 10/11 Arlington expansion situations across residential Back Bay.
- The College's failure to develop any plans for physical expansion outside of the Zone in the previous two years, combined with the very equivocal /conditional language in the IMP regarding expansion outside of the Zone, instead reinforced a belief that Fisher in fact had no intention of looking for expansion outside residential Back Bay.

At the next GNA meeting held on June 2, 2015, Fisher agreed to delete the asterisked educational/institutional exemption, but it held firm on the ten-year pledge expiration.

The GNC therefore decided that Fisher's revised offer remains unacceptable to the local community. It wants an agreement with Fisher that is permanent, not temporary.

Conclusion

I believe that Fisher has tried to walk back its August 2013 pledge to the BRA as much as possible:

- While agreeing in the August 2013 letter for the need to grow outside of residential Back Bay and promising to develop alternative scenarios for growth outside the zone, Fisher

²⁰ Most notably the north side of Newbury abutting on Commonwealth, which Fisher later agreed to add to the Zone. However, the revised map still has not made this change.

has done nothing in the past two years to implement these commitments. Indeed, in the June 22, 2015 BRA meeting, Carolina Avellaneda responded to a question on this topic by saying that there was “no need for additional properties” during the IMP ten-year period.

- Any discussion of the no growth pledge in the IMP was highly conditional and pushed out implementation into some indefinite future.
- Fisher’s recent attempt to codify the commitment, in the form of a “Non-Expansion Zone” map shared with the Good Neighbor Committee on May 18, 2015, contained two egregious loopholes that were immediately rejected by the Committee. A later version without one of the loopholes but with an unacceptable 10 year-term limit was shown to the GNC and then to the public at the BRA meeting on June 22, 2015.

I therefore regard the map as a cynical ploy to dupe the neighbors into allowing a new round of Fisher expansion in residential Back Bay beginning in 2025.

- My take-away is that Fisher, aside from withdrawing the conversion of 115/1390/141 from the IMP as a temporary accommodation tactic, has no intention of moving its growth outside of Back Bay and was being disingenuous when it suggested otherwise to the BRA in August 2013. The BRA should respond by telling Fisher that it needs more specificity on how Fisher plans to fulfill its August 2013 commitments.





FISHER COLLEGE

Office of the President

August 13, 2013

Mr. Peter Meade
Director
Boston Redevelopment Authority
One City Hall Square, 9th Floor
Boston, MA 02201

Dear Director Meade:

Over the past several months, as required by the City of Boston, Fisher College has undertaken the first Institutional Master Planning process in our 110-year history. In four well attended community meetings and through dozens of other meetings and exchanges with area residents, community leaders and elected officials, it became clear that elements of the proposal would need to be modified in order to balance concerns over Fisher's presence in the neighborhood and our need for predictable and managed growth in order to remain competitive in today's higher educational landscape.

While several specific parts of the IMPNF have drawn questions and criticism from our neighbors, the overriding opposition from the community has been to the conversion of three investment properties on the south side of Beacon Street into new student dormitories. These properties are numbered 115, 139, and 141 Beacon Street. Given the volume of letters and other feedback that the City and Fisher have received in opposition to this part of the plan, we have decided to eliminate this set of three projects from the IMP and retain ownership of the buildings exclusively as investment properties.

Further, since there is a great deal of anxiety surrounding what could happen under future leadership of the College, we will continue to work with our neighbors and the IMP Task Force to develop a detailed set of good neighbor principles which can be appended to the IMP as a memorandum of understanding through which Fisher College will commit to no further institutional expansion in residential Back Bay and Beacon Hill beyond the properties it currently owns. While we must always consider strategic real estate investment in Back Bay as a vehicle for our endowment and fiscal health, in the future we will only consider the neighborhood's commercial areas for new dorms or other institutional uses.

This commitment, to be memorialized in the IMP itself, is meant to assure the City and our neighbors that Fisher College recognizes the unique character and characteristics of our Back Bay location and realizes that expansion beyond our current portfolio of properties should be carried out in areas which can better accommodate such growth. To that end, while we are still proposing a modest increase of 48 dorm beds on the north side of Beacon Street – where the majority of our students are housed today – we are also undertaking a careful review of several alternative scenarios for future growth in other areas of the City.

As we look forward to the issuance of the IMPNF Scoping Determination by your office, we realize that BRA staff and City Departments may require more time to assess this substantive change to the Plan than the typical 15 days provided for under Article 80D. My staff has been in touch with the BRA Project Manager to communicate our comfort with your office having a reasonable extension of time to issue the Scoping – we suggest September 9, 2013 as the new deadline - in order that you may reconcile the changes described above

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with your response to public and interdepartmental commentary on the balance of the Plan. Do let us know if this additional time will be sufficient for your staff to complete that task.

As we move into the next phase of the IMP process, we want to thank the BRA for its thoughtful management of the process to date and for your willingness to work with Fisher College to develop a flexible and responsive plan which will strike a balance between Fisher College's successful growth and the needs and desires of the City of Boston and its residents.

Sincerely,



Dr. McGovern, President

Cc: Hon. Thomas M. Menino, Mayor
Hon. Jay Livingstone, State Representative
Hon. Michael P. Ross, District 8 City Councilor
Hon. Felix Arroyo, City Councilor At-Large
Hon. John R. Connolly, City Councilor At-Large
Hon. Stephen Murphy, City Council President
Hon. Ayanna Pressley, City Councilor At-Large
Katelyn Sullivan, BRA
IMP Task Force Members
Howard Kassler, Chair, Neighborhood Association of the Back Bay
Steve Young, Chair, Beacon Hill Civic Association

8. Fisher Economic Development

8. Fisher Economic Development

This memo reviews Fisher's IMP Chapter 9 (Economic Development) and finds it grossly inadequate:

- In total, the chapter is only slightly more than three pages long, suggesting that Fisher does not have much economic development to discuss.
- Unlike most development plans, which tout major new construction spending and construction jobs, Fisher's IMP calls for no construction spending or jobs
- The section on expenditures to Boston companies appears to confuse the Boston metropolitan area with the City of Boston; since almost all of the companies touted as major spending recipients are not located in the City. Fisher mostly sends its money to the suburbs, rather than directly contributing to the City economy.
- Given that only 9% of Fisher employees work in the City of Boston, Fisher only currently employs 26 Boston residents. Assuming that staff grows proportionately with planned enrollment growth (+34%), the IMP will only result in 9 new jobs by 2024.
- The touted tuition reimbursement and professional development sections cannot be taken seriously as substantially contributing to Boston economic development
- The benefits from any increase in student internships and employment are also modest, at best. If we accept Fisher's numbers from page 10-10 of 100 students interning 10 hours/week (total 1,000 hours/week), and assume a 32-week academic year at \$7.50 per hour, the total internship value comes to \$240,000 annually. To the extent that due to the IMP, enrollment grows 34% by 2024, the increase is only \$81,600 per year in Year 10.
- I also question Fisher's underlying premise that these internships are dependent on IMP expansion taking place within the residential Back Bay. Other schools not located in Back Bay, like Northeastern, are renowned for their internship programs – making Fisher's arguments about the need to be in residential Back Bay questionable.

As such, the BRA should reject Fisher's IMP as an inadequate response to Scoping Determination Section 9 (Economic Development),

In addition, from the perspective of the BRA's need to balance the benefits of the IMP to the City (per 80D-4) versus the prospective damage to abutter/proximate abutter properties worth in excess of \$1 billion, the answer to the balancing effort should be obvious – the potential harm far outweighs the stated economic benefits.

As a result, the BRA should encourage Fisher to develop plans that increase the benefits for the City of Boston and which minimize prospective damage to abutter/proximate abutter properties. As two possible options:

1. Fisher should develop plans to increase its employment of Boston residents and use of Boston vendors.
2. Fisher should consider options for expansion outside of Boston that will increase construction jobs in Boston (see memo #9 on the economics of selling property in Back Bay and developing new facilities in other neighborhoods).

* * * * *

Detailed Discussion

1. Starting Point: No New Construction

In most instances when there are disputes between an institution and its neighbors, a core element of disagreement typically revolves around economic development; i.e., the college or university wants to grow its physical plant substantially with new construction, while the abutters complain about overly large new buildings overwhelming the neighborhood.

As such, the BRA's job is to balance between the competing attractiveness of new construction and the impact of that development on the existing neighborhood.

Here, the issue is substantially different. Fisher is not saying that there will be any construction-based economic benefits.²¹ As a result, Fisher needs to demonstrate that its IMP will provide substantial other rewards, in the form of local spending or job creation.

The BRA seemed to understand this in its Scoping Determination Section 9 (shown below), which does not discuss construction at all and asks Fisher to show how it will create jobs and unnamed "additional opportunities." Based on this, I reviewed Fisher's IMP Chapter 9 to see what types of economic development Fisher would come up with.

From the Scoping Determination

9. ECONOMIC DEVELOPMENT

- **Workforce Development.** *The BRA looks forward to working with Fisher to support the City's employment and workforce development goals. This IMP provides an opportunity for further discussion of measures to enhance educational opportunities for Boston residents and prepare Boston residents and students for employment. The IMP should provide the information described in the "Job Training Analysis" component of Section 80D-3 of the Boston Zoning Code.*
- **Economic Development Goals and Strategies.** *The City of Boston views its academic institutions as tremendous assets and as valuable partners in economic development. Fisher's ongoing evolution will provide additional opportunities for cooperation with the City on key economic development goals. The City looks forward to working with Fisher in the future to explore ways that Fisher's positive economic impacts can be increased. – Scoping Determination, September 2013*

2. Brevity of Fisher's Response

In looking at Fisher's responsive Chapter 9 on Economic Development, an immediate reaction was that at slightly over three pages, it was apparent that Fisher had very little responsive to say on the subject (unlike its section on urban design, where Fisher spent 16 pages touting such things as its careful stewardship of its Beacon Street gardens).

This by itself suggests an acknowledgement by Fisher that it had little to say on the subject of economic development.

This is reinforced by what Fisher does say in Chapter 9.

²¹ See memo #8 on the economics of Fisher selling some or all of its Back Bay properties for condo gut rehab development, and then constructing new facilities using commercial properties. The result would be construction spending ranging from \$36 to \$190 million.

3. Fisher Employment

In the IMP, Fisher states that its overall payroll is slightly over \$12 million. This ties to the College's IRS 990 submission for the year ending 6/30/14 (\$12,093,878). However, versus the 990 statement's 580 employees, this translates into \$22,852 per employee, which suggests that most of Fisher's jobs are low paying and/or have severely limited hours.

Despite the fact that its 990 submission shows 580 employees, Fisher in its IMP states, "as of December 31, 2014, Fisher has a complement of 285 full and part-time employees." This is a 2:1 discrepancy, which Fisher needs to explain.

Of the 285 employees, Fisher states that while "most of Fisher's employees live in the Boston metropolitan region.., about 9% live in the City of Boston." This translates into 26 employees living in Boston (full and part time) -- a surprisingly small number.

Fisher does not provide any employment growth forecast, aside from suggesting that enrollment growth will result in increased employment:

The increase in enrollment made possible by the IMP projects will result in an increase in new faculty and staff. As student enrollment increases and new programs and courses are introduced, additional faculty, both full and part time, will be hired to maintain current student and faculty ratios. Staff additions include those needed in facilities, Residence Life staff, counseling, student services, dining and Campus Police. – IMP 9-2

However, assuming that:

- Staff employment grows proportionately to student enrollment
- Student enrollment grows 34% from 2012's baseline 820 to 1,100 by 2024
- 9% of Fisher employees continue to live in the City of Boston,

then by 2024, Fisher will be adding $285 \times 9\% \times 34\% = 9$ new employees living in the City.

In sum, Fisher is currently providing minimal employment for City of Boston residents, and its planned growth will provide minimal additional employment. While it certainly a good thing that Fisher hires people from the greater Boston metropolitan area, the purpose of the **Boston** Redevelopment Authority (emphasis added) is to provide economic benefits for the City itself – not for the outlying suburbs.

4. Fisher Vendor Spending

In its IMP, Fisher touts its \$2.5 million of payments to vendors and contractors, and points to its contracts with nine listed "Boston-based services:"

Fisher contracts with Boston-based services, including Aramark Campus Services (for on-campus foodservices); AC General Contracting, Inc.; Innovated 2000 Multiservice, Inc.; J.W. Masonry, Inc.; FV Recillas Electrical Services; M. Fuller Plumbing; Scan Business Systems; Goodway Group; and LIKARR Systems. – IMP 9-1

However, examination of these companies indicates 8 of the 9 companies are located in the suburbs, with only Innovated 2000 Multiservice having a Brighton branch office. While Aramark does hire Boston residents for food service jobs, these are likely to be low paying and possibly part time.

With respect to the argument that “Fisher expends over a quarter-million dollars annually for professional services with Boston firms,”

- This is not much spending
- I suspect that much of this is a temporary upsurge resulting from the need to hire multiple consultants as part of Fisher’s IMP process (e.g., Colliers, Howard/Stein-Hudson, Choo & Company, Catherine Donaher + associates).
- I note that Catherine Donahue lives in Brookline, not Boston; and Choo and Company is from Quincy.

5. Hostelling International Contract

Fisher touts its original contract with Hostelling international as “contribut[ing] to the success of the project.” I agree, but point out that this benefit has already occurred. There is no indication that Hostelling needs new financing.

6. Fisher Student Spending

In Chapter 9, Fisher touts the local ancillary spending of its students, prospective students and their families. However, it does not attempt to quantify the level of spending or its prospective growth.

Assuming that Fisher chooses to expand its facilities outside of the residential Back Bay but remains in Boston, there will be no real change in the prospective spending level versus in the IMP case. Students will still be going to school in Boston, they will continue to be attracted to shops and restaurants in Back Bay, and can easily get there via public transportation.

7. Staff Tuition Reimbursement

Fisher makes not attempt to quantify the amount of staff tuition reimbursement it has paid out in recent years. If the amount was substantial, I presume it would be touting this.

Given that Fisher only makes this available to 35 full time employees and adjunct faculty who have taught 4 course sections in the past year, I doubt that this represents a large investment on Fisher’s part.

8. Professional Development

This again is an area that Fisher does not attempt to quantify.

If 35 full time employees have professional development stipend of \$2,500 each, this comes to a sum total of \$87,500, which is a *de minimus* level.

8. Student Internships

The benefits from any increase in student internships and employment are also modest, at best. If we accept Fisher’s numbers from page 10-10 of 100 students interning 10 hours/week (total 1,000 hours/week), and assume a 32-week academic year at \$7.50 per hour,²² the total internship value comes to \$240,000 annually. To the extent that due to the IMP, enrollment grows 34% by 2024, the increase is only \$81,600 per year in Year 10.

I also question Fisher’s underlying premise that these internships are dependent on IMP expansion taking place within the residential Back Bay. Other schools not located in Back Bay, like Northeastern, are renowned for their internship programs – making Fisher’s arguments about the need to be in residential Back Bay questionable.

²² The \$7.50 per hour number comes from Appendix C Section IV (*Community Service*).

9. Student Employment

This is an area that Fisher does not attempt to quantify. Knowing that Fish*Net had 1,112 jobs posted in 2014 is interesting, but how many actual Fisher jobs resulted from those postings?

While I agree that student employment is valuable, I disagree that being in residential Back Bay is necessary for obtaining employment, or that the approval of the IMP will measurably affect the level or quality of employment opportunities.

10. Conclusions

Fisher's Economic Development section is disappointing, in that it provides little indication that the school is providing significant stimulus to construction, jobs or local spending even at current levels, or that the IMP will add measurably to the already low levels of spending that stay within the City of Boston.

As such, Fisher's Chapter 9 represents an inadequate response to Scoping Determination Section 9.

In addition, as the BRA seeks to balance the benefits of IMP approval against the potential damage to the local neighborhood (with over \$1 billion of abutter/proximate abutter property valuation), the answer to the balancing effort should be obvious – the potential harm far outweighs the stated economic benefits.

The Boston Redevelopment Authority shall approve an Institutional Master Plan only if the Authority finds that.. (c) on balance, nothing in the Institutional Master Plan will be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens. – 80D-4

9. Fisher Expansion Outside of Back Bay

9. Economics: Fisher Expansion Outside of Back Bay

In a letter to then-Director Peter Meade dated August 13, 2013, Fisher President Thomas McGovern told the BRA that the College was committed to zero growth in the Back Bay residential neighborhood (beyond the properties it already owned) and would be looking to expand outside the district:

Fisher College will commit to no further institutional expansion in residential Back Bay and Beacon Hill beyond the properties it currently owns...

Fisher College recognizes the unique character and characteristics of our Back Bay location and realizes that expansion beyond our current portfolio of properties should be carried out in areas which can better accommodate such growth. To that end ... we are ... undertaking a careful review of several alternative scenarios for future growth in other areas of the City. – McGovern letter to the BRA, August 13, 2013

Almost two years later, I was disappointed to learn that Fisher's new IMP does not include "alternative scenarios [for growth] in other areas of the City." Instead, the plan contains a highly emotional but numerically-free defense of remaining in Back Bay:

For Fisher College, the option to move out of its Beacon Street location is not on the table...

Fisher could not reproduce the scale and quality of the buildings it now inhabits in a new location....

Because the value of Fisher's buildings is truly immeasurable, money is not a compelling argument for Fisher to relocate from its long-time home in Back Bay. --- IMP 4-3

To assess the quantitative validity of the College's apparent desire to remain Back Bay-centric, this memo considers the economics of focusing Fisher's growth outside of the Back Bay under two cases:

- A. Fisher sells 100% of its Back Bay property (190,000 gross square feet) and relocates into rehabbed commercial space elsewhere in Boston (similar to what Emerson did in the 1990s)
- B. Fisher retains its current 'college use' properties but sells its other properties that are not currently being used for college use (115/139/141 Beacon plus 10/11 Arlington). It will then use the proceeds to purchase and rehab commercial space elsewhere in Boston (similar to what Suffolk did in the past decade).

My conclusion is that (a) if Fisher were to sell some or all of its Back Bay properties at a market price of between \$660 and \$870 per gross square foot and (b) uses the proceeds to relocate into commercial space elsewhere in Boston (at a purchase price of \$475 per usable square foot including renovation), then (c) it could increase its facility size substantially without net new investment. In particular:

- **Case A:** In place of Fisher's current college use facilities totaling 126,562 net useable square feet,²³ Fisher could afford to build a new campus with between 240,000 to 315,000 usable square feet – an increase of 1.9 to 2.5 times.

Case B: in place of 10/11 Arlington as the sole building that Fisher plans to convert to college use in its IMP, selling 10/11 along with 115/139/141 Beacon would permit Fisher to build new facilities with 52,000 to 69,000 square feet, an increase of 3.6 to 4.7 times the size of 10/11 Arlington.

In contrast, a plan in which Fisher shoehorns more beds in an already small campus and limits its building expansion to 10/11 Arlington's 17,250 square feet (14,663 useable) is a

²³ This assumes that 85% of gross space is usable. Fisher's college use facilities have 148,896 total gross square feet.

non-sustainable band-aid that will result in the need for a new IMP well before the end of the initial ten-year period.

Beyond the benefits for Fisher, Cases A and B also would provide a substantial economic benefit for the City of Boston, in the form of additional construction spending (for case A, \$167-190 million; for Case B, \$36-41 million), as well as higher net taxable property valuations.

In Section 6 of its Scoping Determination, the BRA required Fisher to provide an “alternative student housing location analysis” for options outside of residential Back Bay. We suggest that the BRA remind Fisher of this requirement, and extend it to include non-dorm facility options.

* * * * *

Detailed Analysis

1. Fisher Currently Owned Space

Fisher currently owns 190,301 gross square feet of space in Back Bay (Table 1), of which 148,896 currently is being used for college use and 41,405 is used for apartment or office rentals.

Table 1: Fisher Current Gross Square Feet

Building Address	Current Use	Square Feet
118 Beacon	Classroom, Office	20,735
112 Beacon	Dormitory	9,253
114 Beacon	Dormitory	8,938
116 Beacon	Classroom, Office and Dormitory	8,447
108/110 Beacon	Classroom, Office	18,619
131 Beacon	Dormitory	10,583
133 Beacon	Dormitory	9,830
102 Beacon	Dormitory	21,179
104 Beacon	Dormitory	11,100
106 Beacon	Dormitory	11,610
One Arlington Street	Classroom, Office	10,370
111 Beacon ²⁴	Classroom, Office	8,232
Total Current Institutional Use		148,896
10/11 Arlington	Office Rental	17,250
115 Beacon	Apartment	8,700
139 Beacon	Apartment	7,655
141 Beacon	Apartment	7,800
Total Other Fisher Owned Property		41,405
Total Fisher Current Space		190,301

²⁴ 111 Beacon is currently being used for institutional purposes, although without proper zoning approval.

Assuming an 85% usable to gross square foot ratio, Fisher currently has 126,562 net useable square feet, giving it a very small campus footprint on a square foot per FTE (full time equivalent) basis.

2. Current Back Bay Market Values

To assess the probable value of the Fisher properties if sold to a developer (as Emerson did in the 1990s), I checked with broker and developer contacts regarding current market norms for prime Back Bay residential property. The data (Table 2) is as follows:

- The current market price for prime Back Bay residential space (rehabbed) is between \$1,500 and \$2,200 psf (per square foot) on a net usable basis.
- To adjust for gross square feet (eliminating common areas), these net numbers should be reduced by 15% to \$1,275-\$1,870 psf on a gross basis, with an additional 4% subtracted for sales commissions.
- Given that the Fisher buildings would require gut rehabs, general estimates of rehab costs are \$570-\$625 psf (hard plus soft costs).
- In addition, a developer would seek to make a margin of around 20% on total building purchase price plus rehab costs.
- Subtracting these from revenues, a developer would pay Fisher between \$450-\$870 per gross square foot for its buildings. Given that these properties are on the prime A/B block of Beacon and many of the buildings either face the Charles River or the Public Garden, *a price in the \$660-\$870 range overall appears achievable.*

Table 2: Realizable Price for Back Bay Properties (PSF)

	Low	Ave	High
Total Net Saleable Refurbished Sales Price psf	1,500	1,850	2,200
Gross to net saleable	85%	85%	85%
Price per gross sq ft	1,275	1,573	1,870
Sales Commission 4%	(51)	(63)	(75)
Net Price per gross sq ft after commission	1,224	1,510	1,795
Hard Costs psf	450		
Soft Costs psf	120		
Total Refurb Costs psf	570	598	625
Net before developer OH/Profit	654	912	1,170
Developer OH/Profit (20% of purchase price plus refurb costs)	204	252	299
Net Realizable Price	450	661	871

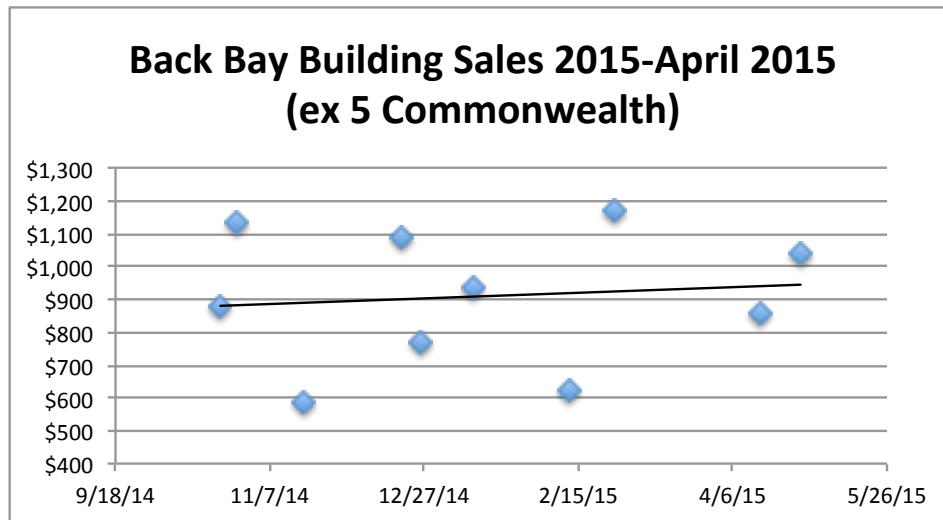
3. Status Check: 2013/2014 Back Bay Building Transactions

As a test of the Table 2 net realizable prices, Table 3 lists whole building transactions in Back Bay for 2014 through April 2015, with an average price of \$999 per square foot.

On balance, this reinforces my estimated net realizable price range of \$660 to \$870 for gut rehab development.

Table 3: 2014/15 YTD Back Bay Building Sales

NUMBER	STREET	SALE PRICE	SALE DATE	Sq. Ft	\$ PSF
118	Marlborough	\$5,000,000	4/28/15	4,803	\$1,041
197	Marlborough	\$5,850,000	4/15/15	6815	\$858
130	Commonwealth	\$11,600,000	2/27/15	9,908	\$1,171
14	Gloucester	\$4,205,000	2/12/15	6720	\$626
244	Marlborough	\$5,219,000	1/12/15	5,558	\$939
135	Beacon	\$5,600,000	12/26/14	7260	\$771
410	Beacon	\$8,500,000	12/20/14	7,809	\$1,088
117	Beacon	\$4,750,000	11/18/14	8,128	\$584
314	Marlborough	\$5,100,000	10/27/14	4,496	\$1,134
310	Marlborough	\$3,100,000	10/22/14	3,516	\$882
5	Commonwealth	\$38,590,000	10/31/14	20,326	\$1,899
Unweighted Average					\$999



4. Realizable Price from Sale of Fisher Property

At a price of \$660-\$870 per gross square foot, Cases A and B would generate the following proceeds to Fisher (Table 4):

Table 4: Realizable Total Sale Prices: Cases A and B

Case	@ \$660 PSF	@ \$870 PSF
A. Total Fisher Properties	\$125,598,660	\$165,561,870
B. Fisher Non-College Properties	\$27,327,300	\$36,022,350

5. New Property Cost PSF

The Table 4 realizable sale prices can then be used to purchase and rehab commercial space elsewhere in Boston.

Based on current market rates from brokers and developers the estimated cost for purchasing downtown commercial property is around \$300 psf (net usable space). For reference, see sales of buildings over 100,000 square feet: 1000 Washington 248,000 square feet at \$302 psf in December 2014; 38 Chauncy 133,000 square feet at \$297 psf in July 2014, and 40 Court St 109,000 square feet at \$284 psf in May 2014.

The properties would then need to be rehabbed:

- To rehab for dorm space, the additional cost would be \$250 psf.
- The rehab cost for office/classroom space would be \$200.

Thus, the total cost for the new properties would range from \$500-\$550 psf for usable space. Assuming a 50/50 mix of dorm/non-dorm space, the average cost would be \$525 psf.

6. New Property Cost PSF

Taking the realizable sales prices from Table 4 and dividing them by \$525 psf, Table 4 shows that Fisher would be able to trade in its current property for the following amount of usable square feet:

Table 5: Total Purchasable Commercial Square Feet (Usable)

Case	@ \$660 PSF	@ \$870 PSF
A. Total Fisher Properties	239,236	315,356
B. Fisher Non-College Properties	52,052	68,614

7. Increase in Usable Square Feet

If one compares the purchasable commercial square feet versus current Fisher college use properties on an apples-to-apples net usable square foot basis (Table 6), it becomes apparent that by selling its Back Bay properties and redeploying in a commercial district, Fisher can substantially increase its overall square footage. In particular:

- **Case A:** If Fisher sells its properties at \$660-870 gross and buys/rehabs commercial property at \$525 net, it will be able to increase its 'college use' net use square footage in Case A by 1.9 to 2.5 times.
- **Case B:** By selling 115/139/141 Beacon plus 10/11 Arlington, we would be replacing 10/11 Arlington's 14,663 net square feet with 52,000 to 70,000 of commercial net square feet, for a total increase of 3.6 to 4.7 times

Table 6: Increase in Usable Square Feet

Case A	@ \$660 PSF	@ \$870 PSF
Current Fisher Gross Square Feet	148,896	148,896
Current Fisher Net Square Feet	126,562	126,562
New Commercial Net Square Feet	239,236	315,356
Ratio: New/Existing Net Square Feet	1.89x	2.49x
Case B		
10/11 Arlington Gross Square Feet	17,250	17,250
10/11 Arlington Net Square Feet	14,663	14,663
New Commercial Net Square Feet	52,052	68,614
Ratio: New/Existing Net Square Feet	3.55x	4.68x

8. Impact on Construction Spending

Given that a gut rehab of the Fisher buildings will cost between \$598 and 625 psf, and the rehab of the new commercial property will cost around \$225 psf, the impact of Cases A and B on the city of Boston construction industry will be substantial. From Table 7:

- For Case A, there will be \$167-190 million in rehab spending
- For Case B, there will be \$36-41 million in rehab spending.

Table 7: Impact on Hard and Soft Construction Spending

Case A	@ \$660 PSF	@ \$870 PSF
Fisher Gross Square Feet	190,301	190,301
Rehab Costs PSF	\$598	\$625
Total Condo Rehab Costs	\$113,704,848	\$118,938,125
New Commercial Space net SF	239,236	315,356
Commercial rehab costs PSF	\$225	\$225
Total Commercial Rehab Costs	\$53,827,997	\$70,955,087
Total Hard + Soft Rehab Costs	\$167,532,845	\$189,893,212
<hr/>		
Case B	@ \$660 PSF	@ \$870 PSF
Fisher Gross Square Feet	41,405	41,405
Rehab Costs PSF	\$598	\$625
Total Condo Rehab Costs	\$24,739,488	\$25,878,125
New Commercial Space net SF	52,052	68,614
Commercial rehab costs PSF	\$225	\$225
Total Commercial Rehab Costs	\$11,711,700	\$15,438,150
Total Hard + Soft Rehab Costs	\$36,451,188	\$41,316,275

10. Fisher Performance In Serving Boston and Minority Students

10. Fisher Performance In Serving Boston and Minority Students

On multiple occasions over the past two years, Fisher has been touting its role as a school that offers a uniquely warm and supportive place to educate inner city Boston students, many of whom are the first in their family to go to college:

Fisher holds a unique niche in the constellation of colleges for which the Boston area is known. It is noted as an institution dedicated to educating students - many the first in their families to attend college - from a broad range of racial, income and ethnic backgrounds, and preparing them for a lifetime of intellectual and professional pursuits. – IMP Preamble 1

“Fisher’s Boston-raised students contribute to the diversity of its student body -- of which the college is especially proud--with over 125 students from the city of Boston in its Day Program, many of whom are members of minority groups and first in their families to attend college.” – Appendix C

I personally would like to support any school that performs this function, having lived originally in a slum neighborhood in Manhattan (the lower East Side) and being the first person in my immediate family to go to college. From this, I appreciate the extent to which education is the great social leveler in America and makes this country great. To the extent that Fisher fulfills this mission, this might warrant giving Fisher some special regulatory consideration.

Accordingly, I decided to review Fisher’s performance to test the extent to which it is fulfilling its claimed role.

My conclusion is that Fisher is substantially overstating its success in this regard:

- Fisher does not educate many City of Boston students.
- Fisher has less student diversity than a comparable 4-year school like UMass Boston.
- Fisher has been de-emphasizing its associate program and has abandoned its open admission policy, which together have been key gateways/mechanisms by which inner city students attend college.
- Despite this, Fisher’s first year retention level is more like that of a two year than a four-year school.
- Fisher does a poor job of transitioning its associate graduates into its four-year bachelor’s program. Only 15% of graduates go on to the bachelor degree program.
- Fisher’s 6-year graduation rate (for its 4 year bachelor program) is only 36%. Its 18% graduation rate for Hispanics is half that of UMass. We have no graduation rate data for Boston residents.
- Fisher is expensive compared to UMass or various local community colleges.
- Fisher’s federally guaranteed student loan default rate is almost double that of UMass Boston (15.3% vs. 8.6%)

As a result, I do not believe that Fisher’s performance warrants special IMP approval treatment by the City and the BRA.

* * * * *

Detailed Discussion

1. Educating City of Boston Students

The IMP states that 22.5% of all day students come from the City of Boston. Since there were 763 day students enrolled in the fall of 2014, this means that Fisher has 172 students enrolled from the City of Boston. If one divides this over 4-6 cohort years, this means that there are only 29-43 Boston students in each cohort-year.

This is not a very large number, and presumably pales in comparison to the number of Boston residents attending schools like Urban College on Tremont Street (511 total enrollment/163 graduates in May 2015; almost all of whom come from Boston); Bunker Hill Community College (14,023 total enrollment); Roxbury Community College (2,437 total enrollment) or UMass Boston (12,366 undergraduates).

In sum, any intimation that Fisher does a special job in educating a large number of City of Boston students is incorrect.

2. Educating Minority Students

In its IMP, Fisher uses the phrases “diverse populations” and “diverse student body” multiple times:

Fisher is a Boston-based college with a diverse student body - just the combination sought by young people who are facing the challenges of making their way in a global economy.-- Preamble 1

The strong commitment to building community among a very diverse student body -- IMP 1-4

How diverse is the student population? On IMP 3-1, Fisher states, “of the domestic students who reported race/ethnicity, 27.3% were Hispanic and 21.4% were Black or African American.” (IMP 3-1 to 3-2). This suggests 48.7% domestic ethnic minorities.

However, we don’t know this for sure, because Fisher’s complete submission to the US Department of Education states that African-Americans and Hispanics only represent 17% of total enrollment, with 42% unknown and 6% non-resident aliens. There are also 1% Asians and 1% multiracial, for a total domestic minority of 19%

Interestingly, if in Table 1 we divide this 19% total domestic minorities into the report’s 52% of identified domestic categories (100% minus 42% unknown and 6% alien non-residents), we only get 36.5% minorities, not Fisher’s 48.7% -- suggesting that Fisher’s math is wrong. As a result, the IMP overstates Fisher’s minority share by a factor of 1.33 times.

Table 1: Fisher % Of Students by Ethnicity

	Fisher Total Students	Fisher ex Unknown and Alien Non-Residents
Asian	1%	1.9%
African-American	9%	17.3%
Hispanic	8%	15.4%
2+ races	1%	1.9%
Subtotal Minorities (Domestic)	19%	36.5%
White	33%	63.5%
Unknown	42%	
Alien Non-Residents	6%	
Total	100%	100%

How does Fisher's diversity level compare to a reference 4-year school like UMass Boston that has roughly similar admittance levels? Table 2 compares Fisher with UMass. Adding together Asians, Hispanics, African-Americans, and biracial, UMass has 41% directly attributed domestic minorities, versus 19% for Fisher. If we exclude Unknowns and Alien Non-Residents, the numbers are 50.6% for UMass and 36.5% for Fisher. So net-net, Fisher is less diverse than UMass.

Table 2: Fisher and UMass % Of Students by Ethnicity

	Total Students		Ex Unknown and Alien Non-Residents	
	Fisher	UMass	Fisher	UMass
Asian	1%	12%	1.9%	14.8%
African-American	9%	15%	17.3%	18.5%
Hispanic	8%	12%	15.4%	14.8%
2+ races	1%	2%	1.9%	2.5%
Subtotal Minorities (Domestic)	19%	41%	36.5%	50.6%
White	33%	40%	63.5%	49.4%
Unknown	42%	9%		
Non-Residents	6%	10%		
Total	100%	100%	100%	100%

3. Facilitating College Entry

In its IMP, Fisher points out the importance of associate degrees and certificate programs as facilitating the path into college

The associate degree and certificate programs continue to serve an important educational role. These credentials are important to many students, particularly first-generation students testing the higher education waters, adult learners seeking advancement and countless others who recognize the inherent value of higher education.” – IMP 1-7

However, in the IMP Fisher also notes that it has consciously been shifting away from its emphasis on the associate degree program, and also from open to selective admissions:

... Continue the transition to becoming a predominately baccalaureate and graduate degree institution while recognizing the need to continue to offer associate degree and certificate programs... Fisher's ability to attract the students it seeks to educate was compromised by offering only associate degrees, which, although an appropriate credential in some limited fields, had increasingly diminished in relevancy. -- IMP 1-5

Fisher's student body today reflects the shift from an open admission policy to the implementation of new admission standards in 2004, and the transition to a four year program. These new academic standards redefined the College's commitment to recruit and enroll students who have a greater ability to succeed and persist in their chosen degree program and to graduate successfully – IMP 3-1

As a result of these changes, Fisher has reduced its share of associate degree students from 55% in 2008 to 36% in 2014 (Table 3). This, in turn, has led a 21% decline in the total number of associate students.

Table 3: Fisher Day School Associate Enrollment

	2008	2014	% Change
Total Enrollment	631	763	
Associate %	55%	36%	
Associate Enrollment	347	275	(20.7%)

In sum, Fisher has been moving away from its role as first entryway for many inner city students who could not otherwise qualify for immediate acceptance into a four-year school.

4. Poor first year retention rate

Despite Fisher's new emphasis on its bachelor's program, its first-to-second year retention rate for full time students is distinctly more like that of community colleges like Bunker Hill and Roxbury than four-year local comparable schools like UMass Boston, Emerson and Suffolk (Table 4).

Table 4: Comparative Retention Rates

School	Retention Rate %	2 or 4 Years
Emerson	88%	4
Suffolk	75%	4
UMass Boston	77%	4
Bunker Hill	59%	2
Fisher	56%	4
Roxbury	48%	2

5. Facilitating the transition to the bachelor's program

Once students have entered Fisher's associate program, how good a job does Fisher do in getting them to attend its bachelor's program? On one hand, Fisher touts its success:

Many students who successfully complete the associate degree program go on to enroll for the two additional years needed to achieve their bachelor's degree. – IMP 1-7

On the other hand, Fisher only says that 15% of its graduating associate students go on to the bachelor's program.

With careful planning and programmatic design, over 15% of Fisher students who, upon matriculation, had intended to seek only a two-year associate degree go on to complete a bachelor's degree at Fisher College without loss of credit. – IMP 1-6

Assuming a 100% 2-year graduation rate (an overly high assumption, since not everyone graduates in two years or at all), this suggests that of the maximum 137 associate graduates (275 divided by 2), only 15%, or 21 students maximum, actually transitions to the bachelor's program. This is a very small number.

6. Success in graduating students

I next looked at Fisher's success in graduating bachelor degree students within 6 years of matriculation, overall and by race/ethnic origin – comparing it to UMass Boston as attracting approximately similar students.²⁵

Fisher's 6 year graduation rate is 36%, versus UMass's 44%. [We have no graduation rate data for Boston residents.]

While both of these are low, this appears to reflect the norm for less selective colleges.

Of concern, however, is the graduation rate by ethnic origin (Table 5), with a greater than 2:1 differential for Hispanics. Clearly, Fisher has some difficulty graduating its Hispanic students – only 18% of whom graduate with a BA in 6 years:

Table 5: 6 Year Graduation Rate % by Ethnic Origin

	Fisher	UMass
Asian	11*	55
African-American	39	40
Hispanic	18	40
White	50	44
Unknown	26	33
Non-Residents	28	41
Total	36	44

* On a low base: only 1% of Fisher students are Asian US citizens

²⁵ UMass's numbers are somewhat higher: Admission %: Fisher 63%, UMass 71%. SAT verbal 25/75 percentile: Fisher 370-460, UMass 430-550. SAT math 25/75 percentile: Fisher 360-460, UMass 470-580.

7. Comparative Cost

Given Fisher's low graduation rate, how does it compare to other local Boston alternatives like UMass (for bachelor degrees) or Urban College, Bunker Hill or Roxbury community colleges?

The answer (Table 6) is that Fisher is extremely expensive by a factor of 2.5 -8.5 times. For a four-year college, UMass Boston is much less costly and has a higher graduation rate. For a two-year college, Urban, Roxbury and Bunker Hill are even more affordable.

Table 6: Fisher Versus Alternative Local Schools

	Total Tuition	Net Price (\$30K Income And Under)*
Fisher	\$28,260	\$28,411
UMass	\$11,966	\$7,634
Urban	\$7,114	\$ 7,297
Roxbury	\$3,962	\$2,557
Bunker Hill	\$3,384	\$6,927

*Includes all costs

8. Default rate

Perhaps as a result of its higher cost, Fisher has an almost 2x default rate versus UMass Boston (although similar to Bunker Hill).

Table 7: 3 Year Default Rates

Fisher	15.30%
UMass	8.60%
Urban	NA
Roxbury	NA
Bunker Hill	14.10%

11. GNA Agreement Pledge

11. Fisher's GNA Commitment

This memo discusses the status of the GNA negotiations between Fisher and the local community, and my concerns about how the process is being misused by Fisher to gain BRA approval without having a GNA in place.²⁶

In particular, I am concerned that if the College obtains a favorable Adequacy Determination by August 11, 2015 based on a mistaken belief that community concerns have been resolved, we neighbors will lose much of our negotiating leverage. As a result, I believe the chances of successfully negotiating an agreement that deals with our concerns will be severely diminished.

To deal with these concerns, the answer is obvious. The City and the BRA should place the IMP on hold and tell Fisher to focus exclusively on concluding the GNA negotiations and then implementing its terms. Once this has occurred, it will be appropriate for Fisher to file an IMP, hopefully by then with community backing.

* * * * *

Detailed Discussion

Background

In August 2013, faced with overwhelming community opposition to its IMPNF, Fisher College sent a letter to the BRA in which it made a number of pledges related to no longer growing in residential Back Bay beyond the properties it already owned.

In the letter, the College also committed to negotiate a Good Neighbor Agreement with the local community that would be appended to the IMP. [In part, the idea for this came from the successful GNA negotiations between Suffolk University and the Beacon Hill Civic Association.]

Since there is a great deal of anxiety surrounding what could happen under future leadership of the College, we will continue to work with our neighbors and the IMP Task Force to develop detailed set of good neighbor principles which can be appended to the IMP as a memorandum of understanding through which Fisher College will commit to no further institutional expansion in residential Back Bay and Beacon Hill beyond the properties it currently owns. – Fisher letter to BRA, August 13, 2013

As a result of this welcome suggestion, the GNA negotiations began in November 2014.²⁷

- The talks have been held under the guidance of Chief of Civic Engagement Jerome Smith with the goal of crafting a Good Neighbor Agreement (GNA).
- For the neighbors, the Good Neighbor Committee (“GNC”) is comprised of Charles Perkins, Peter Sherin, Barry Solar, Michael Weingarten, Ed Zuker with Vicki Smith, Chair. Vic Castellani has been participating ex officio on behalf of NABB (Neighborhood Association of the Back Bay).

²⁶ Although I am a member of the Good Neighbor Committee (GNC) that has been negotiating the terms of a GNA with Fisher, I am writing this memo as an individual and not for the Committee.

²⁷ The approximately one-year delay was due to a decision to begin negotiations with deed restrictions for 115/139/141 Beacon.

- Fisher has been represented by Carolina Avellaneda, Steve Rich and Peter Gori.

The goal of the GNA discussions has been to mitigate problems resulting from Fisher's presence in a residential neighborhood on such issues as transportation, smoking, and student behavior.

Reviewing the IMP

After six months of negotiations (now seven), Fisher surprised the GNC members by deciding to file its IMP in May 2015 without a GNA in place. In my opinion, this is in contradiction to the spirit of Fisher's August 2013 letter, in which it said that it would append the document to the IMP. Arguably, in order to "append" a GNA to the IMP, it is first necessary to have a GNA that can be appended. So in that regard, Fisher was walking back on its commitment.²⁸

In the IMP, Fisher then mischaracterized the GNA negotiations to date as something that is progressing smoothly and will conclude successfully as a matter of course. From the IMP:

In the many months since the filing of Fisher's IMPNF, representatives of the College and neighbors in the Back Bay have met outside of the Task Force IMP process, to discuss and address high-priority concerns of Fisher's neighbors on Beacon Street. In the late fall of 2014, these discussions were formalized and a Good Neighbor Agreement Working Group was convened. This Working Group meets regularly with the assistance and participation of the City of Boston's Office of Neighborhood Affairs. The ultimate goal for this Working Group is the negotiation of a formal agreement between the parties on quality-of-life issues in the neighborhood. – IMP Preamble-2

This "nearing completion" attitude was seen even more clearly in a statement by Carolina Avellaneda in the *Boston Business Journal*:

Fisher College has listened intently to our neighbors and the community over the past two years ... we have engaged neighborhood groups and neighbors in ongoing discussions to continue to improve our relationship and address quality of life concerns. Most recently, the College has worked closely with a group of committed neighbors and the City to discuss key resident concerns and begin the work necessary to ultimately produce a Good Neighbor Agreement which will document our commitments to the neighborhood and build a lasting partnership with our Back Bay neighbors. – Mary Moore, "Fisher College wants more beds in its existing buildings," Boston Business Journal, May 13, 2014

In fact (as demonstrated by there being no GNA in place despite months of negotiations), there remain substantial disagreements between Fisher and the GNC – most recently an attempt by Fisher to include unacceptable loopholes in a non-expansion zone proposal that were immediately rejected by the Committee.

Current Situation/Concerns

Thus, after months of difficult discussions with no clear and immediate end in sight, it is by no means certain that we will reach agreement on a GNA, let alone agree to the terms of a detailed binding contract. Without Chief Smith's active engagement, the chances of success would be extremely low.

It is also unlikely that we can complete our work before the August 11, 2015 due date for the BRA Adequacy Determination, which is only 48 days from now. Since at best we have negotiation sessions once a week, there will only be six more 90-minute sessions prior to August 11. Making matters even more problematic, July and August are summer vacation months, when key people will not be available. I also point out that unlike Fisher's paid staff and consultants, the members of the GNC are unpaid volunteers who have other commitments in their lives.

²⁸ The letter says "can be appended" rather than "will be appended." Thus, I anticipate that Fisher might argue that it never promised that a GNA would be appended. My response is that relying on single word loopholes only undermines Fisher's status as a trustworthy partner, and will greatly exacerbate the process of agreeing to a signed legal GNA contract.

From my perspective, if Fisher were to succeed in convincing the BRA that the GNA matter is close to resolution, and on that basis receives a positive Adequacy Determination in August, then the community will lose all leverage to obtain an agreement that properly addresses its concerns.

Conversely, if the City and the BRA make it clear to Fisher that they want to see a GNA prior to an IMP, the chances of a successful GNA will increase dramatically.

Proposal

To deal with these concerns, the answer is obvious. The City and the BRA should place the IMP on hold and tell Fisher to focus exclusively on concluding the GNA negotiations and then implementing its terms. Once this has occurred, it will be appropriate for Fisher to file an IMP, hopefully by then with community backing.

12. Comments on Fisher IMP Chapter 7: Transportation

12. Comments on Fisher IMP Chapter 7: Transportation

This memo reviews Fisher's Chapter 7 comments on transportation from the perspective of similar discussions that have been taking place since November 2014 as part of the Good Neighbor Agreement (GNA) negotiations led by Chief of Civic Engagement Jerome Smith (and in which I participated as a member of the neighbors' Good Neighbor Committee, or GNC).²⁹

My conclusion is that Fisher's transportation positions in the IMP do not reflect the nature of the GNA negotiations to date and wrongly suggest to the BRA that Fisher has already dealt with the neighbors' expressed concerns -- thereby implying that transportation is no longer a barrier to IMP approval.

As anyone who has attended our GNA meetings knows, the neighbors and Fisher continue to have strongly differing opinions on a number of transportation subjects -- yet the existence of these disputes have been expunged and replaced in the IMP by a fantasy world in which Fisher has heard our problems and has unilaterally 'taken care of them.' This is not limited to transportation issues -- Fisher's treatment of smoking and student behavior issues has been equally dismissive of neighbors' concerns.³⁰

Finally, my reading of Chapter 7's sometimes vague language raises concerns regarding possible Fisher proposals for crosswalks/calming elements on Beacon Street or bike racks for Fisher's use on public property -- things which we thought we had dealt with successfully in our GNA talks (but perhaps not).

I understand that the participants of the GNA effort have agreed to separate our GNA discussions from the IMP. However, Fisher's decisions to:

- Include 85 pages on GNA topics in its 225 page IMP (37.8% of the total, thereby patently violating the separation agreement)
- Ignore much of what has been discussed in the GNA negotiations and to revert back to its starting positions of November 2014

made me decide that it was imperative to post this memo, so that the BRA and our own neighbors understand the extent to which Fisher's IMP Chapter 7 is inconsistent with the City-sponsored GNA discussions.

I therefore ask that the BRA require Fisher to revise Chapter 7 in a manner consistent with the GNA talks.

* * * * *

²⁹ The thoughts expressed in this memo reflect my personal beliefs and not necessarily those of the Committee.

³⁰ For a very different take on these issues from a neighbor's perspective, see memos on transportation, smoking and student behavior prepared on behalf of the Good Neighbor Committee for use in the GNA negotiations. These will be posted with the BRA simultaneously with this memo.

Detailed Discussion

1. Background

Since November 2014, a group of neighbors and Fisher representatives have been meeting under the guidance of Chief of Civic Engagement Jerome Smith with the goal of crafting a Good Neighbor Agreement (GNA).³¹

For the neighbors, the Good Neighbor Committee (“GNC”) is comprised of Charles Perkins, Peter Sherin, Barry Solar, Michael Weingarten, Ed Zuker with Vicki Smith, Chair. Vic Castellani has been participating ex officio on behalf of NABB (Neighborhood Association of the Back Bay).

Fisher has been represented by Carolina Avellaneda, Steve Rich and Peter Gori.

The goal of the GNA discussions has been to mitigate problems resulting from Fisher’s presence in a residential neighborhood on such issues as transportation, smoking, and student behavior/ Fisher enforcement. At Fisher’s request, the group recently added a discussion of Fisher’s proposed Non-Expansion Zone, in which Fisher would agree not to expand further in residential Back Bay (with a number of conditions).

At Chief Smith’s insistence, the parties agreed that the GNA would only attempt to include current mitigation issues resulting from Fisher’s current presence on the block, without consideration for growth issues related from the College’s then-upcoming Institutional Master Plan (IMP). This in part was due to Smith’s concern that the BRA controls the IMP process, and he did not want to interfere with the processes of an independent agency.

The parties also agreed that there would be no linkage between the GNA and the IMP, although the GNC members recognized that in its IMP, Fisher would need to address certain issues (in particular transportation), due to BRA Scoping Determination requirements.³²

On May 13, 2015, Fisher issued its IMP, which includes a 28-page Chapter 7 on transportation (19 pages of text and 9 pages of exhibits; also a 41-page Appendix E; total 69 pages, which comprise 31% of the IMP’s 225 pages).³³

I review below IMP Chapter 7’s discussion of transportation issues, and compare it to the GNA discussions on this issue:

2. Overall Characterization: Interactions with the Neighborhood

In IMP Chapter 7, Fisher states that it has worked with abutters and neighbors “to identify and implement transportation related modifications to conditions that contributed to unwelcome disruptions on Back Street and Beacon Street.” This suggests a cooperative and interactive progress:

Throughout the IMP process, Fisher College has worked with abutters, neighbors and the Boston Transportation Department to identify and implement transportation related modifications to conditions that contributed to unwelcome disruptions on Back Street and Beacon Street. Since some of these measures could be undertaken by Fisher without any formal approvals by others, they were implemented as soon as they were agreed upon. Other changes associated with this IMP need further

³¹ This effort was inspired by a successful GNA agreement entered into by Suffolk University and the Beacon Hill Civic Association.

³² Section 7 of the Scoping Determination contains a detailed set of transportation issues that Fisher must address. The text of section 7 is seen in Appendix 1.

³³ Excluding appendices, there are 119 pages of text. Chapter 7’s transportation text represents 23.5% of this total.

discussion and specification before they can be introduced, and these programs will be defined and documented in a Transportation Access Plan Agreement, which will be entered into between Fisher and BTD in conjunction with the execution of IMP projects. – IMP 7-15

However, this characterization is untrue. From January 2013 (the start of the IMPNF process) until November 2014 (when the GNA process began), there were no meetings with abutters/neighbors to discuss neighbors' concerns or solutions for transportations problems.³⁴ Instead, Fisher at all times operated unilaterally: (a) deciding on how it could best address published neighbor complaints filed with the BRA with the minimum impact on Fisher; (b) implementing these minimal changes with no prior consultations or announcements to the neighbors; and then (c) announcing to the neighbors months later that it had implanted changes and had "solved" the problems.

To the extent that Fisher had BTD consultations, the neighbors were not invited to these meetings and had no say in the process. Apparently, however, Fisher's suggestions that it worked with BTD throughout the IMP process also are untrue, since BTD's Rachel Szathmary in early 2015 sent me the following email:

We have had limited meetings with Fisher since the previous letter filing aside from confirming areas of the traffic analysis/scope for the IMP. -- Rachel Szathmary email to Michael Weingarten, February 26, 2015

3. Back Street Through Traffic

In IMP Chapter 7, Fisher says little about the use of Back Street. It makes a number of statements as facts, recognizes no neighborhood issues about the street's use, and makes no proposals for change:

Back Street is a privately owned local roadway running between Massachusetts Avenue and Mugar Way in the northernmost portion of the Back Bay neighborhood. Back Street serves primarily as an access and service road for the properties located along Beacon Street. Two-direction travel is permitted for the length of Back Street. However, Back Street is wide enough to accommodate only the passage of a single vehicle in many locations due to the preponderance of private "carriage house"-style additions and garages which extend into the roadway itself. Further, many sections of Back Street have private parking spaces on one or both sides, including along the Storrow Drive retaining wall or along the buildings themselves, some of which belong to Fisher. – IMP 7-3

In fact, as Fisher well knows, the use of Back Street has become a major point of disagreement in the GNA discussions. We parse Fisher's IMP 7-3 Back Street statement below:

- ***"Back Street serves primarily as an access and service road for the properties located along Beacon Street."***

This is a largely incorrect statement. A/B Back Street, in addition to being a local access and service road, is heavily used for eastbound through traffic for vehicles from Berkeley Street that are trying to gain entrance to A/B Beacon Street going east to west and Arlington going southbound. It also is a way for trucks and buses that mistakenly tried to enter Storrow Drive to re-enter city streets. While I do not have available numbers, it seems clear as a long-standing resident of waterside Beacon that there is far more through- than property-owner-generated traffic.

³⁴ The lack of meeting was due to a decision by NABB and Fisher that the parties would conclude deed restriction talks for 115/139/141 Beacon before tacking GNA issues as Phase II. However, in April 2014, NABB agreed to a meeting on transportation issues between Fisher and Peter Sherin, Michael Weingarten and Ed Zuker. At this meeting, Fisher told the neighbors what it had done to load/unload buses on South Charles Street and to implement its loading zone on space 18. The discussion was entirely one-way, with Fisher announcing what it had done to "solve" its transportation problems.

Because of this, the GNC has complained about obstruction of even the current single traffic lane on A/B Back Street, due to large vendor trucks and buses obstructing or blocking heavy through traffic.

- ***“Two-direction travel is permitted for the length of Back Street. However, Back Street is wide enough to accommodate only the passage of a single vehicle in many locations due to the preponderance of private “carriage house”-style additions and garages which extend into the roadway itself.”***

The GNC has strongly supported restoring two-direction travel lanes on A/B Back Street, and we disagree with Fisher regarding the reason for its absence.

On A/B Beacon, there are no rear additions/garages that extend into the roadway itself (Fisher included). So the presence of additions/garages is not the reason for the lack of a two-way traffic lane.

Instead, the underlying reason is Fisher’s unilateral decision a decade ago to create six new eight-foot wide parking spaces #13-18 along the south side of A/B Back Street abutting the Fisher Mall. As a result, there is now only a single vehicle 11.5-foot wide traffic lane, which becomes further constricted if cars/vans/trucks do not park flush to the curbs (something that often happens).

- ***“Many sections of Back Street have private parking spaces on one or both sides, including along the Storrow Drive retaining wall or along the buildings themselves, some of which belong to Fisher.”***

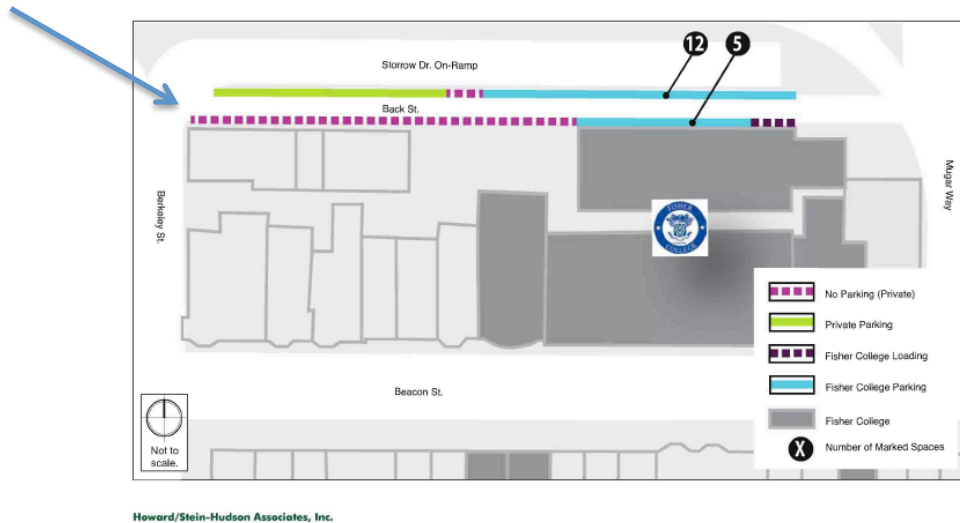
The GNC has disagreed with Fisher’s attempt to blame the lack of two-way traffic lanes on A/B Beacon to actions by all property owners, not just Fisher.

Although all properties on the north side of Beacon from Arlington to Massachusetts Avenue have private parking spaces on the north side of Back Street, few property owners have spaces on the south side.

With specific respect to A/B Beacon, **no** owners aside from Fisher have private parking spaces on the south side. Thus, it is untrue that some of the south side spaces belong to Fisher. **All** of them belong to Fisher, so it therefore is Fisher’s fault that there is no two-way traffic flow.

This is supported by Fisher’s chart 7.9 from its own transportation consultant Howard/Stein-Hudson Associates showing “No Parking (Private)” for all non-Fisher property on the south side of Back Street.

Figure 7.9 Back Street Parking and Loading - Fall 2014



This is why the GNC has proposed that Fisher restore spaces 13-18 to through-traffic use except for live loading – thereby facilitating two traffic lanes. Fisher has refused, without offering any viable alternative for supporting two-way traffic.

4. Back Street Loading Zone

In IMP Chapter 7, Fisher describes a process in which it worked with its transportation consultant Howard/Stein-Hudson to solve its Back Street loading problems. As a result, “While isolated incidents still arise... the dedicated commercial loading area and changes to delivery policies appear to be improving the flow of traffic on Back Street.”

Improvements Back Street Vendor and Service Truck Loading - At the start of the IMP process, Fisher staff worked with HSH [Howard/Stein-Hudson Associates, Inc.] to reallocate some of the parking areas on Back Street to better organize truck activities there. In the fall of 2013, the College created a part-time (7:30 a.m. to 11:30 a.m.) dedicated commercial loading area on the south side of Back Street and instituted a practice that requires all foodservice vendors to arrive at the College via Back Street between 7:30 a.m. and 11:00 a.m. Subsequently, following feedback from neighbors, Fisher expanded the practice by extending the hours to create a full-time (24/7) dedicated commercial loading area, limiting the size of the trucks making deliveries and increasing its monitoring and enforcement of delivery hours. Foodservice vendors delivering to the cafeteria and Alumni Hall are required to arrive after 7:00 a.m. and before 9:00 p.m. Vendors are encouraged to arrive prior to 11:00 a.m. in order to have sufficient staff to assist with receiving; however, the area remains available after 11:00 a.m. for other deliveries as needed, including vending machine contractors, office and paper goods deliveries, and smaller vans transporting student athletes. The Public Safety Department helps oversee deliveries on Back Street and is authorized to wave through any noncompliant vehicles.

In addition, all vendor delivery drivers and van operators are required to call the Fisher College Public Safety Department at least 20-30 minutes before their arrival. This pre-arrival call provides the College with sufficient time to alert staff to be prepared for receipt of the delivery and, if necessary, accelerate a current delivery to ensure adequate loading space. See Figure 7.9.

While isolated incidents still arise, usually related to heavy snow or conflicts on Back Street involving removing dumpsters from Fisher or adjoining buildings, the dedicated commercial loading area and changes to delivery policies appear to be improving the flow of traffic on Back Street. – IMP 7-16

Looking at Fisher's loading solution, the GNC has had the following concerns, all of which have been shared with Fisher but none of which are discussed in the IMP:

- Nowhere is there any indication of attempts by the College to reach out to its neighbors and discuss issues/solutions in advance. Instead, Fisher and its paid consultant HSH decided on the best solutions and implemented them unilaterally. We neighbors largely learned about what was going on by observing changes.
- The GNC has made it clear to Fisher that it considers a 28 foot long reconverted parking space inadequate even for Fisher's current uses, let alone for a college campus growing its student enrollment by 34% over its 2012 baseline. In the IMP, Fisher says nothing about the inadequate size of the loading ramp.³⁵
- Larger trucks and/or truck with ramps parking in the loading zone necessarily obstruct emergency fire exits that flank both sides of the loading area. Despite the fact that Fisher was told by the GNC about this problem in January 2015 and responded that it was working with fire consultants to solve the issue, it has knowingly been violating Boston ISD and fire code for the past five months. In the IMP, Fisher says nothing about its continuing willful violation of fire code.
- Larger trucks parking next to the Fisher Mall necessarily encroach into even the single traffic lane on A/B Back Street, making passage sometimes impossible for large trucks and emergency vehicles. The IMP's statements notwithstanding, these are not just a function of snow conditions or garbage pickups (see photo).

Sysco truck parked on left obstructing passage by semi-trailer



- Beyond vendor trucks, Fisher needs off-street space for buses, vans and student/staff pickups/drop-offs – something ignored in the IMP.

5. Buses

As with loading zones, Fisher in IMP Chapter 7 discusses mitigation measures for athletic team coach buses. In its mitigation plan, Fisher describes a short-term BTD-approved plan to park buses on South Charles Street, to be replaced by a full-bus sized loading zone created by extending the single-space loading zone in front of 100 Beacon:

³⁵ In the recently filed *New England Conservatory IMP*, HSH proposed a dedicated off-street loading zone limited to 36-foot box trucks – which itself is insufficient for semi-trailers. The Fisher solution is even smaller. Obviously, a 36-foot box truck will not fit in a 28-foot space.

Athletic Team Vans and Coach Buses - Beginning in the fall of 2013, Fisher, in consultation with BTD, set in motion a number of adjustments to how it schedules transportation for its student athletes. First, the College moved all marked 12 passenger van parking, pickup and drop-off to the rear of the College Mall on Back Street, behind 112-116 Beacon Street. Also, all full-sized coaches and school buses that had previously loaded on Beacon Street were moved to Charles Street South, between Boston Common and the Public Garden. This change, which has worked well to date, has removed nearly all coaches and school buses from Beacon Street and eliminated the majority of neighbor complaints of buses' and coaches' being doubleparked on Beacon Street.

Fisher College has also proposed to work with neighbors at 100 Beacon Street and BTD to make the pickup/drop-off and loading area longer on the north side of Beacon Street, at 100 Beacon Street and the intersection with Mugar Way, to accommodate the number and range of vehicles that need loading space on Beacon Street, including private deliveries to residents and the College.

This proposal for the Beacon Street loading zone expansion is intended to create a loading area long enough to handle the largest motor coaches, which are used when more than one athletic team travels to the same destination or when traveling out of state or in inclement weather. Parking in this longer designated zone will allow the athletic team personnel and student athletes to more conveniently and efficiently load the buses when carrying additional personal items for overnight stays. This area, which will serve residents and Fisher, will help ease congestion that deliveries sometimes create, especially when multiple trucks arrive at the same time.

As with the commercial foodservice loading and service access at the rear of the College on Back Street, all van, coach and school bus drivers would be instructed to call into Fisher College police at least 20 minutes prior to their arrival on Beacon Street to ensure that the extended loading area is free and that the teams are prepared to board swiftly for their destination(s).

The problem with this plan is that the GNC members have clearly told Fisher that it rejects the idea of taking away four additional public parking spaces on Beacon Street from neighbors in order to establish a bus loading zone for the primary use of Fisher College. Instead, the GNC proposed that the Fisher loading zone be expanded to make it large enough for off-street bus loading on Back Street. If large buses cannot make a right turn onto Back Street (something that apparently is possible traveling from Massachusetts Avenue), then the GNC proposed that Fisher hire two smaller buses that will fit.

In sum, Fisher is well aware that the GNC is strongly opposed to a bus loading zone on Beacon, but has chosen to ignore this fact in its mitigation discussion.

6. Beacon Street Parking

In numerous 2013 IMPNF comments, abutters complained about Fisher students and staff substantially reducing the availability of metered parking on A/B Beacon and other nearby streets.

In possible response to this, Fisher's consultant HSH on Tuesday, November 19, 2013 conducted an A/B Beacon metered parking survey. The results (figure 7.2) indicated that parking is indeed heavily constrained from 1115AM to 215 PM and from 600 PM to 800 PM.

Figure 7.2 Occupancy Rates for Metered Spaces Along Beacon Street



Note: Observations conducted Tuesday November 19, 2013 between 7 a.m. and 9 p.m.

Howard/Stein-Hudson Associates, Inc.

I generally agree directionally with the study's capacity utilization data, which reinforces that there is parking congestion on A/G Beacon (although I believe that HSH's peak utilizations are too low, and perhaps was due to the study being taken on a slow day just before Thanksgiving).³⁶ However, I have the following Issues:

- The point of our criticism was that Fisher students and staff have been unduly causing parking congestion on the street. In contrast, the HSD study makes no attempt to quantify this impact.
- Nor does the IMP: (a) say anything at all about mitigating Fisher's impact on parking; (b) discuss the GNC's proposal (and Fisher's agreement) that on an experimental basis, evening parking be made residential-only on the south side of Beacon during 6PM to 8AM hours.

In short, conducting a survey and then saying nothing about Fisher's contribution to metered parking congestion, or solutions to that congestion, is non-responsive to neighborhood concerns.

7. Doubleparking

As it did with metered parking, HSH conducted a survey in November 2014, and concluded that there is substantial doubleparking on A/B Beacon, particularly in front of Fisher College's entrance at 116 Beacon

During the 14-hour observation period, 39 double-parking maneuvers, including drop-offs and taxi and livery services, occurred in the center of the block between 116 and 118 Beacon Street, the main entrance to Fisher College. Twenty-one double parking maneuvers were observed along the east end of the block between 116 Beacon Street and Mugar Way, and five double-parking maneuvers were observed along the west end between 116 Beacon Street and Berkeley Street... the data suggests

³⁶ Given 44 parking spaces on A/B Beacon, if peak utilization were 80%, there should be 9 spaces available at most times – which almost never happens. My experience is that on other days, peak utilization is near 100%, since on most days it is difficult to find even a single parking space.

that the majority of the double-parking activity occurs in the middle of the block near Fisher College properties and residences – IMP 7-6

As a mitigation solution, Fisher proposes to add doubleparking as a Student Code of Conduct issue as a prohibited activity (IMP 7-18).

My reaction is that the Fisher solution is insufficient, and ignores the GNC’s proposal that some of Fisher’s Back Street parking spaces be used to provide pickup/drop-off facilities for students and staff.

8. Jaywalking

As with doubleparking, Fisher in the IMP acknowledges the GNC’s concern that Fisher jaywalking between the north and south sides of A/B Beacon is a serious problem:

Students often cross mid-block instead of using the signalized crosswalks at Berkeley Street and Mugar Way. Some mid-block crossings occur when vehicles are queued from the traffic signal at the intersection of Beacon Street and Berkeley Street, which can create conflicts between pedestrians and vehicles. -- IMP 7-13

However, the IMP’s solution is inadequate. It proposes to add jaywalking as a Code of Conduct offense, and has caused BTM to post two signs in mid block whose intent appears to be more to warn motorists not to hit jaywalkers than they are to deter jaywalking.

To inform drivers of increased pedestrian activity, two fluorescent yellow retro-reflective pedestrian warning signs have been placed on each side of Beacon Street in the vicinity of the Student Center. – IMP 7-13

Newly installed Jaywalking Signs on A/B Beacon



Nowhere in this is there any recognition of GNC’s proposal that that any answer to the problem must involve enhanced enforcement by Fisher security.

Going forward, Fisher proposes to “draw examples from the *Complete Streets* guidelines ... to enhance pedestrian amenities in the vicinity of the campus.” We do not know what Fisher and HSH mean by this, but in reading *Complete Streets*, we were struck by the extent to which it proposes such steps as mid-block crosswalks and calming measures such as speed bumps.

As Fisher knows from our GNA discussions, these types of solutions are unacceptable to the neighbors; yet it has once again ignored our concerns:

- A/B Beacon is a high volume traffic street providing access to Storrow Drive and the rest of Back Bay, so adding mid-block traffic obstacles are inappropriate.
- We are opposed to any steps that commercialize the character of residential Back Bay in order to accommodate the particular needs of an educational institution.

9. Bicycles

In our GNA transportation discussions, the neighbors proposed that Fisher install bike racks consistent with BTG guidelines, and that no bike racks to support Fisher requirements be installed on public property on Beacon or other streets.

In this context, I am concerned about the vagueness of Fisher’s IMP bicycle policy – almost two years after its need was made clear in the BTG comment letter and the BRA Scoping determination:

- In the IMP, Fisher is agreeing to build secure bicycle racks behind 116 Beacon, without saying how large this facility will be and whether it will obstruct egress from the rear of the building. It also ignores the City’s requirement that all college buildings have such covered facilities.
- Fisher says that it will be “installing outdoor bicycle racks to accommodate the bikes of students, faculty, staff and visitors to the College.” However, it never says where these will be located – raising concerns that Fisher will try to use public property for this purpose.

10. Conclusion

Based on the above, my conclusion is that Fisher’s transportation positions in the IMP do not reflect the nature of the GNA negotiations to date with respect to: issues discussed, areas of agreement or areas of disagreement.

In addition, the IMP wrongly suggests to the BRA that Fisher has already dealt with our concerns, thereby implying that transportation is no longer a barrier to IMP approval. As anyone who has attended our GNA meetings knows, we continue to have strongly differing opinions on a number of transportation subjects, yet the existence of these disputes have been expunged and replaced by a fantasy world in which Fisher has heard our problems and has unilaterally ‘taken care of them.’

Finally, my reading of Chapter 7’s perhaps purposely vague language raises new concerns and issues, regarding such things as crosswalks/calming elements on Beacon Street, bus drop-offs on Beacon Street for Fisher’s benefit, or bike racks for Fisher’s use on public property – things which we thought we had dealt with successfully in our GNA talks (but perhaps not).

I therefore ask that the BRA require Fisher to revise Chapter 7 in a manner consistent with the GNA talks.

13. Fisher IMP Comments on Smoking

13. Fisher's IMP Comments On Smoking

This memo reviews Fisher's IMP comments on smoking (as seen in IMP 6.6-6.7) from the perspective of the College's responsiveness to neighbors' comments filed during the IMPNF, as well as the degree to which it properly reflects the status of discussions that have been taking place since November 2014 as part of the Good Neighbor Agreement (GNA) negotiations led by Chief of Civic Engagement Jerome Smith (in which I participated as a member of the neighbors' Good Neighbor Committee, or GNC).³⁷

My conclusion is that Fisher's smoking positions in the IMP are neither responsive to the IMPNF comments nor reflective of the GNA talks. Instead, the three-paragraph IMP discussion wrongly suggests to the BRA that Fisher has already dealt with the neighbors' expressed concerns, so that smoking is no longer an issue.

I ask that the BRA require Fisher to amend its IMP (a) to respond adequately to IMPNF comments and (b) in a manner that accurately reflects the status of the GNA talks on this issue.

[Note: at the June 22 BRA meeting, Fisher announced that it is changing its policy and will be prohibiting smoking on A/B Beacon, starting in January 2016. This arguably is a material change per 80A-6 affecting two projects: (a) 111 Beacon (which has a butt dispenser in front of the building); and (b) adding +48 dorm beds on Beacon Street Beacon (which has a butt dispenser in front of 112/114 Beacon. Accordingly, I ask BRA to require Fisher to revise and resubmit its IMP.]

* * * * *

Detailed Discussion

1. Fisher IMP Statements on Smoking

In IMP 6.6-6.7, Fisher made the following statements about its smoking policy. [Note: This is the entire statement, not an excerpt]:

Fisher College prohibits smoking inside any building and also prohibits employee smoking directly in front of any Fisher College building. Fisher College policy states that if smoking by a student or staff member results in a nuisance to a member of the community, and the individual who is smoking refuses to move to a designated smoking area after being asked to do so, the individual will be reported to the Student Conduct Coordinator/Human Resources. Failure to abide by the Smoking and Tobacco Policy results in disciplinary action.

The City of Boston does not have an ordinance that prohibits smoking on a public sidewalk; therefore, it is an ongoing challenge to prevent individuals from smoking on public sidewalks. For a short time, Fisher College enacted a ban preventing people from smoking within twenty-five feet of College property. However, this ban resulted in students' moving to smoke in front of non-Fisher buildings, to the chagrin of our neighbors. In response, Fisher rescinded the ban and instead enforces and closely monitors its no-smoking policy.

The College offers educational programs regarding the hazards of smoking and tobacco use and offers smoking cessation programs for both students and employees. The College has designated two smoking areas - one located behind 116 Beacon Street and another at One Arlington that is off the

³⁷ The thoughts expressed in this memo reflect my personal beliefs and not necessarily those of the Committee.

sidewalk and away from foot traffic - that students and staff who are smokers are urged to utilize. The College enhanced the smoking area behind 116 Beacon Street, furnishing it with new patio furniture, to make it more inviting. In order to diminish the impact of student smoking on the community, Fisher College's Facilities Department assigns a team member daily to clean the streets and alleyways adjacent to the College of any smoking-related debris. -- IMP 6.6-6.7

2. Non-Responsiveness to Commenters

In the above statement, there is no mention about any neighbor smoking concerns – despite the fact that:

- Numerous commenters complained about smoking by Fisher students
- The BRA's September 2013 Scoping Determination stated, "*written comments constitute an integral part of the Scoping Determination and should be responded to in the IMP or in another appropriate manner over the course of the review process.*"

3. The GNC Position Paper on Smoking

As part its GNA negotiations with Fisher, the GNC on April 17, 2015 drafted an in-depth smoking position paper,³⁸ in which it proposed a total ban on student and staff smoking on Beacon Street and questioned the legality of Fisher's smoking lounges (based on its review of Boston Public Health Commission regulations on tobacco use).

After sometimes heated discussions and after some cajoling by the City, Fisher agreed in April 2015 to prohibit all tobacco use on the A/B Beacon block, with the only remaining issue being the length of the implementation period (with Fisher asking for 18 months, and the GNC holding to the start of the fall 2015 semester).

With respect to smoking lounges, the parties remain in disagreement, with the probable outcome being based on an eventual ruling by the Boston Public Health Commission regarding the legality of Fisher's smoking lounges.

4. Fisher's Treatment of the GNA Discussions in the IMP

To what extent does the IMP contain any recognition of the GNA smoking discussions; and in particular, the tentative agreement to halt all smoking on A/B Beacon sometime within 18 months?

The answer is that there is no reference to the GNA talks or agreements. As such, Fisher made statements in IMP 6.6-6.7 that are knowingly misleading.

5. Conclusions

Fisher's smoking positions in the IMP are neither responsive to the IMPNF comments nor reflective of the GNA talks. Instead, the three-paragraph IMP discussion wrongly suggests to the BRA that Fisher has already dealt with the neighbors' expressed concerns, so that smoking is no longer an issue.

I ask that the BRA require Fisher to amend its IMP (a) to respond adequately to IMPNF comments and (b) in a manner that accurately reflects the status of the GNA talks on this issue.

³⁸ See *GNA Committee Observations on Smoking*, April 17, 2015 (will be filed separately with the BRA).

14. Fisher's IMP Comments on Student Behavior and Enforcement

14. Fisher's IMP Comments On Behavior and Enforcement

This memo reviews Fisher's IMP comments on student behavior and enforcement from the perspective of the degree to which it properly reflects the status of discussions that have been taking place since November 2014 as part of the Good Neighbor Agreement (GNA) negotiations led by Chief of Civic Engagement Jerome Smith (in which I participated as a member of the neighbors' Good Neighbor Committee, or GNC).³⁹

My conclusion is that the IMP wrongly suggests to the BRA that Fisher has already dealt with the neighbors' expressed concerns – thereby incorrectly implying that student behavior is no longer an issue.

As such, Fisher's IMP student behavior positions are not reflective of our ongoing GNA talks.

Furthermore, Fisher speaks of community engagement steps relating to behavior/enforcement issues that simply do not exist.

I ask that the BRA require Fisher to amend its IMP in a manner that accurately reflects the status of the GNA talks on this issue – namely, that we still have not resolved our concerns, and that further talks will be needed.

* * * * *

Detailed Discussion

1. IMPNF comments about student behavior

A significant number of neighbors' comments filed during the IMPNF period dealt with poor student behavior on the A/B Beacon Block re: noise, litter, smoking, and drug/alcohol abuse. A related issue was student abuse of nearby parks/

Accompanying these concerns was a general belief that the Fisher security department was not dealing with these problems successfully.

2. GNA Negotiations

As part of the GNA negotiations and in an attempt to follow up on the IMPNF comments, the GNC raised student behavior and enforcement as an agenda item (a copy of the GNC's positions are being filed separately).

In general, while the neighbors acknowledged that there had been some observed improvement in student behavior and increased Fisher security professionalism over the past year, we expressed concern that we were continuing to experience late night/early morning noise problems; smoking and trespassing on abutter property on Beacon and Back Street; illegal parking on abutter properties on Back Street; and littering on both Beacon and Back Streets. We also were observing Fisher students playing ball on the Public Garden and we heard about/saw students destroying park equipment at the Esplanade playground during early morning hours.

³⁹ The thoughts expressed in this memo reflect my personal beliefs and not necessarily those of the Committee.

With respect to solutions, we particularly wanted Fisher to begin proactive 24/7 outdoor patrols that would cover on the entire A/B Beacon block. As stated in the GNC memo:

[The Committee's] proposal constitutes three elements:

First, the Committee wishes to see substantially increased outdoor patrols by Fisher police on a 24/7 basis – during the day, to patrol to deal with issues such as smoking, littering, jaywalking and sidewalk obstruction (as well as vendor/bus doubleparking); and at night, to deal with noise, jaywalking and alcohol/drug issues. As previously noted in our transportation discussions, enhanced security will be needed to implement any transportation issues regarding Back Street as well as Beacon Street.

In our opinion, having a Fisher police staffer monitoring remotely does not deter misbehavior, and the indoor staffers rarely leave their desk to deal with low-intensity issues (like a group of 4-5 students in front of 116 Beacon talking loudly for 5-10 minutes at 2AM on a Saturday morning).

Second, we wish to increase Fisher's video surveillance on the A/B Beacon block, in a manner consistent with BBAC requirements. We believe that if students (and drug dealers) know that the block is being monitored by video, they will behave better and/or avoid the block entirely. In addition, if there is a complaint by a neighbor, Fisher will be in a better position to ID the violators.

Third, we want see Fisher's patrols extended from its current Fisher property sweeps to the entire A/B Beacon block, including Back Street and the cross-streets (Berkeley and Mugar). This because we have observed that enforcement in front of Fisher simply pushes the problems in front (or back) of our residential buildings. -- GNA Committee Proposals: Student (and Staff) Behavior, May 7, 2015

3. IMP responses to behavior issues

To what extent did Fisher in its IMP respond to these issues/recommendations? The short answer is that Fisher largely ignored us – saying that it is doing a good job already, and believes that a combination of periodic meetings with the neighbors and approval of a new Student terrace on the Fisher mall will solve any remaining problems.

More specifically, in Chapter 6 (Student Housing Plan), there is a section on Student Life, in which Fisher touts its Student Code of Conduct and procedures for recording and dealing with complaints, along with the 24-hour presence of its Public Safety Department. In this description, everything is running well with no problems:

STUDENT LIFE

Fisher conveys its expectations for acceptable student behavior in several ways. First, the Student Code of Conduct ("the Student Code") addresses the College's expectations and describes the consequences of failure to uphold the standards stated there. Second, regular and continuous communication - in school meetings and written material - describes appropriate behaviors and behaviors that are not tolerated, especially those that do not respect the rights and needs of others. And third, Fisher holds students accountable for infractions through its student disciplinary process.

Fisher maintains a record of complaints - both those originated within the Fisher community and those raised by neighbors - associated with its community (all students, faculty and staff) and investigates valid complaints. The Public Safety Department and/or Fisher staff follows up with the complainant to ascertain the facts of the situation and then takes necessary corrective action.

Violations of the Student Code, whether on or off campus, are reported to Residence Life staff and/or Campus Police and are then documented and referred to the Student Conduct Coordinator ("SCC"). The SCC meets with students who are alleged to have violated the Student Code and undertakes additional fact-gathering as needed, in order to understand the allegations and the locus of responsibility, and holds the conduct meeting with the student in a timely manner. The SCC is responsible for issuing sanctions for each type and level of violation, ranging from a warning to expulsion from the College.

The 24-hour presence of the Public Safety Department allows a high level of oversight in the heart of the Fisher dormitories which, along with continuous training and an effective disciplinary process, creates a system that helps minimize student related disturbances. Fisher's ongoing development and

expansion of its student life activities - for example, adding its speaker series and Live at Fisher music series - are also key to maintaining student activity and creativity within the College's walls.

The capability and professionalism of the Public Safety department (including use of video surveillance) is further touted at length in Chapter 3.5-3.7.

PUBLIC SAFETY

The Fisher College Public Safety Department (FCPSD or "the Department") is a 24/7 department made up of police officers, Public Safety Officers (PSOs) and contract security guards. Currently the Fisher College Public Safety Department has 11 employees, including seven full-time certified police officers: a chief, two lieutenants, one shift supervisor and three patrol officers. There are also three part-time patrol officers and one full-time Public Safety Officer. The Department is supplemented by contracted security guards. The Department reports to the General Counsel's Office. All calls and dispatches are handled by the FCPSD front desk at 116 Beacon Street. Over half of the full-time members of the Fisher College Public Safety Department have college degrees, including two with advanced degrees. Members of the FCPSD come to the department with many years of experience in the law enforcement field, particularly in campus law enforcement, and some members are former Boston Police Department officers. All Campus Police officers gain their police authority through Massachusetts General Laws, Chapter 22, Section 63. They are warranted as Special State Police Officers ("SSPOs") through the Massachusetts State Police and have attended a certified police academy to obtain these powers. SSPOs have the authority to arrest on any property owned or operated by Fisher College.

The Public Safety Department is tasked with ensuring that Fisher College is a safe place to live, work, study and visit. The Department works with the Dean of Students Office to require new students and their families to attend orientation training that covers rules and standards of conduct and the consequences if those rules are not followed both on and off campus. In addition, the College works with outside law enforcement and other colleges and universities to identify students who have been stopped or arrested away from Fisher College property, to ensure those students are held accountable for conduct violations through the Fisher College Student Code of Conduct process. – IMP 3.5-3.6

Patrols

As a general rule, a minimum of two officers work every shift, with at least one officer available to patrol and respond to calls as needed. The on-duty officer can be contacted at any time by calling the dispatcher at 617-236-8880. The officer will respond as soon as possible, taking into account other incidents in progress. The FCPSD pursues different avenues to address student behavior on campus. The Department keeps a daily log of events and also writes reports on significant incidents. These reports are shared with the appropriate party or parties, including, but not limited to, the General Counsel, the Dean of Students, the Student Conduct Coordinator, Human Resources, any of the involved parties or a direct supervisor, if it is appropriate. Depending on the level of violation, the College could choose to arrest or issue a summons to the involved parties, or the case may be handled internally by a dean. Members of the Department work closely with the Residence Life staff. Officers and Resident Assistants may conduct building rounds together and collaboratively enforce policies, or the officers may be called in to help the Residence Life staff control an incident in progress.

Security Cameras

Fisher College is committed to enhancing the safety of members of the College community and surrounding neighborhood. Security cameras are an important investigatory tool when it comes to keeping a community safe. Fisher College recently invested in a new security camera system operated and maintained by FCPSD, with cameras strategically placed in locations on campus so that the College now offers a much higher level of security. Fisher College believes that the closed circuit television cameras enhance personal safety, help deter crime, protect property, and may provide key information and/or evidence of actual or potential criminal activity. All Public Safety Officers are trained in the use of the cameras and to abide by a policy regulating the use of the system. – IMP 3.7

The only place in the IMP that relates to neighborhood issues is a three-paragraph *Community Awareness* section (IMP 6.6-6.7), in which Fisher discusses the need for plans to mitigate the effect of enrollment growth on the community (as opposed to any existing issues). In this section, Fisher says that it has already solved most of the issues by posting an officer to patrol Beacon

Street at peak hours (not 24/7) and by conducting periodic student meetings/creating online classes to emphasize the importance of following the Code of Conduct. Any additional problems will be addressed by holding periodic meetings with members of the neighborhood; and by moving students from Beacon onto the planned College Terrace (if approved).

Community Awareness

The College has various plans in place to mitigate potential adverse effects that might arise from increasing the College's enrollment. The College will add an outdoor gathering space for students through the College Terrace project. The College is currently working to enhance existing interior spaces, such as the cafeteria, Mall area, Student Center and designated smoking areas. The College expects that the addition of these gathering spaces, especially the outdoor gathering space, as well as enhancements to interior spaces, will be attractive to students who will seek to socialize in these areas instead of on the sidewalks. The College has also posted an officer to patrol Beacon Street at peak student activity hours during the week. This officer patrols the front of the buildings on Beacon Street, enforcing policy (mitigating noise) and moving students along to designated smoking areas when appropriate.

Prior to a student's arrival, during summer registration days, the College addresses the importance of abiding by the Student Code and co-existing with nonstudents in a residential neighborhood. The College has reviewed all of its orientations and policies to specifically include and address issues of concern to neighbors to the extent possible. For example, all students will be required to complete an online class prior to arriving on campus for an orientation that will include such topics as community living, safety in the city, drug and alcohol policies, and smoking.

The College also plans to introduce periodic meetings with a designated member of NABB, the Dean of Students and the President of the Student Government Association. This forum will allow Fisher to have an ongoing open dialogue and get students actively involved with the neighborhood association.. – IMP 6.7-6.8

In sum, the IMP largely ignores the complaints filed during the IMPNF process and says that it already is doing a good job.

4. Touting Fisher engagement steps that do not exist

Another issue that bothered me as someone deeply engaged in the GNA negotiation process was reading the following section on Community Policing that suggests that Fisher is undertaking community policing with its neighbors.

Community Policing

FCPSD utilizes a community policing model as an organizational strategy that promotes a partnership between the community and the Public Safety Department. It is based on the premise that both the Public Safety Department and the stakeholders in a community must work together to identify, prioritize and solve the relevant public safety issues that affect the overall quality of life in the area. With this philosophy in mind and in anticipation of its projected growth, the Department has designated an officer as the community policing liaison officer. This officer works directly with the chief to identify the issues that affect every stakeholder, including non-Fisher parties, in our community and to identify solutions that satisfy all relevant parties. This officer works together with the night-shift supervisors to ensure that Fisher is represented at neighborhood meetings and other outreach events that will help the College identify, address and solve neighborhood quality of life issues

FCPSD offers periodic awareness programs that are open to the community, including Rape Aggression Defense ("RAD") classes and shorter workshops on specific topics such as general safety or emergency preparedness. Members of the larger community are always welcome at any of Fisher's safety programs. – IMP 3.6

To the best of my knowledge, I am unaware of any Fisher "community policing liaison officer." If he/she is doing what the IMP says, the described activities are entirely internal to Fisher and have absolutely nothing to do with community liaising. Having attended virtually every neighborhood meeting related to Fisher over the past two years, I can also attest to the fact that this so-called

neighborhood liaison officer has never been at any “neighborhood meetings and other outreach events.”

With respect to the touted “periodic awareness programs, I can similarly attest that we neighbors have never been told about them.

I am left wondering why Fisher feels the need to make statements that are so clearly untrue.

5. Conclusions

The IMP discussion wrongly suggests to the BRA that Fisher has already dealt with the neighbors’ expressed concerns – thereby incorrectly implying that student behavior is no longer an issue.

As such, Fisher’s IMP student behavior positions are not reflective of our ongoing GNA talks.

Furthermore, Fisher speaks of community engagement steps relating to behavior/enforcement issues that simply do not exist.

I ask that the BRA require Fisher to amend its IMP in a manner that accurately reflects the status of the GNA talks on this issue – namely, that we still have not resolved our concerns, and that further talks will be needed.

15. Value of Fisher Community Contributions

15. Value of Fisher Community Benefits

This memo considers the value of Fisher's community benefits to the City. In Appendix C, Fisher estimated the value of "Payments and Service Contributions to the City of Boston" at \$2,345,437 annually. Our review suggests that the actual number for the benefit of local governments, students and charitable institutions is \$333,125, and even this is based on accepting unsubstantiated Fisher estimates.

If one adjusts this downward to only reflect service contributions directly to the benefit of the City and state governments, the number drops to approximately \$80,000 or less

While community benefits of this magnitude are commendable, they are modest at best and do not obviate the need for Fisher to demonstrate its community spirit by making PILOT payments to the City.

* * * * *

Detailed Discussion

Fisher Community Benefits Estimate

Chapter 10 of Fisher's IMP is an 11-page discussion of the ways in which Fisher provides community benefits to the City of Boston. A particular focus is 3.5 pages devoted to the College 101 program, which seeks to facilitate the transition to college-level studies for 75 Boston high school students each summer.

The quantification of the value of these benefits (at \$2,345,437) is enumerated in Appendix C, as shown below:

Fisher Appendix C Community Benefits Estimate

I. Tax Payments on Institutional and Investment Properties	
1.1 Investment properties:	92,947
1.2 Institutional properties	14,990
Subtotal:	107,937
II Scholarships and Special Academic Programs	
2.1 Scholarships to Boston students	1,500,000
2.2 College 101	250,000
Subtotal:	1,750,000
III Research and Service Contributions	
3.1 Public safety research and service	250,000
3.2 July 4 unified command center	30,000
3.3 Events, productions and library services	50,000
Subtotal:	330,000
IV. Community service: work study, internships and voluntary action	
4.1 Work Study	7,500
4.2 Voluntary Support for Charitable Organizations	150,000
Subtotal:	157,500
Combined Taxes and Service Contributions	2,345,437

I. Tax Payments on Institutional and Investment Properties: \$107,937

Including this is laughable, since the payments are related to Fisher's owning taxable properties and paying tax on those properties. It is nice to hear that Fisher pays its required taxes, but this is hardly something that should be listed as a community benefit.

We also point out that if all of Fisher's institutional properties were converted into high-end condominiums, the payments to the City would be much higher than this.

Therefore, we believe that the appropriate community benefit number is zero.

II. Scholarships and Special Academic Programs

2.1 Scholarships to Boston students: \$1,500,000

This, too, is a laughable item. It is well known that colleges raise their list prices in order to maximize revenues from wealthy (and international) students, and then give scholarships to most other students to drop the price to the real street level. This has nothing to do with altruism; if Fisher did not do this, it would have very few students.

How generous is the \$11,800 average scholarship given to the "over 125 students from the city of Boston in its Day Program?" If one looks at 2013 data from collegefactual.com,

- Total Fisher costs without scholarship were \$46,840, putting it into the “Most Expensive” category.
- Students with average aid received \$21,370, for a net price of \$25,470 (“Average”)
- Low income students with aid only received \$16,075, for a net price of \$30,765 (“Most Expensive”)

Given these figures, Fisher’s \$11,800 aid to Boston students is hardly generous, since it is only 55% of the \$21,370 average scholarship and 73% of the \$16,075 low-income average scholarship. It is as though Fisher is overcharging Boston students to subsidize out-of-city students.

We also point out that even with the scholarship reduction, the high net price means that most students will incur substantial debt. According to collegefactual.com, the average Fisher student incurs \$41,396 in loans. Presumably, low-income students take on substantially more, particularly given that the six-year graduation rate is only 36% (so that to graduate, you need to pay for six years of school).

Accordingly, we do not regard Fisher’s scholarships as a legitimate Boston community benefits. The real number should be zero dollars.

2.2 College 101: \$250,000

At first glance, College 101 looks to be an excellent way of assisting inner-city Boston student with the transition to college studies.

The issue is how to value the program, since there is no quantification for the \$250,000 number:

The total value of the College 101 program annually for which Fisher covers all costs is estimated to be \$250,000.00. – Appendix C

We therefore attempted to do this quantification in two ways:

- **Teacher salaries:** Since Fisher says that it absorbs the cost of “summer salaries for two participating teachers,” we tried to quantify this. From the Fisher.edu website,⁴⁰ the program lasts for 6 weeks, or 1.5 months. Assuming that Fisher hires an adjunct at \$18,000 per year for a 9-month year,⁴¹ this means a monthly salary of \$2,000 per month or **\$3,000 for the summer.**
- **Tuition Forgiveness:** Since each College 101 student takes a 3-credit course and there are 75 students, Fisher is donating a total of 225 credits. At a DAPS price of \$325 per credit hour,⁴² the total value is **\$73,125.**

In sum, we believe that the value of the program is a maximum of **\$73,125** based on the market value of the credit hours.

⁴⁰ <http://www.fisher.edu/academics/academic-resources/college101/pathway-to-college>

⁴¹ <http://www.simplyhired.com/salaries-k-adjunct-instructor-fisher-college-jobs.html>

⁴² <http://www.fisher.edu/daps/apply-enroll/cost-of-attendance>

III. Research and Service Contributions

3.1 Public safety research and service: \$250,000

This program, centered in Fisher's Center of Leadership in Public Service (CLPS), appears to be a good niche program for a small school. At issue is the basis for the \$250,000 value estimate.

Aside from the four-paragraph Appendix C summary, most of the available information on CLPS comes from the Fisher College website. From this, it appears as though CLPS has one staffer serving as Director who spends much of his/her time as a Fisher faculty member. Until recently, the position was held by Alex Wagner, but the position now appears to be open. From the job opening webpage, Fisher reiterates that the CLPS position is part-time, and that an important component is raising funding for its projects.

This position offers a unique experience, working as both a full-time faculty member and Center Director. As Director of the Center, the successful candidate will play the lead role in refining the CLPS long-term mission/vision statement, while developing and implementing a working five-year strategic plan. The ideal candidate will be a scholar in one or more areas of the social sciences disciplines, should possess a vibrant record of peer-reviewed publications, and have a solid understanding of the dynamics of grant-funded projects. The Director is expected to pursue external funding sources for project support, inclusive of prospect identification and proposal development. Additionally, the successful candidate will be positioned as a full-time faculty member (rank open), with teaching expectations appropriately balanced with the duties of the Directorship of the Center. As a member of the faculty, responsibilities will also include student advising and general service to the college and community.

Beyond the director, Victoria Guay, who recently graduated from Fisher, served until recently as a part-time student research assistant.

With respect to CLPS's projects, Fisher lists "Current Projects," but these seem to be 2-3 years old.

Our takeaways are as follows:

- The underlying cost basis for CLPS is low. Assuming a \$75,000 salary (fully loaded) and a 50% commitment time, the cash cost is \$37,500. With some student assistants, we doubt that the total cost is more than \$50,000 before consulting reimbursements.
- Despite the puffed-up description in Appendix C about the importance of the program there is little to support its asserted value, given the lack of recent accomplishments on the Fisher website and on the Internet.
- Rather than providing free value to the community, CLPS appears to be attempting to receive funding for its research.

Accordingly, we give CLPS a maximum community benefit of \$50,000.

3.2 July 4 unified command center: \$30,000

I have no problem with this very tangible community benefit.

3.3 Events, productions and library services: \$50,000

Over the past year, Fisher has initiated programs approximately once a month during the school year, for 9 programs per year – to which the community has recently been invited. These typically involve low-cost talent; if we assume \$2,500 per session, the value is \$22,500 per year.

The library argument is laughable. In order to gain access to the Boston Public Library system,

Fisher is required to make its facility available as well. With respect to the claim that Fisher's library serves "as a quasi-Back Bay neighborhood branch," I have lived next door to 118 Beacon Street since 1978 without knowing that there was a library there until I recently looked up the address on the Internet. We neighbors in Back Bay have a perfectly fine branch library – the one at 700 Boylston Street.

My net community value assessment: **\$22,500.**

IV. Community service: work study, internships and voluntary action

4.1 Work Study: \$7,500

It is interesting that the smallest asserted community benefit is also the best quantified: 10 work study students providing 800 service hours at a value of \$7,500. While we could quibble with the fact that the effective \$9.38 per hour rate is more than the \$7.50 rate for internships (see below), the difference is *de minimus*.

4.2 Voluntary Support for Charitable Organizations: \$150,000

Fisher "conservatively estimates" that its students and staff provide 20,000 hours of service per year for a value of \$150,000 per year at \$7.50 per hours.

Since there are over 1,000 students and staff in Boston, 20,000 hours is possible, so we accept Fisher's numbers

Adjusted Community Benefits Total

Based on the above analysis, we estimate Fisher's community benefits to be worth \$333,125 per year, if we include benefits accruing to students and non-profits.

However, based on a recent discussion with Matt Englander, Director of Tax Policy & Communications at the City's Assessing Department, it appears that for the purpose of considering the value of in-kind community benefits as an offset to PILOTs, the criteria is the extent to which local governments are the recipients.

On this basis, the number is \$80,000 at best, depending on the degree to which 3.1 Public safety research and service efforts accrue to the benefit of the City.

Fisher Community Benefits Estimate

I. Tax Payments on Institutional and Investment Properties	Fisher	Adjusted	City/State
1.1 Investment properties:	92,947	0	0
1.2 Institutional properties	14,990	0	0
Subtotal:	107,937	0	0
II Scholarships and Special Academic Programs			
2.1 Scholarships to Boston students	1,500,000	0	0
2.2 College 101	250,000	73,125	0
Subtotal:	1,750,000	73,125	0
III Research and Service Contributions			
3.1 Public safety research and service	250,000	50,000	50,000
3.2 July 4 unified command center	30,000	30,000	30,000
3.3 Events, productions and library services	50,000	22,500	0
Subtotal:	330,000	102,500	80,000
IV. Community service: work study, internships and voluntary action			
4.1 Work Study	7,500	7,500	0
4.2 Voluntary Support for Charitable Organizations	150,000	150,000	0
Subtotal:	157,500	167,500	0
Combined Taxes and Service Contributions	2,345,437	333,125	80,000

16. Fisher PILOT Compliance

16. Fisher PILOT Compliance

This memo raises the issue of Fisher's PILOT noncompliance status and questions its sincerity in reaching a PILOT agreement unless and until it obtains extraordinary IMP zoning overlay benefits worth millions to the school.

Since the purpose of PILOT agreement is supposed to be a demonstration of being a good neighbor and not as some kind of payoff for gaining City regulatory concessions, I ask the BRA to take Fisher's blatant misbehavior into account in its Adequacy Determination. To my mind, meeting with the City Assessor's office almost two years after it reached out to Fisher, and literally one week before the end of the IMP comment period, one month before the Adequacy Determination deadline, deserves some sort of penalty for bad citizenship.

* * * * *

Historical Timeline

In July 2013, as part of the IMPNF process, Matthew Englander, Director of Tax Policy & Communications at the City's Assessing Department, wrote the following scoping letter, in which he expressed frustration at "Fisher's lack of engagement" and said that it had attempted to set meeting with Fisher (apparently unsuccessfully):

Fisher's lack of engagement in making an annual PILOT contribution poses immediate and pressing concerns...

To date, Fisher has not shown any willingness to participate in the PILOT program...

In Fiscal Year 2013, Fisher College was asked to make a PILOT contribution of \$43,176 in cash with an equivalent amount in qualifying community benefits. The school declined to participate, just as they did in Fiscal Year 2012 (the first year under the program's new guidelines). As such, it goes without saying that the Assessing Department is highly concerned about a measure that would remove tax dollars from the tax rolls yet fail to be reconciled with a PILOT contribution.

Next Steps:

The City has reached out to Steven Rich at Fisher College to setup a meeting to discuss Fisher College's participation in the PILOT program. If Fisher is unwilling to make a contribution to the PILOT program then we would like to see the school leave the properties on the tax rolls after they've been converted and/or reconfigured for school use. – Englander July 2013 scoping letter

Based on this letter, the BRA's September 2013 Scoping Determination urged Fisher to meet with the City's Assessor's office to discuss PILOTs.

Taxes and PILOTs. In the context of the master planning process, Fisher should meet with the City's Assessor. Please see comment letter from the Assessing Department. – Scoping Determination September 2013

One would have expected that this combination of polite nudges would have resulted in Fisher meeting with Englander. However, for the next year, nothing happened. Obviously, Fisher was avoiding having a meeting.

This appeared to change in July 2014 (one year after Englander's initial letter), when apparently in preparation for filing its IMP in August or September 2014, Fisher realized that its failure to meet with Englander in violation of the Scoping Determination might not look good to the BRA.

Even at this point, however, Fisher did not actually schedule or hold a meeting. It only “expressed interest” in meeting. Once Fisher decided to hold off filing its IMP in September, it presumably lost interest in actually scheduling the meeting – so it never occurred.

Fisher College reps reached out in July to express interest in meeting on the topic of PILOTs, however to date this meeting has not taken place. – Matthew Englander email, September 16, 2014

The same thing has happened again recently. On May 8, 2015 (one week before the IMP filing on May 13, 2015), as part of my preparation for this comment, I contacted Englander to ask if Fisher had ever met with the City and/or had made PILOTs. In a phone conversation, Englander said that Fisher had resurfaced in the last couple of weeks (in other words, shortly before filing its IMP on May 13, 2015), requesting a meeting to discuss its IMP. Even though this time, Fisher actually filed the IMP, the meeting still never occurred.

On June 15, 2015, in preparation for the June 22, 2015 BRA public meeting, I again spoke to Englander. He said that in the past week, he had been contacted by Fisher’s Carolina Avellaneda asking if they could meet during the week of June 15-19.

[My take-away: this undoubtedly was linked to Fisher’s concern that if asked at the meeting, Carolina needed to be able to say, if asked, that she had reached out to the City Assessor’s office and was trying to schedule a meeting.]

At this point, I am now told that Fisher will be meeting with Englander sometime the week of July 6 (it **still** has not been scheduled for a particular day and time). Englander has also commented that Fisher keeps saying that it wants to review its IMP with him, and seemingly takes care not to say that it wants to meet about a PILOT agreement.

Conclusions

Fisher’s behavior in avoiding a meeting on this subject for the past two years, and only **talking** about scheduling a meeting (as opposed to actually scheduling a meeting), makes it clear that the College is trying to avoid having to sign a PILOT agreement until and unless it gets zoning relief. However, since the College does not want to say this explicitly, it simply keeps kicking the meeting can down the road, and only attempts to talk about scheduling as the IMP deadlines make it imperative to show that it is trying.

From Englander’s comments that Fisher wants to talk about IMPs rather than PILOTs, it appears likely that if a meeting is ever held, Fisher will tout the value of its community benefits as reasons why it should not be required to make PILOTs.

Given that memo #15 suggests that Fisher’s community benefits are modest, at best, the BRA should see through Fisher’s ploy. If Fisher wants its IMP to be seriously considered by the City, it needs to show that it has been a good neighbor. Offering to meet with the Assessor’s office a month before the Adequacy Determination due date (and even then not sign a PILOT agreement) is hardly a demonstration that Fisher is worthy of the City’s consideration.

**17. Fisher IMP Project 1:
Conversion of 10/11 Arlington Street**

17. Fisher IMP Project 1: Conversion of 10/11 Arlington Street

This memo reviews Fisher's IMP Project 1 to convert 10/11 Arlington for institutional use. I oppose this project, on the following grounds:

1. **Allowing the conversion of 10/11 sets a terrible precedent:** It is in the City's interest to protect the residential Back Bay as one of the premier residential neighborhoods in the United States. To do this, properties in residential Back Bay should be restricted for residential use. Properties in residential Back Bay with grandfathered protection should eventually revert to residential use.

It is particularly important for the City to take a stance on 10/11 Arlington. If it allows the conversion of grandfathered properties for institutional use in residential Back Bay, each time a grandfathered property comes up for sale, Fisher and perhaps other institutions will seek to spread their footprints in residential Back Bay as a type of cancer in the neighborhood.

This is not an idle threat. Three days after filing its IMP in May 2015, Fisher sent a proposed map to the Good Neighbor Committee in which it proposed a "non-expansion zone" for residential Back Bay and Beacon Hill, but included the asterisked condition "this area excludes any buildings currently used for educational or institutional purposes." In other words, Fisher wanted to leave itself with the ability to purchase other properties with grandfathered protection (for example, Bay State College, which owns or leases 6 brownstones in residential Back Bay on Commonwealth Avenue).

The prospect of never-ending Fisher attempts to grow in residential Back Bay shocked the GNC members, who immediately made it clear to Fisher that this exemption was a non-starter. While Fisher quickly expunged the exemption from its map, it only agreed to a ten-year life for its non-growth proposal (the same time frame as its IMP) – after which it would be free to continue its expansionist policy in residential Back Bay.

2. **Approval will result in Arlington Street becoming a second Fisher block:** If this project is approved, there will be three Fisher institutional properties on Arlington Street (1, 10 and 11). This will make Arlington between Beacon and Commonwealth another 'Fisher block,' in addition to the block it already inhabits on Beacon. The BRA should not allow this to happen. Back Bay is an historical residential district. The City needs to take a clear position against institutional growth in this neighborhood.
3. **Approval will cost the city a substantial amount in lost taxes versus converting to condos:** In memo #9 *Economics: Fisher Expansion Outside of Back Bay*, I noted that if well-situated properties like 10/11 Arlington were gut rehabbed into condos (with 85% net useable space), then the properties would be worth as much as \$2,200 per square foot. If so, then the total valuation of the two buildings would be \$29.325 million and the annual property tax at \$12.11 per thousand would be \$355,126.
4. **Adding 10/11 for non-dorm use is an inadequate solution for Fisher's non-dorm space shortage:** As highlighted in my memo *Fisher Non-Dorm Adequacy*, adding these properties (17, 225 square feet) and then repurposing 4,225 square feet at 116 Beacon for dorm use only results in a net increase of 13, 205 square feet of non-dorm space. This only covers 40% of the school's ten-year growth needs of +32,500 square feet (assuming that 111 Beacon's zoning change is also approved), leaving a gap of 19,500 square feet.
5. **The market value of 10/11 could be better used for lower cost per square foot properties:** At an estimated \$800 per gross square foot, 10/11 is worth \$13.8 million and perhaps even more than this, given its premier location facing the Public Garden. If the

property was sold, the proceeds could be used to help fund a more adequate Student Housing Plan or non-dorm space outside of residential Back Bay, by buying lower cost per square foot commercial space and converting it for institutional use.

6. **Approval will result in the College’s administration being physically separated from its students, making Beacon Street into a “student Quad”:** By moving office facilities from 116 Beacon to Arlington, the remaining space on Beacon will become an increasingly student-oriented quad. This will exacerbate noise, security and traffic/parking issues that we already have on the block.

7. **The buildings do not have proper loading zones for delivery:** 10/11 Arlington only has two parking spaces, each large enough for a single car only, and which the IMP says will be used for parking.⁴³ The alleyway between Marlborough and Commonwealth is too narrow for truck parking without obstructing through traffic. So as a result, deliveries will result in doubleparking on Arlington, thereby obstructing through-traffic on a street with a 20,500 daily vehicle traffic count.

8. **The buildings will not be handicap-accessible:** Given the zoning conversion (if the IMP is approved), the buildings will need to be made handicap-accessible.⁴⁴ Yet the buildings are not accessible today, and Fisher’s IMP plan calls for no major reconstruction or any discussion on how it plans to make the buildings accessible. Instead, the IMP suggests that there will be minimal construction or interior renovation:

Moving offices to 10-11 Arlington is not anticipated to require any construction or interior renovation. Rather, Fisher will repurpose existing rooms in order to maintain as much of the original interiors of this building as possible. – IMP 5-2

Absent such plans, this would be a violation of Massachusetts state law 521 CMR.

9. **Approval could harm the abutting Public Garden:** The Public Garden is directly across the street from 10/11 Arlington. If Arlington becomes a second Fisher block, there could be adverse consequences to the Public Garden due to overuse by students, as well as misuse of for, e.g., Frisbee and football games.

* * * * *

As a result, the BRA should reject Project 1 as a ‘band-aid’ solution that is inadequate for Fisher’s non-dorm needs, but which will substantially damage Back Bay’s residential nature. The right answer is for Fisher to grow somewhere else.

⁴³ *Two new parking spaces will be added to Fisher’s parking inventory when Fisher takes occupancy of the building, bringing Fisher’s parking inventory to 28 spaces. – IMP 5-2*

⁴⁴ *From Vic Castellani, “the requirement for an accessible entrance is triggered by the change from a private use (office) to a public use (school). If the total cost of improvements is more than \$100,000 than it would also be necessary to include an accessible lavatory. Presumably Fisher could make 10/11 accessible from the rear where the BBAC has already approved a modification for a small glass enclosure for a small dining area and include a fist floor accessible lavatory.”*

**18. Fisher IMP Project 2:
Conversion of 111 Beacon Street**

18. Fisher IMP Project 2: Conversion of 111 Beacon Street

This memo argues against granting Fisher a zoning overlay for 111 Beacon, for the following reasons:

1. Fisher has knowingly been operating 111 Beacon for institutional use in violation of City zoning regulations since September 2010, when it began holding Fisher classes on the premises; and/or July 2011, when it changed the property designation from Commercial to Exempt on the City property rolls without receiving zoning change approval.⁴⁵ This is a period of almost four years, -- during which time, it has not paid property taxes (this year's taxes for 111 Beacon would have been \$23,239).

It is inappropriate for the BRA to reward this extended violation period with a zoning overlay – because it sends a bad message that Fisher (or by extension, other property owners) can knowingly violate City regulations with impunity.

2. Fisher's behavior regarding its Butera students is equally questionable. In July 2010, when Fisher decided to purchase the Butera School of Art (a for-profit art vocational school) along with its building at 111 Beacon, it failed to inform the Massachusetts Department of Higher Education in advance. The MHE responded by revoking Butera's license. However, it allowed Fisher to "teach out" its current cohort of students.

Despite this, Fisher also enrolled new students who did not matriculate until the fall of 2010, without telling them that Butera was closing and they would be taught on a "teach-out basis" only – behavior that the general counsel for the Massachusetts Department of Higher Education found in January 2013 was "deceptive, misleading and unfair."

As with (1), it is inappropriate for the BRA to reward this behavior with a zoning overlay.

3. 111 Beacon's location on A/B Beacon has contributed to two different types of neighborhood problems, making its continued use as a Fisher institutional property problematic.

First, since it is located mid-block across from the main Fisher Mall buildings, its conversion into a Fisher classroom facility has materially contributed to pervasive jaywalking on A/B Beacon. Fisher needs to come up with an urban design plan that does not require its students to create dangerous pedestrian crossing problems.

Second, given that 111 shares a common staircase with 109 Beacon and Fisher's intensity of use is far higher than Butera's 20 students (with no night classes), the residents of 109 have experienced substantial smoking and noise problems post-Fisher acquisition.

4. The addition of 111 Beacon (8,520 square feet) followed by the proposed 10/11 Arlington conversion (13,025 incremental non-dorm square feet; total 21,545 square feet),⁴⁶ represent small temporary 'band-aid' solutions rather than actions that will provide the College with long-term sustainable growth. If the school continues to grow, it will outgrow this space in a few years.⁴⁷ Fisher would be much better served if it recognizes that to grow and provide its students with state-of-the art academic facilities, it needs to develop options outside of residential Back Bay.

⁴⁵ The change application would have been made by January 2011.

⁴⁶ 17,250 gross square feet less 4,225 square feet at 116 Beacon repurposed for dorm use.

⁴⁷ In a 2013 IMPNF public meeting, Steve Rich said that Fisher was already operating at maximum capacity. This suggests that the additional space made available in July 2010 by the acquisition of 111 Beacon was used up in three years.

5. Implementing a non-Back Bay expansion plan is viable economically. Per memo #9 *Economics: Fisher Expansion Outside of Back Bay*, if Fisher were to sell 111 Beacon, 10/11 Arlington and 115/139/141 Beacon, it could purchase and develop new institutional facilities with 52,000 to 69,000 square feet, far more than the 22,000 square feet that it would lose by selling 111 Beacon and 10/11 Arlington.

Based on these observations, we recommend that the BRA tell Fisher to develop alternatives in which Fisher sells 111 Beacon (and other properties, including 10/11 Arlington and 115/139/141 Beacon) and buys property elsewhere.

* * * * *

Detailed Discussion: The Butera Acquisition

The following section reviews Fisher's questionable behavior related to the acquisition of the Butera School of Art and Butera's building at 111 Beacon:

1. The July 2010 acquisition and Fisher's promise to Butera students

In July 2010, Fisher acquired the Butera School of Art and its building at 111 Beacon. Here are excerpts from a July 13, 2010 form letter sent by Fisher to Butera students (including prospective new students). This letter describes the pending acquisition as a "merger" in which Butera students will have "the same quality education" as before but with the opportunity to obtain an associate or bachelor's degree.

*After years of being neighbors and sharing facilities, we are very happy to announce a merger between Butera School of Art and Fisher College. This positive move **will ensure the same quality education with access to the expanded facilities and services of Fisher College.** Butera students will have the future potential to obtain an associate's or bachelor's degree. Some additional benefits will include full cafeteria facility, academic support services, dormitories, plus athletic programs including basketball, baseball, softball, cheerleading and soccer...*

We as the presidents of Butera School of Art and Fisher College are looking forward with great anticipation to the future benefits of this exciting expansion.

*Joe Butera
President
Butera School Of Art*

*Dr. Thomas M: McGovern
President
Fisher College*

In other words, current and prospective new students were being told that there would be no material change for them, except for the good.

2. Executing the purchase without prior state approval

This acquisition (completed on July 28, 2010) was executed without prior notification to the State Department of Education (required whenever one school acquires or merges with another). This is clear from the following internal Massachusetts Department of Higher Education email:

From: Fay, Mary Jayne [mailto:mjfay@doe.mass.edu]
Sent: Friday, July 30, 2010 1:26 PM
To: Purcell, Francesca (RGT)⁴⁸
Subject: Butera School of Art

Hi Francesca:

We received notice from the above licensed school that they have merged with Fisher College. Are you aware of this merger? Does the merger mean that Butera's certificate programs are now under the oversight of DHE? If you would like to see the notice we received, I can fax it to you.

Thank you.

Mary Jayne Fay, Ed.D.
Coordinator of Adult Basic Education Teacher Licensure and Proprietary Schools
Massachusetts Department of Elementary & Secondary Education'

Within two weeks, Ms. Fay sent a letter on August 10, 2010 to Joe Butera and Fisher's Thomas McGovern, pointing out that Fisher purchased the Butera School of Art improperly without prior state approval. Accordingly, the state revoked Butera's license but left open the possibility of "continu[ing] to operate Butera's program for another year," which would allow existing students to complete their studies.

This is in response to your recent correspondence regarding the merger of the Butera School of Art (Butera) and Fisher College (Fisher). Based on my conversations with Francesca Purcell, Associate Commissioner Massachusetts Department of Higher Education (DHE) and Mr. McGovern, it appears that Fisher has acquired the Butera School of Art, Inc.

Pursuant to 603 CMR 3:02(4), no change in ownership of a school shall occur until the Massachusetts Department of Elementary and Secondary Education (Department) approves the requested change. Since Butera changed ownership without obtaining prior approval as required by 603 CMR 3.0.2(4), its private trade school license is no longer valid....

Please discontinue all advertising for the school and notify your website provider/domain host that the website must be removed effective immediately.

It is my understanding that Fisher intends to continue to operate Butera's program for another year. If this is the case, Fisher, which is a degree granting institution, should contact the DHE regarding the operation of the program by Fisher

Sincerely,
Mary Jayne Fay, Coordinator

3. Hiding its plans from students

After further discussions between Fisher and the state, Fisher was allowed to proceed with a teach-out plan for the remaining 20 students. It is unclear as to why the state would agree to a teach-out for 12-13 students who had not actually started school prior to September 8, 2010. From the following undated letter from Francesca B. Purcell, Associate Commissioner for Academic and P-16 Policy at the Massachusetts Department of Higher Education, it appears that Ms. Purcell was unaware that there were only 7-8 registered students as of July 28, 2010, not twenty:

⁴⁸ Associate Commissioner for Academic and P-16 Policy for the Massachusetts Department of Higher Education

I am writing to confirm that in response to Fisher College's ... commitment to educate the twenty (20) students formerly enrolled at Butera, Fisher-College will offer ... non-college credit bearing certificate programs to these twenty (20) students only. – undated letter, Francesca B. Purcell

From a Fisher standpoint, the rationale for expanding the teach-out pool was clear; given that annual tuition at that time was \$17,500, adding 12-13 more students meant an additional \$210,000-\$227,500 of income.

In any case, the information about Butera's shutdown and Fisher's teach-out plan apparently was not shared with the students, who on September 8, 2010 (the first day of class) were told about the Fisher takeover and were asked to sign an agreement in which they would become Fisher students. As seen below, Fisher told the students that the "stay with Fisher" option would result in a seamless transition:

The curriculum is designed to closely match the Butera program for which you enrolled. In addition, we are offering the courses in the same building and have hired the same instructors. This option will be seamless to you from an academic perspective and you will gain the facilities, services and resources consistent with an institution of higher education that has been delivering quality education products for 107 years. – Fisher Teach-Out Agreement, September 8, 2010

Nowhere, however, was there a discussion of the art program disappearing entirely after a teach-out period.

4. Fisher's behavior censured by the state

Fisher's behavior in its September 8 meeting outraged parent Sue Butts,⁴⁹ once she discovered in January 2011 that Fisher planned to terminate the art program entirely. Based on her account, her son had already spent almost an entire semester in the program and she had already paid a significant amount of money toward the parent/student loan. She reached out to Fisher's Tom McGovern by email and telephone to discuss the situation but received no response.

As a result, Ms. Butts complained to the Massachusetts Department of Higher Education in August 2012. After investigating, its General Counsel wrote a letter to Fisher that supported the family's view that Fisher had engaged in "deceptive, misleading and unfair" behavior, and was a violation of multiple state and possibly federal laws. Accordingly, she forwarded the Butts complaint to the Attorney General's office for consideration.

The information contained in the September 8th letter does not reflect the information provided to the Department: the College would teach the non-college programs to the remaining Butera students only. Given these facts, the institution was effectively discontinuing these programs. This information should have been made available to students and families ... An institution's long term commitment to a program is undoubtedly a factor that would influence a students' enrollment decision...

Susan Butts, who partially financed her son's education at Fisher, claims that she was not made aware of this fact until January 2011, a point that the College does not contest.

After a review of the facts, Ms. Butt's claim that the institution failed to communicate these changes seem reasonable and if so, may be considered deceptive, misleading and unfair.

Based upon the information provided it appears that the facts presented indicate noncompliance with the 610 CMR which states in relevant part:

The educational institution shall not engage in untrue and misleading advertisements which are otherwise prohibited by the provisions of M.G.L.c. 266, § 91, M.G.L. c. 93A, or any other state or federal law. All advertisements, announcements, and promotional material of any kind which are distributed shall be free from statements that are untrue, deceptive, or misleading with respect to the institution, its personnel, its services, its degree-granting status, its accreditation status, and the transferability of its courses or degree programs.

⁴⁹ Her son Colin Butts-Blessing was one of the new Butera students and is not the only student seeking tuition reimbursement from Fisher.

The Department finds Fisher College's response to Mrs. Butts unsatisfactory and will forward the complaint to the Attorney General's office for consideration, consistent with 610 CMR 2.11(1).

*Sincerely,
Constantia T. Papanikolaou
General Counsel*

6. Butts lawsuit against Fisher

In response to Papanikolaou's referral, the Attorney General's office attempted a mediation with Fisher College, which proved unsuccessful. As a result, Susan Butts and her son filed a lawsuit against Fisher in Suffolk Superior Court on November 14, 2014. The case is still pending.

* * * * *

In sum, Fisher acquired the Butera School of Art in July 2010 without prior state approval and in violation of statute. Despite the fact that by September 2010, Fisher knew that it would not be continuing the school and was supposed to be doing a teach-out for existing cohorts only, it hid this fact from new students and enrolled them in this dying program. Fisher's actions resulted in a state referral to the Attorney General's office and one lawsuit currently pending in Suffolk Superior Court.

This is hardly the type of behavior that warrants consideration for extraordinary zoning relief.

**19. Fisher IMP Project 3:
Adding 48 Dorm Beds on Beacon Street**

19. Fisher IMP Project 3: Adding 48 Dorm Beds on Beacon Street

This memo looks at Fisher IMP Project 3, which aims to add an additional 48 beds in existing Fisher buildings on Beacon Street. I oppose this project, on the following grounds:

1. The project involves a substantial increase in beds that will result in 16.7% more dorm students on the A/B Beacon block. It is the equivalent of adding one full brownstone of dorm students on an already overcrowded block.
2. The project will make Fisher's already inadequate gross square feet per bed even smaller, thereby making its dorms less attractive to students and ultimately harming Fisher College itself.
3. 48 beds does not come close to meeting Fisher's ten-year dorm needs, or the City's goal of reducing the percentage of non-dorm students in half by 2030. The BRA should not approve a plan that is so clearly inadequate.
4. Approving this project rewards Fisher for not having executed on its August 13, 2013 commitment to the BRA that it would be "undertaking a careful review of several alternative scenarios for future growth in other areas of the City."
5. Fisher does not need the additional beds right now, since in 2014-5, it only had 298 Fisher occupants for its 344 owned and leased beds. Fisher therefore should take additional time to develop plans for growth outside of residential Back Bay.

Instead, the BRA should reject Project 3 and tell Fisher to revamp its Student Housing Plan based on expansion outside of residential Back Bay.

* * * * *

Detailed Discussion

1. This is a substantial increase in beds that will result in 16.7% more dorm students on the A/B Beacon block. It is the equivalent of adding one full brownstone of dorm students on an already overcrowded block

Fisher currently has 289 dorm beds on the A/B Beacon block, so adding 48 beds represents a 16.7% increase.

In the IMPNF, Fisher proposed to convert 115, 139 and 141 Beacon into 129 dorm beds, or 43 beds per building. Hence, adding 48 beds is the equivalent of adding a new institutional brownstone on this single block.

For residents on the block, this is not a modest increase – particularly given that there already is a base level of 820 day students and 285 Fisher employees surrounding us.

2. The project will make Fisher's already inadequate gross square feet per bed even smaller, making its dorms even less attractive to students

In June 2013 during the IMPNF process, I filed a comment with the BRA⁵⁰ pointing out that industry median gross square feet per bed was approximately 350, and that Emerson, Suffolk and Berklee dorms range from 308-380 gsf/bed. From that memo:

- *The 2011 College Housing Report states that "The space allocated per bed over nine years of research averaged out at 336 sq. ft. There was one residence hall (at a seminary) that provided just 60 sq. ft. per bed, and there were a few indicating that their residence halls provided almost 500 sq. ft. per student, but the great majority provide 310 to 375 sq. ft. per bed. In the last two years the median has stabilized at 351 sq. ft. per bed."*
- *Emerson's 10-year-old dorm at 144-146 Boylston has 185,000 gross square feet for 600 students, for an average of 308 square feet per bed.*
- *Berklee's recently approved IMP calls for 430,000 gross square feet for 1,200 student beds, for an average of 358 square feet per bed.*
- *Suffolk's dorms average 365 square feet per bed.*

Suffolk University Dorms

	Square Feet	Beds	Sq Ft/Bed
<i>10 Somerset</i>	<i>131,000</i>	<i>345</i>	<i>380</i>
<i>150 Tremont</i>	<i>149,000</i>	<i>420</i>	<i>355</i>
<i>10 West</i>	<i>99,000</i>	<i>274</i>	<i>361</i>
Total Suffolk	379,000	1,039	365

Source: Suffolk IMP

In contrast, Fisher is currently operating at 189 gross square feet per bed, which is almost half of the industry average. This is based on the following calculations:

- Fisher's IMP says that "approximately 40% of [its total] space is dedicated to housing, dining and student services (IMP 2-2).
- On 40% of 158,896 gross square feet (including leased dorm space), this comes to 63,558 GSF.
- 63,558 GSF divided by 337 beds⁵¹ comes to 189 GSF/bed.

According to Fisher's plans, while it will be adding 48 beds, most of this will come from adding beds to existing dorm rooms – thereby further shrinking further the GSF per bed. The only new dorm gross square feet will come from repurposing 4,225 square feet at 116 Beacon (source: IMPNF) – meaning that the marginal GSF per incremental bed is 4,225/48, or 88 square feet per incremental bed. On an aggregate basis, average GSF/bed will decline 7% from the current 189 to 176, based on the following calculations:

⁵⁰ Fisher Micro-Dorm Plans, June 21, 2013

⁵¹ These numbers include 10,000 square feet and 55 beds at the leased Stuart Street facility.

- Total GSF: 63,558 + 4,225 = 67,783 GSF post-Project 3
- Total beds: 337 + 48 = 385 beds post-Project 3
- GSF/bed: 67,783/385 = 176 beds post-Project 3

In sum, Project 3 will reduce even further already substandard dorm facilities. Fisher students already appear to be rebelling against the substandard dorm rooms, and particularly complain about being shown large beautiful dorm rooms (that they then don't get to live in).

*I am a first year student at Fisher College, I was excited to start my college education at Fisher seeing that this school was located on Beacon street one of the nicest streets that Boston has to offer. Yet, it was THE BIGGEST mistake I have ever made... lets talk about housing, the dorms are HORRIBLE! The buildings are old and nasty the walls look like they are about to fall on you . The bathrooms are not too nice and for all the money that we pay to come here it is just plain filthy! ... commuting might be your best option because, living here is not worth it! **On the Campus tour they show you the biggest rooms making you think that the dorms are nice . NO THEY AREN'T its all a lie. They will show you the quads and the triples to get you all excited and happy, PSHH PLEASE don't fall for it***

*I am a fashion merchandising major here at Fisher college and I must say, I greatly dislike this school. The housing is horrible. The rooms are small, there is no air conditioning, there is stories of mice in rooms constantly, the bathrooms are gross. **Worst of all, they show you the best dorms on the tour and trick you.***

http://www.studentsreview.com/MA/FC_comments.html?page=2&type=&d_school=Fisher%20College

Arguably, therefore, IMP Project 3 is not a step in the right direction. If there is a saving grace, it is that by adding more beds to its show-dorm rooms, students will not suffer from 'bait and switch' tactics.

3. 48 beds does not come close to meeting Fisher's ten-year dorm needs, or the City's goal of reducing the percentage of non-dorm students in half by 2030. The BRA should not approve a plan that is so clearly inadequate.

In two May 2015 memos already filed with the BRA,⁵² I pointed out that if Fisher plans to grow its day school enrollment to 1,100 and it maintains a 42% dorm ratio (which it said in its IMPNF was a "minimum" requirement), then it needs 462 beds, not the 385 beds it will have post-Project 3 (even assuming that it can renew its 55 bed Stuart Street lease).

In memo #4, I also pointed out that the plan does not come close to meeting the Mayor's 50% reduction target in the proportion of non-dorm students.

Therefore, the BRA should not be approving a Project 3-based Student Housing Plan that is so clearly inadequate.

⁵² Fisher Student Housing Plan, May 26, 2015; Fisher and the Mayor's Housing Plan, May 27, 2015

4. Approving this project rewards Fisher for not having executed on its August 2013 commitment to the BRA that it was “undertaking a careful review of several alternative scenarios for future growth in other areas of the City.”

In its August 13, 2013 letter to the BRA, Fisher made the following commitment:

While we are still proposing a modest increase of 48 dorm beds on the north side of Beacon Street - where the majority of our students are housed today - we are also undertaking a careful review of several alternative scenarios for future growth in other areas of the City.

Two years later, there is no indication in the IMP that Fisher ever seriously undertook this “careful review of alternative scenarios, despite the fact that the Scoping Determination required an “alternative student housing location analysis.”

Arguably, Fisher should not now be rewarded by the BRA for making a pledge that it then ignored, in direct violation of the Scoping Determination.

5. Fisher does not need the additional beds right now, since in 2014-5, it only had 298 Fisher occupants of its 344 owned and leased beds. Fisher therefore should take additional time to develop plans for growth outside of residential Back Bay.

Much of Fisher’s argument in the IMPNF process was that it was growing rapidly and running out of capacity – so that it badly needed approval of plans to add +177 beds.

Two years later, it turns out that the need for immediate dorm approval was overstated, since the Mayor’s Housing Report 2015 update says that in fall 2014, Fisher students only occupied 298 beds (a 12% decline since 2012) – leaving 39 of Fisher’s total 337 beds empty or being subleased to students from other schools.

Of the 12% overall decline in Fisher dorm bed usage, 7% can be explained by a drop in day school enrollment from 820 in 2012 to 763 in 2014. The balance, however, appears to be related to the relative lack of Fisher dorm bed desirability versus alternatives. As a result, only 39% of Fisher students live in dorms, down from 42% in 2012 that Fisher discussed in its IMPNF as a minimum target.

As a result of the dorm population decline, any argument that there is a pressing need for immediate dorm approval is premature. This is reinforced by the fact that Fisher itself only seeks to add the first 25 beds of the +48 in 2017 (two years from now) and the final 23 in 2019 (four years from now).

So there is plenty of time for Fisher to develop plans for dorms outside of residential Back Bay – if it stops postponing the inevitable and recognizes that cramming more students into already small dorms is not in its long-term interest.

**20. Fisher IMP Project 4:
The College Terrace**

20. Fisher IMP Project 4: The College Terrace

This memo considers Fisher's IMP Project 4, the proposed "no more than" 2,500 square foot College Terrace on the Mall roof. I oppose this project, on the following grounds:

- 1. Adding a large terrace on top of a set of buildings with a 3.26 FAR is inappropriate (the normal allowed limit is 3.00).** I do not believe that additional usable space should be added, since this terrace might be used for hours a day by large numbers of students and staff. There are already enough people shoehorned into these buildings.
- 2. The potential capacity of the terrace is unacceptable to abutters.** Based on Boston Fire Department regulations, the terrace could accommodate as many as 750 people depending on the configuration. This could create unacceptable noise and crowd control problems, and is unfair to abutters, who purchased their properties with a reasonable expectation of quiet and privacy on the Charles River-facing side.
- 3. The 2,500 square foot terrace inevitably will expand to much of the entire roof area.** If the terrace is popular, Fisher is likely to seek further expansion as student population increases. The result will be up to a 2.4 times increase in potential issues related to noise, smoke, etc.
- 4. There are no plans for controlling student behavior on the terrace or along Back Street.** Despite the fact that an outdoor terrace less than 100 feet from 100 Beacon raises obvious student behavior issues, Fisher's IMP contains no provisions for controlling this. Making matters worse, assuming that the terrace will require some form of egress onto Back Street, this will encourage spillover student partying/smoking activity over the entirety of A/B Back Street.
- 5. The Student terrace is unlikely to solve the student congestion problem along Beacon Street.** Since students need to cross Beacon Street to get to 111, 131 and 133 Beacon, as well as 1 Arlington, "the action" is always going to be on the Beacon Street side. As a result, that is where students will continue to congregate.
- 6. There are no plans for emergency egress to Back Street.** The IMP calls for access from the Mall below with handicap access from the rear of the second floor of 108 Beacon. I believe that a terrace that only has entrances to a linked set of buildings with no Back Street egress is inherently dangerous.
- 7. As a serial violator of BBAC regulations requiring Certificates of Appropriateness for roof deck additions, Fisher does not deserve the privilege of zoning overlays.** I believe that Fisher at these properties has violated BBAC restrictions against rooftop mechanical equipment installed on lower roofs. I count thirteen roof additions, most of which do not appear to have grandfathered protection. The BRA should require Fisher to correct these violations before considering this project.
- 8. Fisher needs to fix an eyesore at variance with Back Bay architectural norms:** The current Mall, relying on grandfathered protection, is an ugly industrial-park-like structure that would never be allowed today by the Back Bay Architectural Commission.

Before allowing what Fisher to surround entire Mall addition perimeter "by a wrought iron fence with brick elements, in keeping with the well-designed and appointed terraces elsewhere on Back Street," Fisher should be required to renovate the building exterior in a manner consistent with Back Bay architectural norms. It is the height of arrogance for Fisher to build a "well designed and appointed terrace" on top of a building with exposed cinderblock sides.

* * * * *

Detailed Discussion

1. These buildings are already overbuilt

The maximum allowed Back Bay FAR (floor area ratio (FAR) is 3.00. In contrast, the Fisher buildings from 102-114 Beacon have an FAR of 3.26, or 10% over the limit. If the proposed terrace space were included, the FAR for these properties would rise to 3.36.

102-114 Beacon Street Gross Square Feet and FAR

Property		GFA	Lot Area	FAR
102	Beacon Street	21,179	4,950	4.28
104	Beacon Street	11,100	3,750	2.96
106	Beacon Street	11,610	3,900	2.98
108/110	Beacon Street	18,619	6,000	3.10
112	Beacon Street	9,253	3,150	2.94
114	Beacon Street	8,938	3,000	2.98
	Total	80,699	24,750	3.26

I understand that outdoor terraces do not count in FAR computations (a point that is emphasized in the IMPNF).⁵³ However, in most cases roof decks are rarely used by owners (perhaps a few hours a month) and typically only have only a few users at a time. Here, the Student Terrace is intended to be used for hours each day (including after dark, since the terrace is to be “discreetly lit”), potentially by a large number of students and staff (since it “will be accessed directly from the major student activities spaces in the Mall below”).

Accordingly, I believe that the Terrace will be used as a highly trafficked ‘room’ at Fisher, and on this basis, the impact on effective FAR should be taken into account. The Terrace should be rejected, because the density of use for these properties already is too high.

2. The terrace capacity is unacceptable to abutters

Per NABB’s comment letter to the BRA posted May 20, 2015, a deck of 2,500 square feet “depending upon how it might be furnished would have a legal occupancy in the order of 500 to 750.”

This concentration would create major noise and crowd control problems, and is unfair to abutters, who purchased their properties without the expectation that Back Street would house large outdoor student populations. Changing the rules now is inappropriate.

⁵³ “This proposed terrace does not add any FAR to the Mall as it is unenclosed usable open space.” – IMPNF p. 26

3. The 2,500 square foot terrace inevitably will expand to much of the entire roof area.

Given that the overall Mall roof has 6,000 square feet, if the 2,500 square foot terrace proves popular, Fisher could seek to expand by a factor of as much as 2.4 times.⁵⁴ This potentially could lead to groups of up to 1,800 people. Such an expansion also would bring the Terrace much closer to the residential units at 100 Beacon.

This concern is reinforced by the fact that while the Student Terrace area only represents 42% of the Fisher Mall roof area, the school is looking for fencing approval along the entire 6,000 square foot roof perimeter.

Fisher Mall Aerial Photo Showing Fencing around the entire Mall Roof



I anticipate that in response, Fisher will say that it would need a revision of the IMP before any expansion (so that abutters need not worry). However, if the BRA approves the current IMP, Fisher would have every reason to believe that an extension would be obtainable when needed.

4. There are no plans for controlling student behavior on the terrace or along Back Street.

Given that Fisher has been negotiating the terms for an Good Neighbor Agreement since November 2015 (so far unsuccessfully), I would have anticipated that in any IMP discussion of plans for a large outdoor terrace, there would have been some discussion regarding how the College plans to control student behavior.

To my surprise, IMP 5.5-5.6 does not discuss the subject at all, aside from saying that “the major student activities corridor entrance in the Mall below,” from which there will be access to the terrace, “is adjacent to the Campus Police desk.” Apparently, Fisher is counting on the proximity of the Police desk one floor below to provide adequate security. This arguably is insufficient. If

⁵⁴ We recognize that the ability to use the entire 6,000 square feet area may be limited by the 6 mechanical additions on the roof (see Issue 6). To the extent that these have valid Certificates of Appropriateness, these can be moved to the center rear to maximize the footprint for an expanded terrace.

Fisher wants to reassure abutters that it is serious about controlling student behavior, it needs on-premise police presence during all terrace hours.

While Fisher will say that security will monitor the terrace, it has shown no ability/ inclination to deal with problems on Beacon. Before asking for terrace approval, Fisher therefore needs to show that it can deal with current quality of life issues.

The issue of student control extends beyond the terrace itself. While there currently is no plan for emergency egress from the terrace directly to Back Street (see 6), if such an exit were built, students seeking to free themselves from intrusive police presence on the terrace would be incited to go on Back Street itself or on the lawn behind the seawall on the north side of the street; and in particular, down the street by abutter properties. As a result, we need to see plans for patrolling all of Back Street, and not just the terrace itself.

5. The Student terrace is unlikely to solve the student congestion problem along Beacon Street.

In the IMP, Fisher twice suggests that having a College terrace will help alleviate sidewalk congestion caused by students congregating on Beacon Street:

It is anticipated that this new outdoor amenity will offer a private, attractive alternative for student gathering, and be used instead of the sidewalks along Beacon Street where students sometimes currently congregate. – IMP 5.5

Providing the College Terrace also responds to a concern from neighbors that at certain times of day, mostly between classes, they compete for sidewalk space with students. – IMP 5.6

This argument would seem to be wishful thinking, since it ignores the fact that since students need to cross Beacon Street to get to 111, 131 and 133 Beacon, as well as 1 Arlington, the “action” is always going to be on the Beacon Street side. As a result, students are unlikely to congregate on a Back Street terrace. And as Vic Castellani has pointed out, the terrace would be in the shade almost all of the time during the school year.

Arguably, even Fisher doesn't believe in its own argument, since here is how Kate Shepherd of 120 Beacon Street recounted a recent discussion that she had with President McGovern regarding the attractiveness of the Back Street smoking lounge behind 116 Beacon:

He, like Carolina, continue to say that students don't like the smoking area on Back Street as it's "not where the action is." -- Kate Shepherd email April 6, 2015

Thus, I am concerned that approval of the College terrace will not reduce pedestrian congestion and student noise/smoking on Beacon, but will create a new noise issue on Back Street.

6. There are no plans for emergency egress to Back Street.

Another problem with the IMP plan is that it includes no provision for emergency egress to Back Street – saying only that the terrace “will be accessed directly from the major student activities corridor in the Mall below... Handicap access will be from the rear of the second floor of 108 Beacon Street.

To my mind, this is dangerous from a fire safety standpoint. Both entrances connect to linked buildings and require people evacuating to enter these buildings rather than exiting directly to the street. I wonder if this is consistent with Boston fire code.

7. As a serial violator of BBAC regulations requiring Certificates of Appropriateness for roof deck additions, Fisher does not deserve the privilege of zoning overlays.

Based on Vic Castellani's review, Fisher at the Mall rear extension has violated BBAC restrictions against rooftop mechanical equipment installed on lower roofs. I count 13 roof additions, most of which do not appear to have grandfathered protection. As a serial violator, I question whether Fisher deserves the privilege of being granted a zoning overlay that is inconsistent with the residential nature of the neighborhood.

Failing this, the BRA should require Fisher to correct its multiple outstanding violations on the Fisher Mall and elsewhere.

**Fisher Mall Roof
Showing 4 HVAC systems and 2 Exhaust Stacks**



**102 Beacon Roof
Showing 7 roof additions**



8. Fisher needs to fix an eyesore at variance with Back Bay architectural norms:

The current Mall, relying on grandfathered protection, is an ugly industrial-park-like structure that would never be allowed today by the Back Bay Architectural Commission.

Before allowing what Fisher to surround entire Mall addition perimeter "by a wrought iron fence with brick elements, in keeping with the well-designed and appointed terraces elsewhere on Back Street," Fisher should be required to renovate the building exterior in a manner consistent with Back Bay architectural norms. It is the height of arrogance for Fisher to build a "well designed and appointed terrace" on top of a building with exposed cinderblock sides that is an embarrassment to the block. These facilities are not in keeping with Fisher's professed reverence for maintaining the standards of the neighborhood:

An often-noted contribution by Fisher to its Back Bay neighborhood is the meticulous care it takes of its properties - buildings, exterior and interior, and land – and especially its attention to their historical features. Fisher takes pride and invests considerable financial resources in upholding the grandeur and stature of the Back Bay Historic District. – IMP 4.5-4.6

**Rear of 102 and 104 Beacon (and side of the Mall Building)
With Black Cinder Block Walls**



Red Cinder Block Wall Facing Rear of 116 Beacon



Red Cinder Block Wall at rear of 116 Beacon (Entry to the Mall)



As a condition for IMP approval, the BRA should require that the Mall facade is renovated to BBAC standards.

21. GNA Committee Proposals: Traffic/Parking/Logistics

21. GNA Committee Proposals: Traffic/Parking/Logistics

This memo discusses the GNA Committee's proposals for the mitigation of traffic, parking and logistics problems caused by Fisher College operations on the A/B Beacon block and Mugar Way.

In developing this recommendation set, the Committee had the following goals:

- To create a set of proposals which, if adopted and implemented by Fisher and/or the City, would make a meaningful difference in mitigating the identified problems
- To create a set of proposals that the College and the City could implement without harming Fisher's educational mission and that is not overly burdensome financially

We suggest that the next meeting session include a discussion of this memo, to see if engagement between Fisher and the Committee is possible.

Background: December 6 Meeting Recap Re Traffic Issues

At our December 6, 2013 meeting, Fisher emphasized its mitigation efforts to reduce vendor-related deliveries and double-parking on Beacon Street, Mugar Way and Back Street. These included: (a) reassigning two parking spaces on Back Street for vendor deliveries,⁵⁵ (b) scheduling one delivery at a time, with pre-delivery calls to Fisher to facilitate rapid turn-around; and (c) moving bus pickups/drop-offs to South Charles Street (with BTB's permission).

In Fisher's opinion, these largely have resolved its delivery issues, albeit with occasional implementation glitches.

Re Fisher's overuse of metered spaces on Beacon Street, Carolina rejected the Committee's complaints, saying that Fisher vendors, students and staff have a legal right to park there.

Other issues, even if discussed (e.g., inadequate room for two-way traffic on Back Street; and increased Fisher use of City permits to take over metered spaces on Beacon for special events) were addressed in substantially less detail and with no clear statements regarding Fisher's position.

Committee Reactions

1. Article 80-D, the BRA's Scoping Determination, the BTB's comment letter and the BRA's Urban Design comment letter (Appendices 1-4) spell out numerous traffic, parking and logistics topics/issues that Fisher's is obligated to address in its IMP (as well as information on projected student and staff levels, which could exacerbate traffic issues). In the absence of Fisher having reached out in the past to work with the neighbors and share its plans with us, we have been forced to identify solutions and alternatives ourselves in a bit of a vacuum.
2. With respect to the topics discussed on November 6, we acknowledge that Fisher's vendor delivery and bus programs have had a positive effect, but note that there are continuing problems with improper delivery truck and bus parking. This suggests that even with good intentions, scheduling as a way to mitigate logistics problems only goes so far – particularly when Fisher is trying to serve the delivery needs of the entire College using a single 28-foot long space that does not come close to meeting the BTB's standards for off-curb loading.
3. Fisher's single-space loading zone solution appears to violate Boston's fire code and therefore may be illegal. This is because the semi-trailer and larger box trucks that provide much of Fisher's supplies are substantially longer than the allotted space, thereby obstructing the Fisher Mall emergency exits located directly on either side of the loading zone.

⁵⁵ On examination, only one space was repurposed; see Appendix 6.

4. Fisher's inadequate loading zone solution results from the fact that the approximately 6,000 square foot area (behind 104-114 Beacon) that should have been used for deliveries instead was used to build the Fisher Mall. The next logical space, Fisher's deeded spaces on Back Street, was assigned for individual vehicular parking. This left no space for logistical purposes. The obvious solution is to consider ways to reverse some of what has occurred.
5. Looking at alternative locations, we believe that there is no combination of parking spaces on the south side of Back Street that could support large truck deliveries, because Fisher's six spaces (#13-18) are interspersed by four emergency exits and two entryways. This means that any code-compliant loading option (short of dismantling the Fisher Mall and constructing BTD-approved loading zones) will need to reclaim a substantial number of Fisher's spaces #1-12 on the opposite (north) side of Back Street.
6. We also are concerned about the absence of two-way through-lanes on Back Street, since most abutters (Fisher included) drive in both directions to get to their parking spaces and rear entryways. A decade or so ago, Fisher unilaterally converted what had been an eastbound through-lane along the south side of Back Street into what are now spaces 13-18. The result was a single traffic lane, and an all-too frequent game of chicken between eastbound and westbound cars. There also are too many side-swiping accidents. Fisher needs to take steps to reverse this situation.
7. With respect to parking on Beacon Street, the Committee is unhappy with Fisher's seemingly dismissive attitude regarding the need to reduce Fisher's use of metered parking spaces on the A/B Beacon block as well as on adjacent blocks (B/C Beacon and Berkeley between Beacon and Newbury). Fisher needs to acknowledge its responsibility to work with the City and its neighbors to reduce its use of parking on the block. On the other hand, we would like to avoid draconian measures, if possible.
8. With respect to other identified issues, the Committee believes that Fisher has taken no steps to deal with: (a) BTD's scoping requirement that Fisher provision bicycle racks to foster the use of alternative transportation; (b) student jaywalking on Beacon; and (c) increasing use of the City permitting process to control Beacon Street parking for Fisher-only use. There was particular concern regarding Fisher's use of permits for a two day student move-in on January 18-19.

In sum, we regard Fisher's current responses to the parking/traffic problems as inadequate, even at the College's current activity level.

We also believe that continuing Fisher growth on Beacon and Arlington Streets will exacerbate these problems. Last year's IMPNF estimated a 34% growth over the next decade. If we extrapolate from (much higher) historical growth rates, the result would be a 2-3 times increase.

Proposal Summary

On Back Street

- We propose an 'out-of-the-box' solution in which Fisher repurposes a to-be-negotiated number of its 18 Back Street parking spaces⁵⁶ as through lanes, delivery zones or bicycle storage. To replace the lost parking, Fisher can rent an equal amount of space at the Boston Common garage.
 - *Loading Zone:* Fisher needs to replace its current space #18 loading zone with a space that is sufficiently large to handle semi-trailers and large box trucks (this is physically impossible on the south side of Back Street). In lieu of dismantling the Fisher Mall and building a loading dock facility to current Zoning Code requirements, Fisher should allocate six of Fisher's twelve spaces on the north side of Back Street (taken from spaces #1-12) for loading/unloading purposes only, with 15 minute maximum parking. These spaces can then be used for Fisher vendor deliveries; bus/van pickups/drop-offs; and

⁵⁶ #18 currently is being used for deliveries.

student/staff/friend pickups/drop-offs – without blocking any of the four Fisher Mall emergency exits. This also will allow Fisher to cease (a) accepting deliveries on Beacon Street or Mugar Way; and (b) blocking neighbors' property along Back Street.

- *Through Traffic:* Fisher should eliminate parking on the south side of Back Street (i.e., next to the Fisher Mall) consistent with other parking on the block. This will ensure a 20-foot wide traffic lane to accommodate two-way traffic and delivery vans. It also will ensure that the Fire department has access to a code-compliant 20 foot-wide fire lane.
- *Bicycle Storage:* In compliance with BTB's August 2013 scoping letter requiring bike rack provisioning, Fisher needs to develop compliance options.

The Committee is opposed to using Beacon Street metered space for this purpose as part of a Fisher IMP, since (a) this would constitute continued Fisher taking of public property for institutional use; and (b) any use of bicycle storage needs to be considered more broadly by the City as a Back Bay and City-wide issue.

Looking at Fisher's compliance options, we believe that the only two practical options are to (a) repurpose the 118 Beacon carriage house space for bicycles (it is currently used for four vehicle parking spaces); and/or (b) use some of Fisher's spaces on Back Street.

However, before making a specific recommendation, the Committee would like to hear from Fisher as to how it plans to respond to the BTB comment letter.

- To offset the loss of parking on Back Street, Fisher can pay for spaces at the Boston Common garage. At \$375 monthly per space, this will cost Fisher \$6,375 per month (if all 17 spaces on Back Street used for parking are repurposed), or \$57,375 per 9 month academic year. This is affordable for a college that in FY 2013 generated positive operating cashflow of \$4.4 million.

On Beacon Street

- The BTB should work with the neighbors to establish parking rules for the neighborhood surrounding Fisher that (a) are closer to parity with the rest of Back Bay; and (b) reduces Fisher's use of parking on city streets. As a starting point that seeks to create change without a radical impact on Fisher, we propose a six-month experiment (including at least one school year semester) in which one side of A/B Beacon becomes resident parking from 6PM to 8AM. Our hope is that this will discourage DAPS students from parking on Beacon in the 5PM to 9PM time frame, thereby freeing up spaces for residents. Depending on the results, we may ask to convert additional metered spaces on the north side of A/C Beacon as well as on Berkeley and Clarendon to evening residential parking only.
- Fisher needs to limit its use of metered spaces for College use to one day annually for moving in and one day for moving out. The only exception should be for construction/repair purposes, where Fisher vendors (such as NStar) require curb and street cuts to make repairs. This will stop Fisher from increasing its encroachment of City parking spaces for Fisher's exclusive use.
- Fisher needs to add jaywalking as a Student Code of Conduct issue, and enforce this rule.

Other

- As a school with severely limited parking availability, Fisher should explore options for increasing student and staff usage of MBTA passes, including (a) adding to the MBTA's 11% subsidy, to make usage more attractive; and (b) negotiating with the MBTA to become a pilot school for the UPass program (in which all full time undergraduate students would receive monthly MBTA passes).

Detailed Discussion

A. BACK STREET ISSUES	6
1. Back Street Loading Zone	6
2. Back Street Through Traffic	13
3. Back Street Bicycle Racks	17
B. BEACON STREET ISSUES	18
4. Beacon Street Parking	18
5. Beacon Street Overuse of City Permits	24
6. Beacon Street Jaywalking	26
C. ALTERNATIVE TRANSPORTATION SOLUTIONS	27
7. MBTA Subsidies	27
ADDENDA	
1. Fisher Parking Subsidy	29
2. Bus Doubleparking	33
3. Fisher Use of Residential Permits	36
APPENDICES	38
1: Article 80D-3 Requirements Related to Traffic, Parking and Logistics	
2: BRA Scoping Determination Requirements Related to Traffic, Parking and Logistics	39
3: BTD Comment Letter (August 2013)	41
4: BRA Urban Design Comment Letter (August 2013)	44
5: Recent Fisher Vendor Parking Photos	45
6. How Many Spaces Were Repurposed?	53
7: Minimum Turning Radius for 116 Beacon	55

A. BACK STREET ISSUES

1. Back Street Loading Zone (on North Side)

1.1 Issue Summary

Long ago, Fisher had ample room for deliveries at the rear of 102-114 Beacon. Then starting in 1966 (just prior to the creation of the Back Bay Architectural Commission), it built the Fisher Mall - - whose main building takes up approximately 40' x 150' (6,000 square feet) and fills the available space behind 104-114 Beacon. There also is a rear extension behind 102 Beacon, which fills the available space (except for a small area used for garbage dumpsters).

The Fisher Mall (on left: black rear extension behind 102 Beacon)



As a result, the College (until this year) has had no space for loading/unloading facilities⁵⁷ (as required by BTD standards and the Boston Zoning Code for off-road loading docks). Here are the BTD's requirements for projects requiring an Article 80 Large or Small Project Review:

⁵⁷ Two alternative delivery sites might be the areas to the rear of 116 and 118 Beacon. 116 Beacon, which Fisher touted in its IMPNF as its loading dock, has a rear space that is approximately 20' x 60.' At present, half of this is used for a student smoking area and a tiny bike rack; the other half is used for two parking spaces. If repurposed as a loading dock, 116 Beacon in theory could handle a large box truck (but not a semi-trailer). However, given that Back Street only has an 11.5 foot traffic lane with a car typically parked at space #14 taking away some of the necessary turn radius, it is unclear that a 40 foot truck could successfully negotiate a right turn into this space. Even if it could, the maneuvering would tie up traffic. See Appendix 7.

Looking next at 118 Beacon, the carriage house space is only around 30-35 foot long, which is insufficient for large box trucks. In addition, the 9 foot wide clearance for the carriage house wall is too narrow for large trucks. It also would have the same right-turn clearance problem as 116 Beacon.

Thus, 116 and 118 Beacon are not viable delivery loading zone options.

Onsite Service/Loading Requirements

Any project subject to or electing to comply with Article 80 Large or Small Project Review should accommodate associated service/loading activity onsite.

Any project seeking to accommodate off-curb loading must submit to the Boston Transportation Department for approval a loading management plan that includes, but is not limited to:

- *Facilities that have bays, maneuvering areas and appropriate means of vehicular access and egress to and from a street.*
- *Facilities designed to not constitute a nuisance or a hazard or an unreasonable impediment to traffic.*
- **Loading bays that are located entirely on the site that are no less than fourteen (14) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height, exclusive of maneuvering areas and access drives. (Note: These dimensions are minimums. Actual dimensions will be determined by the Boston Transportation Department in concert with proposed land use, design vehicles, loading operations, etc. as detailed by the proponent's plans.)** -- Guidelines by the Boston Transportation Department for use by the Zoning Board of Appeal

Based on a review by Vic Castellani, were it not for Fisher's grandfathered status, the College would be required to have two loading docks for the buildings on the north side of Beacon Street and one dock for the buildings on the south side.

The Fisher buildings on the north side of Beacon Street comprise 109,885 sq ft which as use group II would require, if Fisher were not grandfathered, two loading zones. Conceptually 131 and 133 Beacon Street if taken together with 20,517 sq ft would require another loading zone but is also grandfathered and they have not been legally combined at this point but would be as a consequence of the IMP. Thus, arguably Fisher should have a separate loading zone behind 131/133 Beacon Street. – Castellani email to Michael Weingarten, December 3, 2014

BTD reinforced the need for upgraded loading facilities in its August 8, 2013 comment letter to the BRA (for full text, see Appendix 3), in which it recognized the need for short-term curbside solutions but “strongly encourage[d] the proponents [to] provide off-street facilities for loading, moving & garbage collection activity.” BTD further suggested, “This might be identified in the rear of 118 Beacon Street”.

BTD recognizes the need for a short-term curbside activity outside of the facilities. The proponent is required to setup a meeting with BTD and its transportation consultants to determine the scope of a transportation study for improved circulation, parking and loading. BTD will work with the proponent to identify metered parking spaces along Beacon Street and determine optimal curbside use of designated loading and pick-up/ drop-off zones as well as traffic flow changes based on anticipated site activity. Future plans will be subject to BTD approval based on study findings and further analysis.

BTD strongly encourages the proponents provide off-street facilities for loading, moving & garbage collection activity; this might be identified in the rear of 118 Beacon Street with the change in parking and acquiring new space. – BTD comment letter, August 8, 2013 [bold added]

The lack of loading facilities has resulted in substantial conflict with the neighbors due to vendors making their deliveries on Beacon and Mugar, often doubleparking illegally. In addition, Fisher vendors have frequently blocked access to deeded residential space on Back Street and have blocked through traffic entirely.

At issue is the extent to which, as part of an IMP, Fisher needs to establish adequate loading facilities consistent with its size and high student density.

1.2 Positions to Date

In response to BTD and community pressure during the IMPNF process, Fisher has taken the following mitigation steps:

- It received short-term permission from BTD to have its buses park on South Charles Street instead of Beacon Street

- It re-assigned the 28-foot long parking space #18 on the south side of Back Street next to its garbage dumpster as a delivery site. (There is an issue regarding Carolina’s November 6 statement that Fisher had allocated two spaces rather than one, but the Committee is satisfied that only one space was repurposed. For details, see Appendix 6).
- It attempted to schedule deliveries so as to have only one delivery at a time, with vendors calling ahead of arrival (permitting Fisher to have staff ready to receive expeditiously)

Looking at Fisher’s mitigation steps, the Committee acknowledges that they have ameliorated the level of vendor doubleparking on Beacon Street and Mugar Way. However, we continue to observe a pattern of violations (see Appendix 5 photos), suggesting that allocating a single parking space is an inadequate solution, even at Fisher’s current scale.

Furthermore, we are concerned that Fisher’s solution violates the Boston fire code, because semi-trailer and large box truck deliveries necessarily obstruct emergency exits located to the immediate front and rear of the allocated delivery space (#18):

- Parking space #18 is approximately 28 feet long, and is situated between emergency exits to the immediate left and right of the space. The exit pathway for the two exits are delineated by the diagonal yellow areas in the photo.

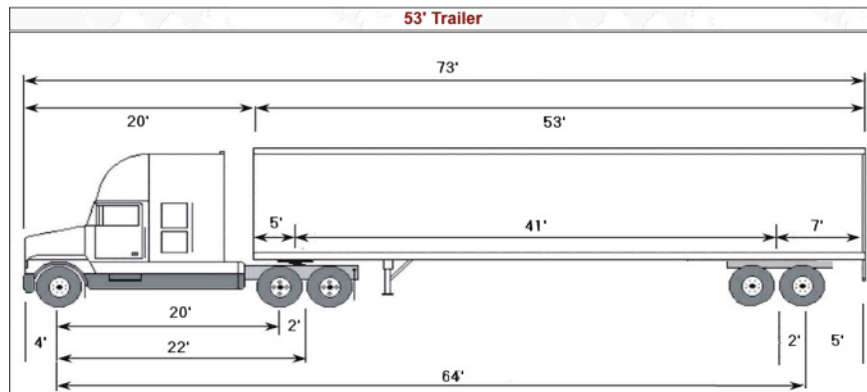
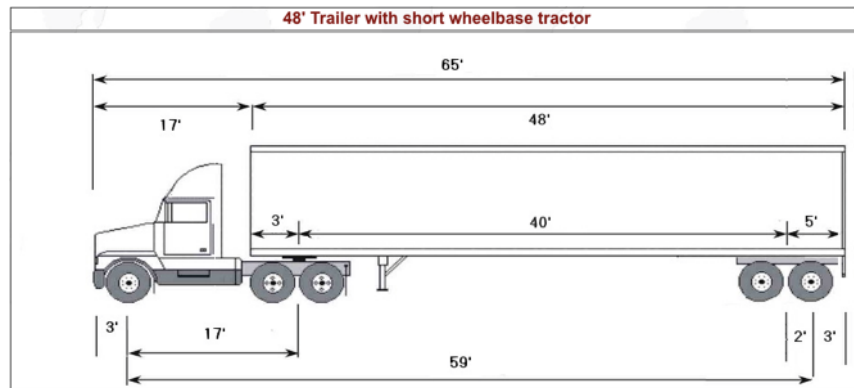
**Allocated Delivery Space #18
(Between Two Emergency Exits)**



**One of Four Emergency Exits to the Rear of Fisher Mall;
Closeup of Emergency Exit Sign**



- In contrast, semi-trailers (even without the use of a unloading ramp, which can add 20 feet) are approximately 65 to 73 feet long. Large trucks run up to 40 feet long, and buses up to 45 feet.



<http://www.truckscales.com/trailerinfo.htm>

- As a result, delivery vehicles (with the exception of vans and smaller box trucks) necessarily obstruct one of more emergency exits. This is a violation of Boston Fire Prevention Code 11.07.

Section 11.07 — Obstruction to Means of Egress

(a) All means of egress including designated doors, windows, aisles, passageways, corridors, fire escapes, and stairways which are part of the way of exit travel to a public way shall be kept unobstructed either by persons or things and shall be ready for use while such buildings are occupied.

(b) Motor vehicles or other obstructions shall not be placed under cantilevers of fire escapes, nor in such a manner as to block exits or passageways to the street, nor to interfere with the means of egress from buildings or with the operations of the Fire Department in event of fire or emergency. Motor vehicles or other obstructions which, in the opinion of the Head of the Fire Department or an authorized member, have been parked or placed in such a manner as to violate this section shall be immediately removed or notification given by the Head of the Fire Department or an authorized member to the Boston Police Department or other appropriate department or individual or agency to take immediate action for removal of said motor vehicles or obstructions.

- To illustrate that Fisher delivery trucks are in fact obstructing the emergency exits, the photos below illustrate a Sysco food semi-trailer obstructing both emergency exits to the right and left of space #18.

Illustration: Inadequacy of Space 18 as a Fisher Loading Dock



Sysco semi-trailer parked in front of loading space 18 with cab blocking the left-side emergency exit



Same truck with rear ramp extending most of the way into space 17. Note that the right-side emergency door between spaces 18 and 17 is blocked by the truck trailer. Potentially, the unloading process could even extend to blocking access to a third emergency exit to the right of space 17



Closeup of rear ramp extending into most of space 17 almost to the emergency exit between 17 and 16. Food unloading would probably obstruct this exit.



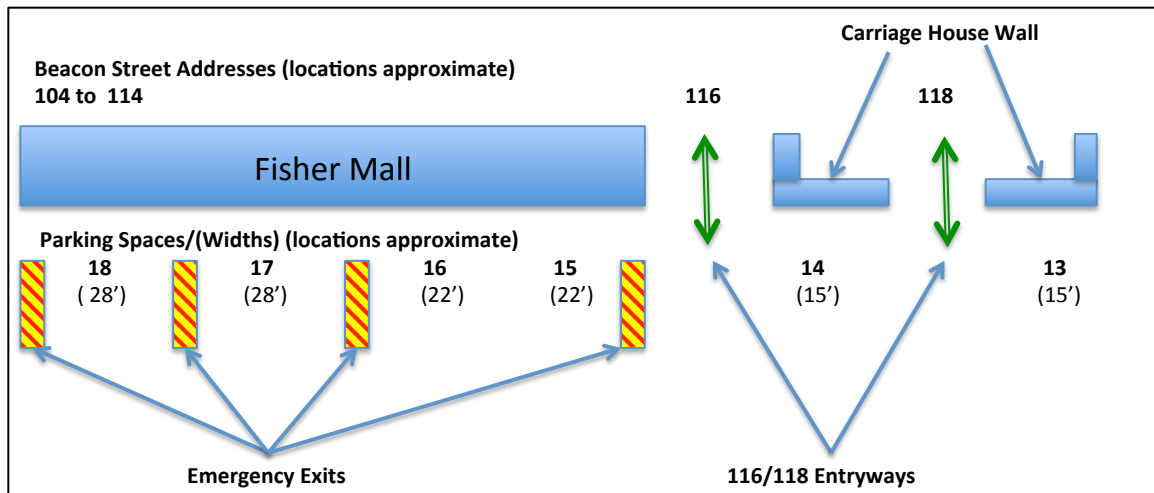
Different Sysco truck (see different loading ramp and lack of shadows) of trailer obstructing right side emergency exit between 17 and 18, with loading ramp extending most of the way into space 17 (28 feet long).



Coke truck blocking emergency exit to the left of #18

We then considered the extent to which allocating additional parking spaces on the south side of Back Street for deliveries would solve the problem. The answer is no, due to the spacing of the four emergency exits at the Fisher Mall, as well as the entryways to 116 and 118 Beacon. As seen in the diagram below, the longest contiguous space between emergency exits runs 44 feet between spaces 15 and 16. This is insufficient to handle semitrailers, buses or maximum sized box trucks (particularly given that additional unloading space is needed at the rear of the truck).

**Diagram: Fisher Parking Spaces 13-18 Along the South Side of Back Street
(Showing Emergency Exits and 116/118 Entryways)**



In sum, we regard the repurposing of a single car-length parking space at space 18 as an inadequate and unsustainable solution for an institution with 1,930 students and 580 staff that is growing substantially over time.⁵⁸ The space #18 solution also necessarily violates the city fire code. We also do not see how Fisher can provision even a single adequate loading zone anywhere on the south side of Back Street that meets city fire codes.

The lack of a Fisher loading/unloading zone also forces students and staff who are picking up Fisher students/staff to doublepark on Beacon Street. Fisher needs a place where these pickups can be made without obstructing traffic on Beacon.

1.3 Committee Proposal

A fully BTD-compliant solution would require tearing down much of the Fisher Mall to create an off-street loading dock (two docks would be required, according to Vic Castellani's analysis).

However, since the Committee recognizes that this would eliminate Fisher's only dining and auditorium facilities, it is not implementable without severely damaging the College.

The Committee began by considering if there are workable alternatives. Per the discussion in 1.2, we quickly recognized that loading zones cannot be established on the south side of Back Street without violating the Boston fire code. We therefore focused on solutions using some portion of

⁵⁸ Data from available sources reflecting Fisher totals. In December 2014, Fisher was asked for student and staff enrollment data for the Boston campus, but it did not provide the requested information, aside from day school enrollment (763 for Fall 2014).

With respect to DAPS enrollment, Fisher said that it only tracks the number of courses taken, not the number of students (with some students enrolling for more than one course). This lack of student enrollment data seems problematic, since the US Department of Education's National Center for Educational Statistics (which gets its numbers from Fisher) reports 1,930 total undergraduate students for Fall 2013. This obviously includes DAPS as well as the day school, suggesting that (denials to the contrary) Fisher has DAPS registration numbers but chose not to provide them to us – perhaps in an attempt to minimize the College's apparent size and therefore its impact on the neighborhood.

FYI, subtracting an estimated 794 day students for Fall 2013 from 1930 total students suggests a DAPS registration of 1,167 students.

Fisher's spaces on the north side of Back Street, since it has 12 contiguous spaces here (marked #1-#12), each with approximately 18-19 feet of space – for a total of 222 feet.

To have sufficient space to handle a semi-trailer using a rear ramp and with space behind the ramp for unloading will require approximately 100 linear feet (73 feet for a maximum sized tractor-trailer, plus 20 feet for a ramp and 7 feet for unloading space behind the ramp), not including maneuvering space. At 18.5 feet per space, this suggests that provisioning a single loading area will require six spaces ($100/18.5 = 5.4$ spaces, rounded up to the next integer) – or one-half of Fisher's twelve spaces on that side of the street.

Accordingly, in lieu of dismantling the Mall to construct two code-compliant loading docks, the Committee proposes that Fisher allocate six consecutive spaces on the north side of Back Street (taken from spaces #1-#12) for loading/unloading with a 15-minute maximum standing period. Given that most deliveries go to the Fisher Mall area, we suggest that Fisher allocate spaces 7-12 for this purpose. To avoid excessive noise, there should be no deliveries/pickups from 9 PM to 7 AM. There also should be no vendor deliveries or bus pickups during the 5 PM to 7 PM evening drive time.

This space could also be used for bus and student/staff drop-offs/pickups.

This compromise will only be acceptable to the Committee if Fisher agrees to a no-growth pledge in which the number of students and staff using Fisher's Beacon and Arlington Street buildings are limited to current levels. Otherwise, with continuing growth, Fisher will need fully BTDC-compliant loading docks.

1.4 Impact on Fisher

Fisher would lose six spaces on the north side of Back Street (from spaces #1-12).

To make up for this loss of six parking spaces, Fisher could purchase six monthly passes at the Boston Common Garage @ \$370/month for 9 months = \$20,250 per academic year. This is an affordable cost for an entity that in FY 2013 generated \$4.4M of annual operating cashflow.

2 Back Street Through Traffic

2.1 Issue Summary

The A/B Back Street block is heavily used as an eastward through street for cars and trucks to get from Berkeley to Mugar Way/Arlington. In addition, many abutters enter Back Bay from Storrow Drive on Mugar Way and then travel westbound on Back Street, making this a two-way street (this includes Fisher vehicles; see photos showing parked Fisher cars facing west). It is, we believe, the busiest Back Bay alleyway, and not a normal Back Bay alley with one-way traffic used solely for service functions.



Three Fisher cars all parked facing westbound (left side car facing eastbound)



Fisher Cadillac (President McGovern's car) parked at space #1 behind 118 Beacon facing westbound. Black car to the right is facing eastbound.

As such, there needs to be an adequate traffic lane on Back Street that is sufficiently wide to allow two-way traffic (given Boston's 10 foot guideline per lane, this means a 20 foot total width; this also is consistent with the City's 20 foot fire lane requirement).

Until approximately a decade ago, there indeed were two traffic lanes on Back Street. At that point, Fisher made a unilateral decision to use both sides of the street behind its properties for 8-foot wide parking spaces. As a result, there now is only an 11.5-foot wide traffic lane; and substantially less than this if cars/vans/trucks do not park flush to the curbs (which often happens). Here are recent photos of the resulting congestion:

Photos showing congestion caused by single through-lane



Fisher garbage truck and food delivery completely blocking Back Street through-lane

A major result is that eastbound and westbound cars (hemmed in by Fisher parked cars to the right and left) frequently engage in a game of chicken, trying to force the other car to back up so that they can move forward.

Another result is that there has been a substantial increase in side-swiping accidents of cars parked on Back Street. The author personally experienced an incident last year in which his car's driver's side rear mirror (facing Back Street) was damaged by a hit-and-run driver. Steve Rich, Fisher's Finance VP, recently said that his car has been hit three times. Here is a photo of a Vermont plated car that parks at space 13 for extended periods,⁵⁹ showing side-swiping damage.

⁵⁹ Since this car is parked at this space most of the time, we believe that it should be registered in Massachusetts, not Vermont.

Car with Vermont Plates Parked at Fisher Space #13 (with left rear door damage)



In the aftermath of the 298 Beacon fire, which began on Back Street, we are increasingly concerned that if there were a fire on our block, firefighting efforts could be seriously impeded.

2.2 Positions to Date

To date, Fisher has ignored the congestion issue on Back Street, despite neighbors' commenting on the issue during last year's IMPNF process.

At the December 6 meeting, although members of the Committee raised the issue, there was no clear response by Fisher.

2.3 Committee Proposal

Fisher should give up its parking spaces 13-18 on the south side of Back Street, consistent with other abutters on the block (none of whom park on this side of the street). This will create a 20-foot traffic lane, facilitating two-way traffic.

2.4 Impact on Fisher

Fisher would lose six spaces on the south side of Back Street (spaces #13-18), one of which (#18) it has repurposed as a loading zone. As a result, Fisher would need to allocate space for deliveries on the north side of Back Street (see 5).

To make up for this loss of five parking spaces, Fisher could purchase five monthly passes at the Boston Common Garage @ \$370/month for 9 months = \$16,875 per academic year.⁶⁰ This is an affordable cost for an entity that in FY 2013 generated \$4.4M of annual operating cashflow.

The additional loss of north side spaces for use as delivery space is discussed in (5) below.

⁶⁰ Fisher appears to assign its spaces to multiple users on a scheduled basis; i.e., there may be one person using a particular space weekdays 7AM-6PM; another for weekday evenings; and another for weekend mornings. In talking with someone at the Boston Common Garage, it appears that access to monthly passes is done via EZ Pass transponders. If so, multiple users can arrange to use a single space by registering their transponders with the garage.

Another possibility for Fisher is to rent reserved spaces, at a price of \$500 per month (a 33% premium).

3. Back Street Bicycle Racks

3.1 Issue Summary

In its 2013 IMPNF comment letter, the BTD **required** that Fisher implement the City's mandate that educational institutions provide bicycle parking, at a level proportional to school size. From the letter:

Bike parking and facilities will also be required to meet City of Boston's new bicycle parking guidelines that calls for one space for 15% of the planned institutional population or 0.5 parking spaces per 1,000 square feet of development with no fewer than four secure covered spaces per building. BTD asks the proponent to account for this in the IMPNF and looks forward to reviewing the site plan which should detail the bicycle parking facilities planned for new building conversions and/or new bike rack additions in front [of] existing facilities. – BTD comment letter, August 8, 2013

To meet these targets assuming a Boston institutional target of 2,000 Boston students and staff will require 300 spaces. The requirement based on Fisher's current institutional footprint of 148,896 square feet (including 111 Beacon but excluding 10/11 Arlington) would be 75 spaces. [We note that the much lower number on a square footage basis reflects the fact that compared to other schools, Fisher has substantially less square footage per student. Therefore, we believe that the higher number is called for here, since it more accurately reflects the very high student density on Beacon Street. For the purpose of this memo, however, we assume the average.]

With respect to secured covered spaces, Fisher's nine buildings on the north side of Beacon will require 36 spaces, while the four buildings on the south side (including 1 Arlington) will require 16 spaces.

In total, therefore, Fisher will need a minimum of 126 and a maximum of 352 spaces. Taking an average, we assume a need for 239 spaces.

3.2 Positions to Date

In its IMPNF, Fisher said that it "has a bicycle rack on Back Street which appears to meet current demand for bicycle parking" (IMPNF p. 45). The inadequacy of this response becomes apparent when one views a photo of the actual bike rack.

Fisher Bike Rack at the Rear of 116 Beacon Street



In the past year, despite BTD's comment letter, Fisher has taken no steps to provide adequate bike parking.

While bicycle parking was not a priority area of concern in abutter IMPNF comments, the importance of bicycle transportation in downtown generally and as a means to reduce vehicular parking and traffic problems has made it an increasingly important issue for the neighbors. As illustration, NABB in the past year formed a bicycle committee, headed by Vicki Smith, NABB Vice President and Chair of the GNA Committee.

3.3 Committee Proposal

The Committee's general stance is that given that the bicycle storage mandate comes from the BTD, we would like to hear more from Fisher and BTD as to how Fisher proposes to deal with this requirement.

The Committee is opposed to using Beacon Street metered space for this purpose as part of a Fisher IMP, since (a) this would constitute continued Fisher taking of public property for institutional use; and (b) any use of bicycle storage needs to be considered more broadly by the City as a Back Bay and City-wide issue. We therefore want to see solutions that are based on the repurposing of Fisher property.

Looking at Fisher's compliance options, we believe that the only two practical options are to (a) repurpose the 118 Beacon carriage house space for bicycles (it is currently used for four vehicle parking spaces); and/or (b) to use some of Fisher's spaces on Back Street.

If the spaces on the south side of Back Street are repurposed as a through lane and if 6 spaces on the north side are used as a pickup/delivery zone, this would leave 6 spaces on the north side available for bicycle parking.

3.4 Impact on Fisher

If, for sake of argument, Fisher loses six additional spaces on the north side of Back Street (from spaces #1-12), plus 4 spaces from the conversion of the carriage house to bike storage (10 spaces in all), then Fisher could replace this by purchasing 10 monthly passes at the Boston Common Garage @ \$375/month for 9 months = \$33,750 per academic year.

B. BEACON STREET ISSUES

4. Beacon Street Parking

4.1 Issue Summary

The GNA Committee is concerned about the impact that Fisher is having on parking availability on the A/B and the B/C Beacon blocks (the latter having metered spaces on the north side). With 43 metered spaces on A/B⁶¹ and 22 spaces on B/C versus a student and staff population in excess of 2,000, the number of spaces are clearly being overwhelmed by Fisher affiliated students, staff and friends.

As illustration of what happens on Beacon Street when Fisher is not in session, here are photos of Beacon Street on Monday December 29 at 9 AM

⁶¹ The Fisher IMPNF says that the count is 46. We count 24 spaces on the south side and 19 on the north side.

Beacon Street, Monday December 29, 2014 at 9 AM



Beacon Street December 29 at 5 PM



The lack of available parking has become particularly difficult in the evenings, due to the apparent growth of DAPS (Division of Advanced and Professional Studies).⁶² As seen in Fisher's January 2015 course schedule, Fisher schedules DAPS weekday classes from 5:30 – 8:00 PM.⁶³ This means that just as resident commuters are returning home (trying to find parking for the evening), DAPS students take most of the available spaces. This problem extends to the metered spaces on Berkeley and Clarendon Streets.

In addition to parking congestion, neighbors have pointed out that Fisher-affiliated parties routinely doublepark on Beacon Street, thereby reducing the number of traffic lanes from three to two or even one. This is particularly problematic during evening drive time, with DAPS students waiting for spaces to open up on the block.

⁶² We asked Fisher on December 17, 2013 for information regarding the number of DAPS students attending classes in Boston, and were told by Steve Rich that Fisher does not have this data available (Appendix 2 suggests that Fisher will need to provide this information in its IMP, in response to Section 3 of the BRA Scoping Determination). Fisher also is initiating an MBA program beginning in January 2015, and possibly other masters programs. These presumably also will be evening classes competing for parking during evening drive time.

⁶³ http://www.fisher.edu/Customized/Uploads/ByDate/2014/November_2014/November_6th_2014/Boston%20Schedule%20JAN%20201508067.pdf

With Fisher growth, the problem will become worse.

4.2 Positions to Date

In last year's IMPNF, Fisher blamed much of the parking and doubleparking problems on the neighbors and the public, saying that Fisher students and staff do not park on the street or only remain for short periods:

Unlike most streets in the Back Bay, all of the 46 parking spaces on Beacon Street between Arlington and Berkeley Street are governed by meters from 8 AM to 8 PM, so the spaces are available to the general public as well as to residents, students and visitors. Meters have a two-hour time limit and, under City of Boston regulations, cars parked at meters must be moved from the block after the two hours have expired, and park elsewhere, but not in another open space on that same block. Because of this restriction, most Fisher students and employees who drive to school find another parking option, or must move their cars after a short time.

In keeping with City-encouraged practice, Fisher College, like most colleges in Boston, does not allow resident undergraduates to bring personal cars with them. If students own personal cars, they must find parking in the open commercial supply in the City; most use the Boston Common Garage. Staff and faculty who drive to work park in the Boston Common Garage, where they benefit from monthly parking rates. – IMPNF pp. 43-44

In the November 6, 2014 GNA negotiation session, Carolina Avellaneda acknowledged that Fisher students and staff indeed were parking on Beacon Street, but insisted that they had a legal right to do so. Thus, Fisher presumably is declining to take any steps to reduce Fisher parking pressure on Beacon Street.

We also have been getting indications that Fisher plans to ask for commercial parking-only spaces on Beacon (like those on Boylston Street). If true, the neighbors would regard this as an unacceptable commercial/institutional encroachment on our residential block. All commercial deliveries should be made at Back Street. It also is inconsistent with Fisher's August 13, 2014 letter to the BRA, in which it said that "Fisher College recognizes the unique character and characteristics of our Back Bay location" -- which arguably includes the need to preserve its residential nature.

On the neighbors' side, we have consistently called for changes that will reduce Fisher's contribution to parking and doubleparking problems. We believe that part of the problem is that the current parking rules on the A/B and B/C blocks of Beacon, as well as the rules for Berkeley and Clarendon (when compared to those for rest of Back Bay), are unduly weighted in favor of transients versus residents. This dates to the days when Emerson College occupied a substantial share of the buildings on the A/B and B/C Beacon blocks.⁶⁴ The disparity in treatment is seen in charts 1 and 2:

⁶⁴ According to Vic Castellani, whose wife Marianne is a former NABB president and chair who was instrumental in getting the cross-street residential sticker rules established, "the current parking scheme in the [Fisher] area ... goes back to when Emerson was also in the neighborhood." As such, it is now outdated, since the blocks are now substantially more residential.

1. Current Parking Rules: Beacon Street

Block	South Side	North Side
A/B	Meter Mon-Fri	Meter Mon-Fri
B/C	Resident 24 hr	Meter Mon-Fri
C/D	Resident 24 hr	Resident 24 hr
D/E	Resident 24 hr	Meter Mon-Fri; Resident 6PM-8AM
E/F	Resident 24 hr	Resident 24 hr
F/G	Resident 24 hr	Resident 24 hr
GH	Resident 24 hr	Resident 24 hr

- *A/B Beacon South Side:* This is the only Beacon block in Back Bay with metered parking. The others are residential only.
- *A/B and A/C Beacon North Side:* These are the only blocks on Beacon that allow non-resident parking 24/7. The others are either residential parking 24/7 or residential parking during evening hours. [Note: This is true even for the more commercial streets facing the Public Garden and parts of the Common.]

2. Current Parking Rules: Cross Streets (from Beacon to Newbury)

Street	From Beacon to Commonwealth	From Commonwealth to Newbury
Berkeley	Meter Mon-Sat. No parking 4-6PM on the west side.	Meter Mon-Sat. No parking 4-6PM on the west side.
Clarendon	Meter Mon-Sat	Meter Mon-Sat
Dartmouth	Meter Mon-Fri; Resident Mon-Fri 6PM-8AM	Resident 24 hr; Meter Mon-Sat/Resident 6PM-8AM
Exeter	Meter Mon-Fri; Resident Mon-Fri 6PM-8AM	Resident 24 hr; Meter Mon-Sat/Resident 6PM-8AM
Fairfield	Meter Mon-Fri; Resident Mon-Fri 6PM-8AM	Resident 24 hr except at Montessori School (Resident 6PM-8AM)
Gloucester	Meter Mon-Fri; Resident Mon-Fri 6PM-8AM	Resident 24 hr; Meter Mon-Sat/Resident 6PM-8AM
Hereford	Meter Mon-Fri; Resident Mon-Fri 6PM-8AM	Resident 24 hr; Meter Mon-Sat/Resident 6PM-8AM

- *Berkeley and Clarendon:* Unlike Dartmouth through Hereford, which are residential 24/7 or residential during evening hours, these two blocks allow non-resident parking 24/7.

[Note: In addition to these streets, there also are some non-resident metered spaces available on the A/C blocks of Marlborough and Commonwealth. These appear to be related to the perceived need for transient parking near the First Lutheran Church and the First Church (each on Marlborough and Berkeley), as well as the Taj Hotel and institutional/commercial properties on Arlington). We do not propose to change these rules:

- *Marlborough A/B (south side):* 6 metered spaces adjacent to the First Lutheran Church
- *Marlborough B/C (south side):* 5 metered spaces adjacent to the First Church; 8 metered spaces adjacent to Clarendon Street
- *Commonwealth A/B (north side):* 22 metered spaces; commercial only zone (across the mall from the Taj Hotel and near institutional commercial properties on Arlington).]

One counterargument to establishing parity might be that the A/C Beacon blocks and Berkeley/Clarendon are relatively commercial, and therefore require 24 hour transient parking. We point out, however, that (a) Beacon between A-C is part of the Back Bay residential district, and therefore is not commercial; and (b) the cross streets between Commonwealth and Newbury are far more commercial in nature than our local blocks (see photo of Dartmouth and Newbury), yet still have evening resident-only parking. This also is true of the Beacon Street in the Beacon Hill district near Charles (see photo). We therefore believe that parity is called for.

Dartmouth Street near Newbury: See Resident only sign (6PM-8AM) on right pillar.

Source: Google Maps



Beacon Street by Charles: See Resident Only sign (6PM-8AM).

Source: Google Maps



4.3 Committee Proposal

Given the above analysis, an appropriate solution might be a substantial reduction in available parking for Fisher students, staff and guests, which the City should implement by establishing rules that treat the A/C Beacon blocks similarly to the rest of Back Bay; i.e.:

- The south side of Beacon Street (i.e., the odd-numbered side) would become Back Bay residential sticker parking on a 24/7 basis. This will reduce the available Fisher parking (including the metered spaces on the B/C Beacon block) by one-third, thereby encouraging alternative transportation usage.
- The north side of Beacon Street (i.e., the even-numbered side) from Arlington to Clarendon would remain metered parking during the day, and residential sticker parking from 6PM through 8AM. This will allow 8AM-6PM metered parking for Fisher, but will prohibit evening drive time parking by Fisher DAPS students and staff. The prohibition on transient nighttime parking will also contribute to reduced noise and alcohol/drug abuse on the block.
- Berkeley and Clarendon from Beacon to Newbury would become residential sticker parking from 6PM through 8AM

However, the Committee is conscious of the desirability of phasing in changes gradually, in a manner that avoids harming Fisher unduly in the near-term, yet allows for increased changes if these are needed. Accordingly, we propose the following measured approach:

1. In the near-term, BTM should implement 6PM to 8AM resident only parking on one side of Beacon Street. This will improve the evening parking availability for residents and encourage Fisher students and staff to use other forms of transportation.
2. Six months after implementation, the BTM should meet with the GNA Committee and Fisher to discuss the degree to which (1) has succeeded in increasing residential accessibility to evening parking by reducing the level of Fisher use of parking on the block.
3. If the answer to (2) is no, then the Committee will propose and BTM will consider additional parking changes that will result in greater parity with the rules in the rest of Back Bay.

To ensure that Fisher does not circumvent new residential-only parking rules, we propose that no Fisher students, staff or family living on the A/B Beacon block in Fisher-owned housing be given access to Back Bay residential stickers.

In addition, we propose that Fisher explicitly prohibit resident student automobile or motorcycle ownership in its Code of Conduct. In its IMPNF, Fisher said that “in keeping with City-encouraged practice, Fisher College, like most colleges in Boston, does not allow resident undergraduates to bring personal cars with them” (*IMPNF* p. 43). However, we found no such prohibition in the Code of Conduct.

There also need to be steps taken to reduce the level of doubleparking on Beacon Street. We propose that Fisher make doubleparking a violation of its Student Code of Conduct, and enforce this with enhanced Fisher police enforcement during morning and evening drive time periods.

To provide an alternative to doubleparking, we propose that Fisher provide standing space on Back Street (see #5) for student and staff drop-offs and pickups.

Finally, we propose that Fisher take more steps to encourage alternative transportation; e.g.:

- Fisher should add bike racks for student/staff use (as well as by neighbors (see #3).
- Fisher should encourage the use of MBTA transportation (see #7).

4.4 Impact on Fisher

To the extent that restricting access to Beacon Street parking would have a negative impact on Fisher students and staff, this points out why Fisher needs to direct all growth and expansion outside the residential district. Our six-month limited experiment is designed to avoid harming Fisher unduly.

To deal with any problems resulting from restricted access to Beacon Street parking, we suggest that Fisher consider:

- Subsidizing student and staff parking at the nearby Boston Common garage. For DAPS students, three hour evening parking at the Boston Common garage costs \$14, which is modest compared to tuition costs.⁶⁵
- Encouraging alternative transportation, such as use of MBTA mass transit and bicycle use.

5. Beacon Street Overuse of City Permits

5.1 Issue Summary

As Fisher expands its activities, it has been increasing the number of occasions when it applies for City permits to take over street parking for Fisher College purposes. These include:

- Moving in and moving out (2 days each; 4 days total).
- Reserving the street for student driver education
- Taking spaces for a Brigham and Women’s blood drive

⁶⁵ A three credit DAPS course costs \$1,070 for an 8 week program (one night per week). Eight weeks of parking @ \$14 = \$112, which is slightly over 10% of tuition.

http://www.fisher.edu/Customized/Uploads/ByDate/2014/November_2014/November_6th_2014/Boston%20Schedule%20JAN%20201508067.pdf

- Parking news vans in front of 116 Beacon for a pre-election event
- Parking military vehicles in front of 116 Beacon on Veteran's Day (and then pitching itself to potential students as being veterans-friendly).

Neighbors see this as part of a continuing pattern of encroachment by Fisher on the block, with a goal of making our residential neighborhood into a Fisher campus. There also is upset at these activities frequently occurring without adequate notice.

We also note that Fisher never chooses to use any of its 18 Back Street spaces for move-in parking, even when school is otherwise closed. It is the neighbors who must make 100% of the added accommodation, never Fisher.

We are particularly upset that Fisher's response to our raising this issue at the December 6, 2013 meeting was to take out two-day permits for much of the Beacon Street block on January 18-19, 2015 – which increased the number of move-in/move-out days from 4 to 6. Since students for the on Sunday January 18 for the most part were not moving in (Monday January 19 was busy from 11AM to mid afternoon), we don't understand why this takeover of the block on that day was necessary. As illustration, see the photo below taken at 130PM on Sunday January 18, 2015:

**Beacon Street in front of Fisher College Permitted Spaces
January 18, 2015 130 PM**



**West Side of Beacon Past Fisher (All Spaces Taken)
January 18, 2015**



5.2 Positions to Date

Fisher has ignored this issue to date. When it was raised at the November 6, 2013 meeting, Carolina said that Fisher would move the blood drive effort indoors, but made no other commitments.

5.3 Committee Proposal

Fisher should limit its use of metered spaces for College use to one day annually for moving in and one day for moving out. The only exception should be for construction/repair purposes, where Fisher vendors (such as Eversource) require curb or street cuts to make repairs.

The spaces should be limited to those directly in front of College properties used for institutional use.

The time should be 8AM-4PM, not 7AM-5PM. The 7AM time makes it difficult for people to park the night before without waking up very early to move their cars. The normal standard for Back Bay is 8AM. The 5PM space makes it difficult for people to park in the afternoon, even after the student move-in rush is over.

To the extent that the College needs parking for College events, it may use its Back Street spaces for this purpose.

Whenever there is a permitting event, Fisher must notify the abutters in advance.

5.4 Impact on Fisher

Given that Fisher could use its Back Street spaces for event parking, there should be no major impact.

6. Beacon Street Jaywalking

6.1 Issue Summary

Students frequently jaywalk between the north and south sides of Beacon Street. Besides being dangerous, this interferes with traffic flow, thereby contributing to traffic congestion (besides creating a safety hazard).

6.2 Positions to Date

Fisher has largely ignored this issue to date, while neighbors included this in their comments during the IMPNF period.

6.3 Committee Proposal

Fisher should add jaywalking as a Student Code of Conduct issue, and have Fisher police monitor for violations. The school should punish repeat offenders.

6.4 Impact on Fisher

We acknowledge that jaywalking enforcement will affect students' perceived quality of life by requiring them to cross at Berkeley or Arlington, but there is no other way to deal with safety and traffic issues.

This is yet another reason why Fisher should direct all growth and expansion outside the residential district.

C. OTHER ALTERNATIVE TRANSPORTATION

7. Increased MBTA Pass Subsidy

7.1 Issue Summary

The MBTA offers an 11% discount on monthly T passes for college students, which is approximately \$33 per semester (for a Zone 1A pass, \$267 versus \$300 for four months).

If Fisher wants to make MBTA ridership more attractive versus car use, it should consider voluntarily increasing the subsidy for students and staff. There are two possibilities:

- Fisher could voluntarily add to the MBTA subsidy, to make purchasing more attractive for students and staff
- Fisher could explore the possibility of becoming a test college for the MBTA's proposed UPass program, in which all full time undergraduate students would receive MBTA monthly passes at a cost of \$37.50 per month (\$337.50 per academic year), with the cost being passed onto students (with the possibility of a school subsidy). For Fisher's 900 day students, this would cost \$303,750.

7.2 Positions to Date

In its IMPNF, Fisher touted its participation in the MBTA program (which costs Fisher nothing), but has made no other efforts to increase usage.

Fisher College ... promotes the Semester Pass program offered by the MBTA to students. Many take advantage of this 11% savings and purchase the semester passes. Fisher College also provides to employees the option to purchase MBTA passes at a monthly rate. – IMPNF p. 45

7.3 Committee Proposal

The committee proposes that Fisher consider increasing the subsidy to some higher amount, like 25%. This would stimulate increased demand and would be particularly helpful for lower income Boston students who commute from home.

Alternatively, Fisher should explore participating in the UPass program during its initial trial period.

7.4 Impact on Fisher

On a per-student or staff basis, the increased subsidy for a basic T pass would cost \$42 per semester/\$84 per academic year. If 25% of Fisher's 2000 students took advantage of this program, then the total cost per academic year would be 500 students x \$84 = \$42,000. This arguably is an affordable amount for Fisher, and could be promoted in its marketing to gain additional students (the income from which would offset much if not all of the cost).

On a per-student basis, the \$337.50 is a relatively modest cost compared to a \$2.65 per trip T fare (with a breakeven of 14 trips (7 round trips) per month).

ADDENDA

Addendum 1: Fisher Parking Subsidy

This addendum to the GNA Committee's Fisher traffic/parking/logistics/memo recommends that Fisher cease its \$10 daily staff subsidy for metered parking in Back Bay, as something that contributes substantially to the lack of available parking spaces on Beacon Street.

Background

We recently had an opportunity to look at employee comments about Fisher posted on [glassdoor.com](http://www.glassdoor.com), and were intrigued by a comment that "parking can be difficult if you aren't part of the parking plan."⁶⁶ This raised a question about the nature of the program.

The Fisher staff benefits webpage refers to a Parking Plan but provides no detail.⁶⁷ We therefore ran a Google search for "Fisher College Parking Plan," where we found a form on [PDFfiller.com](http://www.pdfFiller.com) showing that the parking plan consists of a \$10 per day reimbursement for using local parking meters and/or \$23 per day for local parking garages. The page indicates that as of February 13, 2015, the form had been filled out 1,780 times. We do not know when Fisher began using PDFfiller, but note that we did not find this listing when we did an earlier traffic analysis during the 2013 IMPNF comment period. If so, the 1,780 form completions are for a maximum 18-month period.

Fisher IMPNF Comments on Parking

In its 2013 IMPNF, Fisher blamed the scarcity of parking on the A/B Beacon block on residents, non-Fisher commercial vehicles and the (non-Fisher) general public -- minimizing the contribution of Fisher staff. Per the IMPNF, "most staff and faculty" find another parking option... staff and faculty who drive to work park in the Boston Common Garage, where they benefit from monthly parking rates."

The apparently heavily used staff parking reimbursement program suggests that Fisher staff in fact plays a significant contributing role in parking congestion. Eliminating the meter subsidy would be a step in mitigating this problem.

⁶⁶ <http://www.glassdoor.com/Reviews/Fisher-College-Reviews-E130098.htm>

⁶⁷ <http://www.fisher.edu/faculty-and-staff/human-resources/benefits>



FACULTY & STAFF

FACULTY & STAFF

Home > Faculty & Staff > Human Resources > Benefits

EMPLOYMENT OPPORTUNITIES

BENEFITS

TUITION REIMBURSEMENT

TUITION REMISSIOIN

CIC - TUITION EXCHANGE PROGRAM (CIC-TEP)

SCHEDULE OF HOLIDAYS

OPEN ENROLLMENT

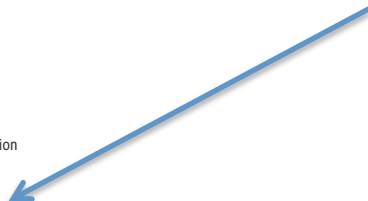
HEALTH CONNECTOR

FISHER COLLEGE 403(B) RETIREMENT PLAN

BENEFITS

The College offers the following benefits:

Benefit	Carrier
Health Insurance	Tufts
Vision Care	Tufts
Eyeglasses	Humana
Dental Insurance	Blue Cross/Blue Shield
403(b) Retirement Plan	TIAA-CREF
Flexible Spendings Account	Sentinel Insurance
Group Life Insurance	Hartford
Supplemental Life Insurance	Hartford
Short-Term Disability	Hartford
Long-Term Disability	Hartford
Travel Assistance	Hartford
ID Theft Protection	Hartford
Funeral Planning	Hartford
Employee Assistance Program	Hartford
Supplemental Short Term Disability	AFLAC
Supplemental Life Insurance	AFLAC
Accident Insurance	AFLAC
Cancer Insurance	AFLAC
Supplemental Dental	AFLAC
Long Term Care	UNUM
Commuter Bus/Rail Program	MBTA
Hubway Program	Hubway
Credit Union	City of Boston Credit Union
Tuition Reimbursement Opportunities	Fisher College
Parking Plan	Fisher College
Vacation	Fisher College
Sick Time	Fisher College
Holidays	Fisher College





Fillable Parking Plan Reimbursement Form - Fisher College

Description

FISHER COLLEGE PARKING PLAN REIMBURSEMENT FORM NAME: ___ WEEK OF: ___ AMOUNT ___
*DAYS PARKED IN GARAGE: DAYS PARKED AT METER: ___M___T___W___T___F
___M___T___W___T___F *A MAXIMUM OF \$23/ DAY IS REIMBURSABLE A MAXIMUM OF \$10/ DAY IS REIMBURSABLE SIGNATURE ___ PLEASE SUBMIT TO FINANCE OFFICE BY MONDAY If you wish to donate a portion of your reimbursement to the Fisher College Annual Fund Campaign, please...

Fill & Sign Online, Print, Email, Fax or Download

Fill Online

Share this Form

Share Tweet 636 LinkedIn Share Facebook Like 3.2k

Form was Filled by 1780 Users

Z

From Fisher IMPNF June 2013

PARKING

Throughout the Back Bay neighborhood, the demand for parking exceeds the supply and the Arlington/Berkeley block of Beacon Street is no exception. For the most part, the demand for parking on Beacon Street is generated by:

- Residents who can use metered spaces on Beacon Street, and also have resident parking stickers which allow them to park on most other Back Bay Streets.
- Commercial vehicles which come to provide services or make deliveries to residents. Vehicles serving Fisher are expected to use the Back Street loading area, but some use metered spaces too.
- Any member of the general public who can find an open space including Fisher's commuting students, faculty and staff, nearby workers, visitors and tourists, among others.

Unlike most streets in the Back Bay, all of the 46 parking spaces on Beacon Street between Arlington and Berkeley Street are governed by meters from 8 AM to 8 PM, so the spaces are available to the general public as well as to residents, students and visitors. Meters have a two-hour time limit and, under City of Boston regulations, cars parked at meters must be moved from the block after the two hours have expired, and park elsewhere, but not in another open space on that same block. **Because of this restriction, most Fisher students and employees who drive to school find another parking option, or must move their cars after a short time.**

In keeping with City-encouraged practice, Fisher College, like most colleges in Boston, does not allow resident undergraduates to bring personal cars with them. If students own personal cars, they must find parking in the open commercial supply in the City; most use the Boston Common Garage. **Staff and faculty who drive to work park in the Boston Common Garage, where they benefit from monthly parking rates.**

Addendum 2: Bus Doubleparking

This Addendum 2 to the GNA Committee's Fisher traffic/parking/logistics/memo recommends that Fisher commit to stop doubleparking its buses on any public street aside from South Charles, and that longer term, the use of South Charles should cease in favor of using Fisher spaces on Back Street.

Background

In meetings with Fisher on the subject of bus doubleparking, we have been told that Fisher has committed with BTD to park its buses on South Charles Street as a temporary measure, until a long-term solution could be found. [Peter Sherin notes that the Friends of the Public Garden vehemently opposes the use of South Charles Street as a bus stop.]

In our initial 45-page memo on traffic/logistics/parking issues, we noted at least two recent instances where Fisher buses were doubleparked on Beacon Street in front of Fisher, in violation of this agreement.



Bus doubleparked on Beacon Street dropping off Fisher sports team



Bus doubleparked on Beacon Street

Perhaps in response to our raising this issue, a neighbor has just brought to our attention that Fisher is still doubleparking, but now on the block before, rather than on the A/B Block. Aside from the fact that this is a highly trafficked access way to Storrow Drive East as well as to the Back Bay, we regard this "moving up one block" as a blatant attempt to doublepark in places where the abutters might not see the violation. We also believe that it demonstrates that even with the best intentions, the operation or extension of a college use in a residential district is inherently unworkable.



Bus doubleparked on the
Brimmer-to-Mugar
Beacon Street block.
3:30 PM Monday
February 24, 2015

Here are a couple of photos shared by Ed Zuker and Charles Perkins of Fisher buses parking in front of 100-104 Beacon (two separate occasions; see signpost next to rear of busses)





Proposal

For the short-term, Fisher should agree to strictly honor the agreement that it made with BT&D and do all large bus loading/unloading on South Charles Street.

For the long-term, Fisher needs to provide for off-road bus loading/unloading, per our main traffic memo.

Addendum 3: Fisher Use of Residential Permits

This Addendum 3 to the GNA Committee's Fisher traffic/parking/logistics/memo recommends that the City prohibit the issuance of Back Bay residential parking permits to Fisher property addresses, with the exception of 115, 139 and 141 Beacon (so long as these are zoned residential).

Background

We have previously noted our concern that Fisher students and staff are crowding out neighbors for access to parking. One of our proposals has been to increase the amount of evening resident parking areas on the A/B Beacon block.

In implementing this proposal, one concern expressed by neighbors is that Fisher students and staff could respond by registering cars at Fisher institutional properties (or non-residential properties like 10/11 Arlington or 111 Beacon), and then arrange to get a credit card or bank statement mailed to a Fisher address – the basic requirements for obtaining a residential parking sticker.

Although Fisher says that dorm students are not permitted to own vehicles (possibly making this unnecessary except for staff), we have previously noted that nothing in Fisher's dorm agreement or Student Code of Conduct prohibits this behavior.

By not issuing residential permits to Fisher non-residential addresses, the City would eliminate any possible loopholes.

APPENDICES

Appendix 1: Article 80D-3 Requirements Related to Traffic, Parking and Logistics (Abridged; bold added)

An Institutional Master Plan shall include each of the following elements, except to the extent waived by the Boston Redevelopment Authority, as determined in the Scoping Determination issued pursuant to Section 80D-5:

1. **Mission and Objectives.** A statement that defines the organizational mission and objectives of the Institution, and a description of how all development contemplated or defined by the Institutional Master Plan advances the goals and objectives of the Institution. **The statement should describe the population to be served by the Institution, and any projected changes in the size or composition of that population.** It should also specify any services to be provided to Boston residents in adjacent neighborhoods and in other areas of the City.

2. **Existing Property and Uses.** A description of land, buildings, and other structures occupied by Institutional Uses of the Institution as of the date of submission of the Institutional Master Plan, with such information including, for each property, the following: (i) illustrative site plans showing the footprints of each building and structure, together with roads, sidewalks, **parking**, and other significant improvements; (ii) land and building uses; (iii) building gross square footage; (iv) building height in stories and, approximately, in feet; (v) **a description of off-street parking and loading areas and facilities, including a statement of the approximate number of parking spaces in each area or facility; ...**

3. **Needs of the Institution.** **A summary and a projection of the Institution's current and future needs for the following facilities:** (i) academic; (ii) service; (iii) research; (iv) office; (v) housing; (vi) patient care; (vii) public assembly; (viii) **parking; and other facilities related to the Institutional Use..**

4. **Proposed Future Projects.** A description of any proposed future projects of the Institution within the areas of the City where preparation of the same Institutional Master Plan is required ... **The required descriptions may include...**

(g) **parking areas or facilities to be provided in connection with proposed projects;**

5. **Institutional Transportation and Parking Management and Mitigation Plan.** **A description of the Institution's existing transportation and parking characteristics, a description of parking to be provided over the term of the Institutional Master Plan, a projection of impacts associated with the projects proposed in the Institutional Master Plan, and a set of transportation goals and mitigation measures to address these impacts.**

6. **Pedestrian Circulation Guidelines and Objectives.** **A statement of guidelines and objectives for pedestrian circulation system to be provided through the campus of the Institution, including guidelines and objectives regarding the accessibility to the general public of any pedestrian areas and open spaces.**

Appendix 2: BRA Scoping Determination Requirements Related to Traffic, Parking and Logistics (Abridged; bold added)

2. EXISTING PROPERTY AND USES

The IMP should present maps, tables, narratives, and site plans clearly providing the following information:

- **Owned and Leased Properties.** Provide an inventory of land, buildings, and other structures in the City of Boston owned or leased by Fisher as of the date of submission of the IMP, with the following information for each property:
 - **A description of off-street loading, trash storage, and parking areas and facilities, including a statement of the approximate number of parking spaces in each area or facility.**

3. CAMPUS DEMOGRAPHICS AND EMPLOYMENT

- **Student Population.** The IMP should provide a thorough explanation of past trends and future projections of the size and other characteristics of Fisher's student body. These data should be referenced as appropriate in other sections, e.g. the Student Housing Plan should make clear the relationship between student population and student housing goals, including targets for percentage of students housed. **The IMP should include, at a minimum, an explanation of past growth trends and an explanation of Fisher's target student enrollments for five years and 10 years in the future. Include information on full-time and part-time Boston students as well as your online student population and trends projected for each.**
- **Employment.** Provide information on Fisher's current employee population, disaggregated by faculty/staff, full-time/part-time, contract employees, Boston residents/non-residents, as well as projected employment over the term of the IMP.

4. URBAN DESIGN AND PLANNING FRAMEWORK

This section should discuss, at a minimum, the following:

- **Open Space System and Public Realm.** Discuss existing public realm conditions (i.e. parks, pedestrian routes, streetscapes) in the vicinity of Fisher facilities, regardless of ownership. Discuss key urban design and public realm goals and objectives proposed by Fisher for the campus, with a focus on creating a high-quality interface between the campus and the surrounding neighborhoods and transit stations. Discuss potential impacts on the public realm resulting from Proposed Projects and any projected enrollment/employment increases.

7. TRANSPORTATION AND PARKING MANAGEMENT / MITIGATION PLAN

In addition to the submissions detailed in this Scope, Fisher should continue to work closely with the Boston Transportation Department ("BTD") to outline an appropriate scope for studying and mitigating any transportation impacts of the proposed IMP and/or Proposed Projects. Fisher should set up a meeting with BTD to discuss IMP submission requirements and requested analysis.

- **Existing Conditions.** Provide a description of Fisher's existing transportation and parking characteristics, including data on mode share for employees and students, parking spaces owned and operated by Fisher, and policies regarding student and employee parking, and existing transportation demand management ("TDM") measures in place. Describe key pedestrian and bicycle safety problems in the vicinity of the campus that might reduce the number of Fisher employees and students willing to use alternatives to the automobile.
- **Proposed TDM Measures.** Describe additional TDM measures that are being considered for the IMP, particularly in light of the proposed reduction in on-campus parking supply.
- **Parking.** In light of the proposed removal of parking spaces and the scarcity of on-street parking in the vicinity of the campus, the IMP should examine the following issues related to Fisher's current and future parking policies:

- Describe the anticipated impact of projected enrollment and employment increases on parking demand and Fisher's ability to meet that demand.
- Document the number of employee and student parking permits that have been issued in recent years.
- Document the parking supply in surrounding area, including paid parking and on-street, with information on parking restrictions in place.
- **Pedestrian Circulation Goals and Guidelines.** Provide a statement of goals and guidelines for pedestrian circulation in the vicinity of Fisher's campus. It is understood that Fisher has neither the responsibility nor the ability to implement all the necessary improvements to the pedestrian systems in the vicinity of its campus. However, Fisher should work with City and state agencies, as well as neighboring institutions and other actors, to effect improvements to those systems, including but not limited to enhanced pedestrian pathways to and from the nearby MBTA stations. Such improvements are a critical element of any TDM measures on the part of Fisher and other area institutions. Proposals for specific improvements should be included in the IMP. Please see BRA Urban Design comment and the Boston Transportation Department's comment ...
- **Student Auto Ownership, Use, and Parking.** Describe Fisher's current policies with regard to student ownership and use of automobiles, including the eligibility of students living in dormitories to obtain resident parking permits and any measures to enforce existing regulations.
- **Move-In/Move-Out Traffic Management Procedures.** Describe Fisher's current procedures for managing traffic and parking impact generated by students moving into and out of dormitories, and any proposed changes to those procedures.
- **Bicycle Transportation.** The IMP should discuss the adequacy of Fisher's existing bicycle storage facilities and the facilities to be included in any Proposed Projects.
- **Bus Traffic.** Document average bus traffic associated with Fisher events, functions, sporting events, etc.
- **Area site map.** The IMP should include a map of area sites that indicates parking inventory, closest EV charging area, transit and bus stops, as well as bike & care share locations
- **Other Comments.** The IMP should respond to all other comments related to transportation included in the Appendixes.

Appendix 3: BTD Comment Letter (August 2013)



BOSTON
TRANSPORTATION
DEPARTMENT

ONE CITY HALL SQUARE • ROOM 721
BOSTON, MASSACHUSETTS 02201
617-635-4680 • FAX 617-635-4295
August 8, 2013

Katelyn Sullivan, Project Manager
Boston Redevelopment Authority
Boston City Hall, 9th Floor
Boston, MA 02201

RE: Fisher College Institutional Master Plan Notification Form ("IMPNF")

Dear Ms. Sullivan:

Thank you for the opportunity to comment on the Fisher College Institutional Master Plan Notification Form (IMPNF) dated June 4, 2013. The Fisher College IMPNF describes existing facilities, forecasts future space requirements and identifies projects proposed to be developed during a 10-year term. The projects proposed include converting or reconfiguring existing institutional and dormitory uses at 102 to 116, 131 and 133 Beacon Street to create 48 replacement beds; converting the 17,500 square foot building at 10/11 Arlington Street to institutional use; building a 2,500 square foot addition to the rear of 118 Beacon Street for student services and library with terrace; building a 2,000 square foot outdoor open terrace on the roof of the addition at the rear of 112-114 Beacon Street; and converting from residential use to dormitory use the buildings at 115, 139 and 141 Beacon Street.


The IMPNF is implementing the seven proposed institutional projects in phases converting the institutional uses to dorm use in Projects 1 through 4, and creating 122 net new beds to its dormitory inventory. Projects 5 and 6 will build additions; while Project 7 building will be converted to institutional use.

Net increases in the proportion of students living on-campus will increase to 42% adding on average 28 students annually over the 10-year term of the IMP. BTD requests information stating the estimated change in the number of students travelling to/from the campus as well as any changes to commuter employees anticipated as support/maintenance staff to and from the seven sites. Analysis should cover anticipated daily trips made by vehicle, transit or bike. A map of the area sites should also indicate parking inventory, closest EV charging areas, transit and bus stops, as well as bike & care share locations.

The Boston Transportation Department (BTD) is required to comment on the combined impacts of all the components of the project. The proponent needs to address these comments and concerns when preparing future submissions as part of the Article 80 process as well as the Transportation Access Plan Agreement. Please note that upon BTD's final review and approval, a Transportation Access Plan Agreement codifying the transportation agreements and mitigation reached with BTD needs to be executed.

THOMAS M. MENINO, Mayor
Thomas J. Timlin, Commissioner

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 PRINTED ON RECYCLED PAPER

Parking

The proponent currently has access to 46 public parking meters with a 2 hr parking limit, as well as paid parking at the Boston Common Garage (cap. 1362 spaces); and is proposing 4 new parking spaces, with a total inventory of 25 spaces in the parking supply at Fisher property. Boston's Climate Action Plan recommends an overall reduction in emissions of carbon dioxide and other GHG of 25 percent by 2020. In supporting this policy BTD requires proponents to install parking for clean-fuel and non-motorized vehicle parking. Current trends indicate that electric hybrids will soon be a significant percentage of all vehicles on the road. BTD is aggressively promoting the installation of a supporting infrastructure for these vehicles. BTD has requested a commitment to dedicate 5% of the total parking capacity to low-emitting and fuel efficient vehicle spaces for electric vehicle parking in addition to car-share to meet climate actions goals set forth by the City. The proponent will have 25 spaces remaining in their parking facilities BTD requests that at least 1 charging station be installed for charging in up to two spaces to allow electric car charging capabilities.

Bike Parking

Bike parking and facilities will also be required to meet City of Boston's new bicycle parking guidelines that calls for one space for 15% of the planned institutional population or 0.5 parking spaces per 1,000 square feet of development with no fewer than four secure covered spaces per building. BTD asks the proponent to account for this in the IMPNF and looks forward to reviewing the site plan which should detail the bicycle parking facilities planned for new building conversions and/or new bike rack additions in front existing facilities.

Pedestrian Circulation

The new building designs will physically change the functions of existing building allowing for gathering places and new living and administrative spaces. BTD will work with the proponent and its transportation consultant to identify areas where improved pedestrian crossings and where high counts of pedestrian activity take place to improve safety, reduce truck double parking and encourage slower driving speeds. BTD encourages the proponent to create a more pleasant continuous pedestrian path along the front of the buildings. Please refer to the City of Boston Complete Streets guidelines (www.bostoncompletestreets.org) to ensure any new improvements are consistent with current policies. A review of the detailed design with respect to the new guidelines will take place as part of the TAPA process.

Transportation Demand Management

BTB asks that this information be provided to employees and residential persons accessing the school through a website, via hand held devices, or within the building lobby or transportation office. BTB would like to see more information on anticipated TDM measures including a transportation coordinator, commitment to EV charging, transit reimbursement, constrained parking, bike storage and orientation packet information.

Service and Loading

BTB recognizes the need for a short-term curbside activity outside of the facilities. The proponent is required to setup a meeting with BTB and its transportation consultants to determine the scope of a transportation study for improved circulation, parking and loading. BTB will work with the proponent to identify metered parking spaces along Beacon Street and determine optimal curbside use of designated loading and pick-up/ drop-off zones as well as traffic flow changes based on anticipated site activity. Future plans will be subject to BTB approval based on study findings and further analysis.

BTD strongly encourages the proponents provide off-street facilities for loading, moving & garbage collection activity; this might be identified in the rear of 118 Beacon Street with the change in parking and acquiring new space.

BTD particularly encourages the appointment of a transportation coordinator to manage area move-in/out activities. We would like to also see posted "no idling" and "EV parking" signage in placed in all loading and parking areas to assist BTD's efforts of reducing emissions & traffic congestion caused by off-street truck maneuvering and loading.

Site Plan

The proponent needs to submit an engineered site plan within the context of the surrounding roadways at 1:20 scale depicting:

- Vehicular Access and Circulation
- Parking Layout and Circulation
- Pedestrian Access and Circulation
- Bicycle Access and Circulation
- Area Shuttle/Van Pool Pickup and Drop-off
- Parking Spaces for Car Sharing services
- Service and Loading*
- Roadways and Sidewalks
- Building Layout
- Bicycle Parking Locations and Types (covered, indoor, bike share, etc)
- Transit Stops and Connections
- Electric Vehicle Charging Stations

* *Trash compactors/dumpsters need to be depicted as well.*

Construction Management Plan

As the projects in the IMPNF advance, Fisher College and the other proponents will be required to develop and submit a detailed Construction Management Plan (CMP) to BTD for review and approval. The CMP will address TDM measures for construction workers, proposed street occupancies, equipment staging, sidewalk relocations and hours of construction work. BTD will work with the proponent to execute the CMP.

The issues raised above should be addressed in the TAPA to be provided for the projects in the IMPNF. BTD looks forward to working collaboratively with Fisher College and the community in review of these projects and to address any outstanding concerns in the permitting process.

Sincerely,



Rachel Szakmary
Transportation Planner
Boston Transportation Department
Policy and Planning Division

Cc: Vinect Gupta, Director of Policy and Planning
John DeBenedictis, Director of Engineering

Appendix 4: BRA Urban Design Comment Letter (August 2013; abridged)

Although Fisher is not undertaking any major new construction or significant exterior modification of existing buildings, the IMP will need to address a number of urban design issues that arise from the proposed consolidation of the institution's facilities and the anticipated growth defined in its Strategic Plan. **These scoping comments will focus on several major areas for which additional analysis and discussion will be required, including pedestrian and vehicular circulation...**

Pedestrian and vehicular circulation

Many of the Proposed IMP Projects address the need to expand the inventory of on-campus student housing in order to maintain the current ratio of beds to students while increasing overall enrollment. The relocation of beds currently located at 19 Stuart Street, conversion of Fisher-owned rental properties into student housing, and the reconfiguration of existing dormitories will gradually increase the number of students residing on Beacon Street.

Historically, the majority of Fisher students lived, attended classes, and socialized within the cluster of interconnected buildings at 102-118 Beacon Street. The internal "Mall" which links together 104-116 Beacon Street allows many students to leave their bedroom, go to the cafeteria, access a range of student services, and attend classes without ever stepping outside onto Beacon Street. **With the increased number of students now occupying both sides of Beacon Street and the addition of new uses along Arlington Street, the pedestrian circulation patterns will be affected as the students on the south side of Beacon Street move to access the amenities in the Mall or the services at 10/11 Arlington Street.**

The IMP should provide a series of detailed site plans which define the major pedestrian routes between various existing and potential future Fisher facilities and the major activity centers and key destinations for students, faculty, and visitors. The IMP should describe these routes in terms of the current and anticipated pedestrian volumes and the times of day in which these volumes may be at their highest and lowest. Particular attention should be given to highlighting those places where increased volumes of pedestrians may impact vehicular circulation or pedestrian safety, such as the intersection at Beacon Street and David G. Mugar Way

Appendix 5: Recent Fisher Vendor Parking Photos



Sysco Food semitrailer parked, blocking abutter spaces at the rear of 120 and 122 Beacon. Taxi trying to get around truck by driving through 120 Beacon deeded space on to the left of the truck



Delivery Truck illegally parked for delivery on Mugar Way, taking away one of three traffic lanes



Bus doubleparked on Beacon Street dropping off Fisher sports team



Bus doubleparked on Beacon Street



Delivery truck parked blocking the through lane on Back Street (the left hand passageway goes through deeded spaces owned by 100 Beacon)



Large Sysco semitrailer on Back Street



Fedex truck blocking 120-122 Beacon parking



Ryder truck blocking 120-122 Beacon parking



Coke truck making delivery on Beacon Street



Coke truck delivering to 131/133 Beacon on south side of the street



Sysco truck doubleparked on Beacon Street



Unloading Sysco Truck doubleparked on Beacon Street



Staples truck
doubleparked delivery on
Beacon Street



Coke truck delivery on
Beacon Street (different
occasion versus previous
photos; see blue car in
front)



Bus pickup doubleparked on Beacon Street



Sysco delivery to Fisher parked on the B/C Beacon Block. See five cartons of food with hand truck to the right of the loading ramp in front of the white car.

Food is then hand trucked onto Berkeley Street and Back Street before being delivered to Fisher.

Appendix 6: How Many Spaces Were Repurposed?

At the November 6 meeting, Carolina Avellaneda said that Fisher had repurposed two spaces for deliveries (as an illustration of how much Fisher was doing to mitigate its loading problems). However, a review of Back Street indicated that only a single space to the right of the Fisher garbage dumpsters (formerly used as parking space #18) had been assigned as a loading zone.

To clear up the discrepancy, I spoke with Carolina on December 3, who told me that the space now assigned as a loading zone previously had been used for two parking spaces, and that Fisher had decided to convert them into a single delivery loading zone.

This is incorrect, since photos 1 and 1A below taken before the change shows a single delineated space and parking sign for space #18 using the same area now being used by the current loading zone area. The only change required to designate the space as a loading zone (photos 2-2B) was replacing the sign for parking space #18 with a new loading zone sign.

Photos 1 and 1A: Parking Space #18 prior to reuse as Loading Zone



Photos 2, 2A and 2B: Space #18 Reused as Loading Zone (see new sign)



It is possible that Carolina meant to say that even though a single designated space 18 was repurposed for deliveries, the space was sufficiently large to hold two cars, so that in her mind she was repurposing two spaces. This, however, does not make sense, since each space would then be less than 14 feet wide (net of boundary markings). Aside from the fact that the Zoning Code specifies 20 foot long spaces, 14 feet is too small for most cars. As illustration, a mid-size Ford Fusion is 16 feet long and a Toyota Corolla is 15.25 feet. While an 11 foot Cooper Mini would fit, even here there would be limited room to maneuver. To illustrate, see photo 3 showing a Cooper Mini parked in space #14 (which is 15 feet long, or one foot longer than a 14 foot space). There clearly is not much clearance in front and back.

Photo 3: Austin Cooper Mini Parked at Fisher Space 14 (with minimal clearance)

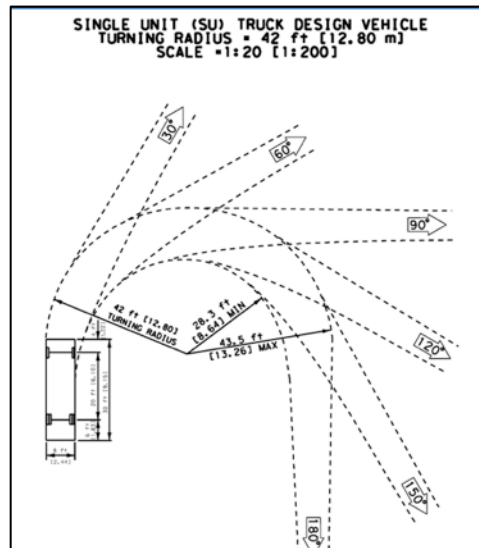


In sum, it seems clear that only a single 28 foot long parking space was repurposed as a loading zone.

Appendix 7: Minimum Turning Radius for 116 Beacon

In principle, it would be possible to repurpose the space behind 116 Beacon for deliveries by box trucks, since the space is approximately 20' x 60.'

However, there are two problems. One is that the turning radius for a sharp 90 degree turn is larger than the available space. From the through lane to the entrance to 116 is only around 8 feet (perhaps an additional 8-10 feet if the truck tries to do compound parking maneuvers using part of the 116 Beacon space. Unfortunately, the following chart from the US Department of Transportation *Road Manual Guide* says that the turning radius of a large box truck is around



This is compounded by the fact that cars parking at space 14 constrict the geometry further. See photo of the Cooper Mini taken from a different angle. Even if a truck could maneuver into place via compound turns, this would unduly tie up traffic.

**Different Angle of Austin Cooper Mini Parked at Fisher Space 14:
Restricting the available room for making a right turn into 116 Beacon**



22. GNA Committee Back Street Update

22. GNA Committee Back Street Update

Given that it has been over a month since our last transportation meeting, the Committee decided that it would be useful for us to recap our sense of where we have been and where we now stand re outstanding issues. In addition, we have identified and included three new issues that we believe need to be taken into account in any transportation agreement.

Outstanding Transportation Issue Summary

Proposal	Issue	GNA Committee	Fisher
Original Michael memo	Two-way Back Street through lane	Continued strong advocacy	Has not agreed to this
Original Michael memo	Use north side spaces for trucks, buses and student/staff pickups (due to fire exit problems on south side)	<p>Strong advocacy for making sufficient space available for pickup purposes. Fisher's space #18 is wholly inadequate as a loading zone. We are open to other physical solutions aside from the north side if they result in sufficient space for logistical needs.</p> <p>Unwilling to accept ongoing fire exit violations. Fisher should move to north side spaces immediately until it comes up with a workable solution for the south side.</p>	<p>Believes that it can solve the fire exit problem by removing some of the exits and/or moving them.</p> <p>Can solve the inadequate length problem by limiting the size of trucks and buses.</p> <p>Has not agreed to any moving or expansion of space #18.</p>
Original Michael memo	No use of buses on Beacon or Mugar	<p>Strong advocacy.</p> <p>Strong opposition to any bus loading zone on Beacon.</p>	<p>Initially wanted to convert four parking spaces on Beacon into a bus loading zone.</p> <p>Unclear as to Fisher's current stance.</p>
Original Michael memo	Jaywalking	Want robust enforcement of jaywalking violations	Will include in Code of Conduct; unclear as to how this will be enforced
Original Michael memo	Fisher IMP traffic discussion responsive to Section 7 of the BRA Scoping	We cannot commit to any GNA agreement on traffic issues until we see Fisher's proposed IMP mitigation plan.	Has refused to share an advance copy. We will see it on or around May 13.

	Determination	Don't want to be blindsided.	
Ed Zuker Proposed Compromise	Allow use of south side spaces 13-18 on a live loading basis (Ed Zuker proposal). Need for continual Fisher security presence to ensure compliance.	Initial support by rest of GNC; have since identified additional issues that need to be addressed	Has not agreed to this.
Ed Zuker Proposed Compromise	Use smaller buses for pickups/drop-offs on Back Street only	Strong advocacy	Initial objection based on large buses not being able to turn onto Back Street. Unclear as to Fisher's current stance <i>re</i> using multiple smaller buses.
This memo (GNC): See Detail	Large trucks/buses will obstruct even a single through lane for large trucks and fire/emergency vehicles	Need to ensure that the other side of Back Street is empty when a large truck/bus/garbage truck is loading/ unloading (also suggested by Rachel Szathmary)	New issue for Fisher
This memo (GNC): See Detail	Buses cannot load/unload on the south side of Back Street. This is because buses must come from west to east, and their right side doors/cargo bays cannot open without the vehicle sticking out into the traffic lane.	Open to suggestions, but see problems in using the south side of Back Street for buses.	New issue for Fisher
This memo (GNC): See Detail	Need for time-of-day restrictions for better traffic flow and noise control	Trucks and buses should be subject to time-of-day restrictions.	New issue for Fisher

* * * * *

Detailed Discussion: New Issues

1. Trucks

A major problem with allowing large box trucks to live load on the south side of Back Street (while simultaneously allowing parking on the other side of the street) is the lack of clearance for even one traffic lane.

In theory, since the spaces are 8 feet wide, parking on both sides of Back Street should leave an 11.5 foot wide single traffic lane, which normally would be sufficient for one-way traffic. However, for the reasons discussed below, the actual clearance generally is substantially less:

First, large box trucks, which are 8 feet wide, cannot fit in the allocated 8 foot wide parking space. This is because the spaces abut directly onto the Fisher Mall brick wall with no clearance. As a result, parked trucks typically park 1-2 feet from the wall.

This has a substantial impact on through lane clearance. An 8 foot box truck extending 1 foot into the traffic lane means a 10.5 foot traffic lane; a two foot extension means a 9.5 foot traffic lane. This means that on each side of an 8.5 foot maximum-width truck or bus driving through Back Street, there will only be 6 to 12 inches of clearance.

A second problem is that Back Street on the south side abutting Fisher is angled in the direction of the through lane (this apparently was done by Fisher for drainage reasons). As a result, trucks parked next to the Mall necessarily slope inwards towards the traffic lane. At an estimated 3.5 degree slope, a nine foot high truck will jut into the traffic lane by approximately 7 inches.⁶⁸

Photo showing pronounced downward slope from Fisher Mall



Combined with the wall clearance problem, this means that when a box truck or bus parks on the south side of Back Street, the clearance may be as little as 2.5 inches on each side.⁶⁹ Given that the transiting truck may be bouncing sideways due to bumps in the road (including speed-bumps), this is an unsafe condition.

⁶⁸ Calculation based on $\sin(3.5^\circ) = \text{opposite (overhang)} \text{ divided by } 9' \text{ hypotenuse (truck length)}$.

⁶⁹ 11.5 foot through lane, minus 2 foot box truck parking overhang from the space 18 boundary, minus a 7 inch box truck incline, minus 8.5 foot maximum width truck/bus passing through the through lane = 2 inch total clearance, or 2.5 inches on each side.

As illustration, here are two photos taken on Thursday March 26. In the first photo, a Sysco food box truck is parked in Fisher space #18 (in the process, blocking two emergency exits). As seen in the photo, the driver's side tandem wheels extend beyond the yellow parking marker by approximately two feet. In addition, the truck is angled approximately 3.5 degrees into the traffic lane.

Photo 1: Sysco truck parked at the Fisher Mall:

***Note left-hand tires extending beyond the yellow parking space marker;
And the approximate 3.5 degree angling of the truck towards the traffic lane***



As a result, when a semi-trailer attempted to drive through Back Street, it found that it could not safely drive past the Sysco truck. The result was a complete blockage of traffic until the Sysco truck finished its delivery.

Photo 2: Semi-Trailer Unable to pass the Sysco truck



We note that since fire trucks and ambulances, like semitrailers, often are 8.5 feet wide, this type of obstruction would interfere with emergency traffic, even assuming a single traffic lane.

Thus, even if Fisher is able to resolve its south side fire exit obstruction problem by moving or eliminating some of its four Fisher Mall emergency exits, it will still face an insurmountable traffic-lane problem.

To fix the traffic lane problem, the only solution is to mandate that there should be no parking in the area across from the loading zone. This will provide adequate clearance even if the delivery box truck (a) is parked a foot or two from the appropriate wall and (b) is angled toward the traffic lane.

2. Bus Clearance

In recent transportation meetings, the Committee suggested that spaces #13-18 be used for live bus pickups and deliveries (using small buses that could turn onto Back Street). Upon further consideration, this too is problematic. The reason is that since buses cannot drive on Storrow, they only can reach Back Street from the western side. This in turn means that like the Sysco food truck in photo 2, they will need to park with the right-hand side facing the Fisher Mall brick wall. Since buses are 8.0-8.5 feet wide, this in turn means that they will need to extend several feet into the traffic lane to allow passengers to embark/disembark. The same is true for buses with cargo holds, which generally also open on the passenger side.

One suggestion that we considered is that the buses unload to the rear of the 102, 116 or 118 Beacon properties, since these have open spaces. This, however, does not work for the following reasons:

- **102 Beacon:** Even if students are dropped off near the garbage dumpster, the rear of the bus would obstruct the fire exit to the left of Fisher space 18.
- **116 Beacon:** This would obstruct the egress doors from 116 in violation of Massachusetts 780 CMR 10.

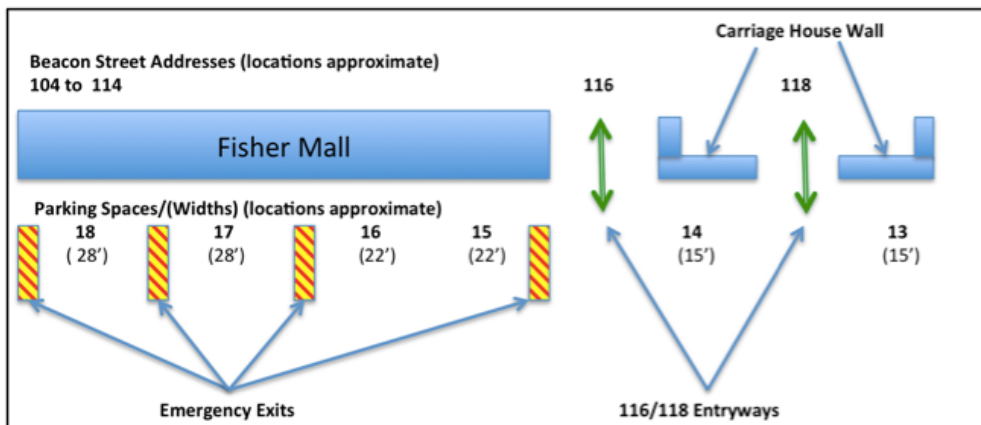
780 CMR 1017.0 EXITS

1017.1 General... *An exit shall not be used for any purpose that interferes with its function as a means of egress.*

- **118 Beacon:** This would obstruct the egress from the rear of 118. In addition, given that bus exit doors are located to the front of the vehicles, and there only is approximately 14 feet of space from the carriage house entry to the 120 Beacon property line, the maximum bus length would need to be small.

Diagram: 116 and 118 Beacon Entryways to the right of the Fisher Mall.

Note: Revised length of space 13 is only 14 feet



Conclusions

- Eastbound buses and passenger vans with right facing exit doors need to park on the north side of Beacon and not on the south side.
- When any buses or large box trucks with 8.0-8.5 foot widths park on Back Street, any parking spaces on the parallel south side must be vacated to ensure a navigable traffic lane for other trucks, fire equipment and ambulances.

3. Time of Day

Over the past month, the Committee has become increasingly aware of the need for time-of-day restrictions.

One important reason is for noise control. In a recent NABB D-4 Police Panel meeting, we were introduced to Officer Norwood of BPD's Commercial Vehicle Enforcement, who told us that trucks are not allowed on Beacon or Back Streets during the hours of 11PM to 7AM. Since we recently have been seeing garbage trucks unloading Fisher dumpsters before 7AM, we need Fisher to commit to obeying these time restrictions.

However, we understand that these time restrictions do not apply to buses. Given that unloading groups of students during early morning hours could be noisy (this was a particular complaint of Chuck Perkins), we propose that the time of day restrictions apply to buses and vans, as well.

A second issue is the need for traffic control on Back Street during morning and evening drive time hours. In at least one other nearby street (Clarendon between Beacon and Storrow), the DCR prohibits parking from 8-10 AM and 4-6 PM. The City also prohibits parking on the left-hand side of Berkeley between Newbury and Beacon from 4-6 PM.

For similar reasons, we believe that no trucks (including garbage trucks) and buses should drive or park on Back Street during morning or evening drive times as determined by BTM. Garbage trucks should be included in the drive time prohibitions, since they block through traffic completely during pickups.

23. GNA Committee Observations on Smoking

23. GNA Committee Observations on Smoking

This memo is in response to Fisher's recent statements regarding smoking issues, in which the College essentially says that there is little that it can/will do to limit smoking on Beacon Street, aside from educational efforts and upgrading the 116 Beacon smoking lounge.⁷⁰

Based on the Committee's discussions after the April 14, 2015 Fisher negotiation session, we have concluded that Fisher's proposed solutions are inadequate and that the College needs to do more. It is not the responsibility of the residential neighborhood to accommodate the operations of a forbidden college zoning use in the residential district, but for Fisher College to conduct its operation in a manner that does not impact the residential district negatively.

While we are not opposed to educational solutions, we note that Fisher's *Student Code of Conduct* and *Employee Manual* say that such programs are already in place. If so, they clearly have not been successful, and the limited scope of Fisher's proposed new programs is underwhelming. In our opinion, effective educational programs need to be reinforced by the creation and enforcement of smoking prohibitions. This is because pervasive smoking at campus entryways fosters social smoking by new smokers and makes it difficult for existing smokers to quit.

Fisher's willingness to deal with the smoking issue also is called into question by the fact the school: (a) is in violation of state and city smoking regulations; and (b) refuses to enforce its existing *Code of Conduct* rules, even placing ashtrays in its entryways on Beacon Street. Neighbors who have engaged Fisher on this issue have come away feeling that nothing ever changes.

As a result, we propose a robust solution in which:

- Fisher becomes a 100% non-smoking school indoors and outdoors
- Smoking by students and staff is prohibited on the entire A/B Beacon block (reflecting Fisher's unique pervasive geo-positioning on the block); expanding this zone if necessary⁷¹
- These prohibitions are rigorously enforced by Fisher.

In making these recommendations, we recognize that Fisher may decide that they are beyond what it can accept, because aggressive enforcement on A/B Beacon risks turning Fisher into a form of police state, alienating students and hurting enrollment. However, we believe that only these steps can deal with the current smoking situation, let alone any intensification of non-conforming use resulting from Fisher's soon-to-be released IMP.

For us, the smoking issue illustrates that when one has a concentration of students in a residential neighborhood, there are things inherent in that concentration which simply cannot be effectively addressed. That is one of the reasons why educational institutions have been designated a forbidden use in the Back Bay residential district.

* * * * *

⁷⁰ Fisher also proposes a summer pilot program to restrict smoking within 25 feet of a selected Fisher building.

⁷¹ There may be similar issues related to smoking on Arlington, which could be aggravated by the conversion of 10/11 Arlington for institutional use. We plan to address Arlington-related issues when we hold meetings with a broader set of neighbors.

Detailed Discussion

GNA Committee Stance on Smoking

Fisher's neighbors object to smoking by Fisher students and staff on Beacon Street, since in addition to direct health risks to smokers, it: (a) results in unacceptable second hand smoke for pedestrians; (b) contributes to overcrowding on the sidewalks, making passage difficult; (c) results in cigarette butts and other trash being left on the sidewalks and streets; and (d) represents a safety hazard due to the danger of still-lit cigarette butts starting fires.

As a result, we see smoking as an important issue that for many of our neighbors is as important as transportation mediation.

Neighbor Complaints About Smoking

A review of neighbors' comments filed with the BRA during the IMPNF process has reinforced the GNA Committee's belief that Fisher student and staff smoking on Beacon Street is an area of concern that needs to be addressed as part of a GNA.

These issues have continued post-IMPNF, with no real improvement in the situation. Additionally, in the aftermath of the 298 Beacon fire, we are having increased concerns about cigarette smoking as a fire hazard. In one incident, Ed Zuker noted that last summer, students (apparently from an FLS program) used a fire escape to smoke cigarettes from the roof of 100 Beacon, dropping their butts down the building airshaft. More recently, Michael Weingarten recently observed a Fisher staffer smoking behind 120 Beacon deeded property. The staffer then moved to the 118 Beacon rear parking area, where he threw his butt into the dumpster.

A particular ongoing problem has been Chuck Perkins' experience at 109 Beacon, which shares a common entry walkway with Fisher's 111 Beacon property. As a result, 109 experiences continual smoke and noise coming from students at 111 Beacon, who frequently use the 109 staircase and leave cigarette butts on the 109 staircase and garden. Even during the past winter, the snow mounds in the 109 garden were littered with butts. While Fisher has tried to place the blame of some of this from the bed and breakfast at 113 Beacon, Chuck is adamant that Fisher is the source of the problem.

When these sorts of issues are raised, Fisher's answer often has been to ask the neighbors to talk with Fisher about these problems, so that they can deal with them. The problem with this is that on those occasions when it has been tried, it has not worked.

A good example has been the experience of Kate Shepherd of 120 Beacon, the mother of two young daughters who attend school in the area and need to pass by Fisher to get there and back. As a result, Kate has been a strong advocate for the adoption of a no-smoking policy on Beacon Street:

*My daughter... frequently launches tirades about the prevalence of smoking at Fisher (sometimes to the students themselves as she walks by). Parents of school age children complain frequently about the congestion on the sidewalks in front of Fisher, and especially the smoking. With Advent School, Park Street School and the public and private school bus drop-offs in front of Cheers, not to mention the footbridge to the Esplanade, a disproportionate amount of families walk past Fisher each and every day. **The smoking issue bothers me as much as the traffic congestion.** – Email to Michael Weingarten February 7, 2015*

Kate began communicating with Fisher about these issues in April 2012, over a year before Fisher's June 2013 IMPNF, asking to work with the College on corrective measures:

We are increasingly bothered by second-hand smoke. From mid-morning until dark on most days students can be found smoking outside of 116 Beacon and the Fisher residence buildings. Frequently we also encounter students sitting on or around the steps of our building at 120 Beacon Street smoking and congregating. The smoke continuously drifts upward into our building and units. When the wind is right or our front windows are open it is more than a general nuisance. Just yesterday when I went down to get mail with my infant daughter I found a student smoking on our steps. I stated that this was a private residence and asked her to return to school property. After a few verbal exchanges and multiple exasperated eye-rolls on her part she reluctantly retreated to the top of our steps and refused to move any further..

I realize it is difficult to break ingrained behavior but I am certain that with some persistence this issue can be remedied. I am more than happy to come meet with anyone to discuss alternative solutions if you think it would be helpful to speak about this in person. Thank you in advance for your cooperation on this matter. I trust we can find a mutually agreeable solution.

– Kate Shepherd April 2012 email to Timothy Callahan (chief of Fisher Security) and Sheila Lally (Dean of Students)

Callahan and Lally responded to Kate within days with promises that they would take action:

- From Callahan: “We will get right on this and I will speak with the dean”. Two days later: “I have spoken with the Dean and she will be sending out advisories to students. The officers will check outside 120 on their patrols and move them if they are there. “
- From Lally: “ I wanted to follow up with you and let you know the steps I have taken after receiving your email. I have met with the student government officers and urged them to discuss this concern with the smokers, and have sent a memo to students reminding them about our smoking policy and to be respectful to our neighbors. I have also met with Campus Police and asked them to step up patrols outside especially in the warmer weather.”

While this seemed positive and responsive to Kate, nothing actually changed. As a result, on February 4, 2013 (shortly after Fisher announced its intention to file an IMP), she sent another email to Sheila Lally:

I am writing to follow up on our prior correspondence last April with hopes that you will be able to further address the Fisher College student smoking issue and consider a more strict enforcement of the existing Fisher College rules and regulations. While I greatly appreciated your quick response last spring to the smoking incident that took place outside of 120 Beacon Street, the Fisher College students continue to have little consideration for others as they congregate and smoke on the sidewalk and open spaces in front of, and adjacent to, Fisher College, including 120 Beacon Street. In fact, two weeks ago during the coldest spell of the winter I was still met by smokers and discarded cigarette waste outside of our building ... While recently leaving 120 Beacon Street, I turned around after helping our eldest daughter into her mittens only to find our two-year-old collecting cigarette butts from our wall adjacent to the 118 Beacon Street fence and stacking them in neat piles. Needless to say I was less than pleased with the situation.

-- Kate Shepherd to Sheila Lally, February 4, 2013

Sheila responded 24 days later, suggesting a meeting with Fisher’s student body president to discuss the matter. After several emails, a meeting was finally scheduled for March 28:

I have met with the Student Government Association, Campus Police and our Human Resources Director. I’d like to sit down with you and our SGA President to discuss what we have for suggestions and also hear your suggestions for potential solutions.

-- Lally email to Shepherd, February 28, 2013

The meeting did not solve the underlying problem, because on June 25, 2013 (three months later), Kate filed the following comment with the BRA as part of the IMPNF review:

Smoking is currently a significant problem on Beacon Street. As students have nowhere to congregate in between classes, they are pushed onto the sidewalks in front of 102-118 Beacon Street. During most hours of the day students can be found eating, drinking and smoking on the sidewalks. The second

hand smoke not only pollutes the air for those looking to pass by on the sidewalk, but it also billows up to the adjacent residential buildings. Many families like ours pass through this block of Beacon Street to bring our children to local schools on the flat of Beacon Hill or to the bus stop in front of the Hampshire House. Neighborhood children passing through are constantly subjected to second hand smoke, not to mention the negative images of "cool" young adults smoking. While Fisher College has a smoking policy in place, with punishment for those who break the rules, this policy appears to have been difficult to enforce. Fisher frequently cites the fact that the sidewalk is further than 25 feet from the Fisher buildings and, as such, they cannot stop students from smoking on the sidewalk. I would ask Fisher College why it is unable to adopt a smoke-free campus (as has been done by 1,100 colleges and universities across the nation and most recently by Boston's own Northeastern University beginning in Fall 2013)?

Two years later, there has been no demonstrable change:

... my daughter... frequently launches tirades about the prevalence of smoking at Fisher (sometimes to the students themselves as she walks by). Parents of school age children complain frequently about the congestion on the sidewalks in front of Fisher, and especially the smoking. With Advent School, Park Street School and the public and private school bus drop-offs in front of Cheers, not to mention the footbridge to the Esplanade, a disproportionate amount of families walk past Fisher each and every day. The smoking issue bothers me as much as the traffic congestion.

... I had a meeting with Sheila Lally ... and the student head of Fisher's student body to work out a plan. Obviously they have not upheld their end of the bargain as smoking still occurs out front.

-- Shepherd email to Michael Weingarten, February 7, 2015

In the past month, Kate met with Carolina and Sheila Lally, and then with President McGovern, in some equally unrewarding interactions (see email quotes later in this memo).

In sum, (a) there is a real smoking problem on Beacon Street; (b) when told about these problems, Fisher has responded with soothing reassurances of action. This (c) has been followed by no action; (d) resulting in yet another cycle of request/response.

The GNA Committee's take-away is that to deal with the smoking issue, we need a stronger set of policies with real enforcement. Telling the neighbors to complain to campus security when there is a problem places too much burden on us to be the initiators of complaints, and forces us to become unwelcome 'nags,' until we finally give up in frustration. We instead want a strong non-smoking policy that will eliminate student/staff smoking on Beacon (and Back) Streets and that will be policed and enforced by the College without the need for abutters to become unpaid policemen.

Fisher's Current Smoking Stance

As part of the current GNA negotiation process, we have tried to understand Fisher's current stance on smoking, as a basis for considering our own stance.

Here is our understanding of Fisher's position, based on our review of: (a) Carolina Avellaneda's comments at the April 7, 2015 April 14, 2015 meetings; (b) Fisher's memo dated April 13, 2015; and (c) Kate Shepherd's recent interactions with Fisher,

A. Fisher's Stated Positions

1. Fisher appears to acknowledge that smoking is an important issue for its neighbors and that Fisher students frequently smoke in front of Fisher and other properties on Beacon Street.
2. Fisher has researched other schools' best practices.
3. Based on its research, Fisher has concluded that there is "no silver bullet."
4. Fisher has already responded in part to community concerns by establishing a rule that "students can only smoke in a designated area."

5. Fisher believes that many students want to smoke and if the College tries to mandate a no-smoking policy, they will rebel. Fisher says that it tried to impose such a policy around 2005, and faced widespread protests/non-compliance.
6. With respect to the Committee's proposal that Fisher ban smoking on A/B Beacon, Fisher notes that it is lawful to smoke on city streets. Smoking only is illegal in City parks.
7. The neighbors cannot have it both ways. If they say that the A/B block of Beacon is not the Fisher Campus, they cannot ask Fisher to take responsibility for the whole block.
8. Fisher believes that it is better to let students smoke in areas where Fisher has some control (i.e., in front of Fisher properties). Otherwise, students will start smoking in front of residents' homes.
9. Fisher plans to "Implement directed patrols by [its] Public Safety Department during key activity periods focusing on education, deterrence and direction."
10. As a solution to complaints about Beacon Street smoking, Fisher wants to encourage students and staff to smoke in the designated smoking lounge at the rear of 116 Beacon. However, since it realizes that this space is not heavily used by smokers, it plans to make it more attractive; in part, by adding heat lamps to deal with the lack of solar radiation. It also will buy new furniture and install a television.
11. The answer to reducing smoking lies in education rather than strict enforcement of prohibitions. Fisher plans to institute an educational process starting in the Fall 2015 semester that it hopes will solve the smoking problem. This will include:
 - a. "Enhance existing orientation of new and returning students to incorporate a more robust component on the dangers of smoking as well as a component on its impact on the community, including messages from neighbors. Include a mid-year program to keep information and messaging fresh."
 - b. "Pilot program with criminal justice students to foster peer-to-peer education and redirection of smokers."
12. Fisher will "Revise Student Code of Conduct to include requirement to smoke in designated smoking area, courtesy to pedestrians, etc."
13. Fisher will test a pilot program this summer in which there will be "strict enforcement of no smoking within 25 feet of a Fisher Building with its summer students."

B. Unofficial Fisher Positions (based on comments made to Kate Shepherd)

14. If Fisher tries to mandate smoking, students will transfer out. The College cannot afford that.

Carolina's reason for not wanting to be heavy handed and enforce the existing smoking rules is that she feels that enforcement would be akin to "harassment" and in no way does the administration want to harass their students. She took it one step further and said that the administration wants to ensure that a first year student "enjoys" his/her time at the college so that they will return for subsequent years and not transfer to a "more fun" institution. – Kate Shepherd email March 26, 2015
15. Fisher needs the revenue from international students who pay full tuitions. Most of them smoke.

The President of Fisher saw me loading [my daughter] into her stroller for school last Thursday morning and came over to chat. He asked about my smoking meeting with Carolina. I was very honest and said that I was disappointed that the school didn't enforce their current rules in the handbook with regards to smoking (i.e. permitting smoking on the pavers and choosing to ignore when smoke drifted into above windows). He put the blame solely on the international students. – Kate Shepherd email April 6, 2015
16. Fisher has been on the A/B Beacon block since 1939. Current abutters like Kate Shepherd knew that there was a college on the block when that they moved here, and they should have expected that there would be smoking and noise, just like on any college campus.

GNA Committee Reactions (by Fisher Position Number)

1. We appreciate **Fisher's acknowledgement that smoking** is a problem on A/B Beacon, since this allows us to avoid **the need to show** pictures of students and staff smoking on the block. The issue therefore is not whether there is a problem but how to deal with it – and whether there is a solution that works.
2. **Re: Fisher has researched other schools' best practices:** To its credit, it is clear that Fisher has made a serious attempt to understand what other schools have done. However, at the April 14 meeting, *Carolina did not make any commitment to implement these practices.*

Vic Castellani has shared with the Committee his review of 25 local educational institutions' smoking policies (Appendix A; Fisher excluded). From this, we observe the following:

- a. While they may also have educational programs, all 25 institutions have strict no-smoking standards. No school is saying that educational programs by themselves are the answer.
- b. Of 25 institutions, twenty ban smoking on **their campuses** outside as well as inside their buildings. Since **state workplace rules** ban inside smoking, **these schools have gone beyond the minimum requirement.**
- c. Of the 25 institutions, nine have some form of smoking ban outside school property within x feet of a school entrance.
- d. Of the 25 institutions, only one (New England Conservatory) has a provision for a smoking lounge, and this is 25 feet away from NEC buildings.

If we compare Fisher to the other schools along these dimensions, we have the following concerns:

- a. Fisher appears to want to rely more heavily on educational programs (10) and if anything, appears to want to de-emphasize creation and enforcement of regulations (17-19).
- b. Fisher's unwillingness to enforce an outdoor ban on smoking in front of its Beacon Street properties is inconsistent with twenty of the other schools.
- c. Fisher's refusal to ban smoking outside of its property is inconsistent with the practices of nine other schools, including Suffolk, Bay State and Emerson (partial ban).
- d. Fisher is the only school with a designated smokers' lounge on or adjacent to school enclosed spaces. New England Conservatory is the only other school with a designated lounge, but it is located more than 25 feet from NEC buildings, so is not adjacent.

In sum, while Fisher appears to have studied other schools' practices, it appears to be the outlier in a number of respects.⁷²

In addition, we note that none of the other schools is as deeply embedded in a single residential block as Fisher. Therefore, even if Fisher adopted the best practices of these schools, it would not address the objectionable level of smoking outside of Fisher property

⁷² Fisher also is an outlier when one considers the general direction of smoking rules in Boston, which now includes bans on smoking in restaurants and parks (including the Esplanade, Public Garden and the Common).

affecting its neighbors. Fisher needs to go beyond normal best practices for schools with distinct campuses not embedded in residential districts.

3. **Re: There is no “silver bullet:”** We agree with Carolina that there is no silver bullet answer. The practical problem is that Fisher, even at its current intensity of use, has over one thousand students and staff on the A/B Beacon block. Based on general smoking statistics suggesting that 20% of college students (as well as adults) smoke, this means that there are over 200 active smokers on the block, who can only smoke outside the Fisher buildings. This is one of the reasons why educational institutions have been designated a forbidden use in the Back Bay residential district. Either we allow students and staff to smoke on the block with impunity, which is unacceptable to residents, or Fisher seriously enforces a smoking ban, which will upset students and staff.

This is why Fisher needs to consider growth options that allow it to meet the needs of its college community without increasing its intensity of use in residential Back Bay.

4. **Re: Fisher has already responded to community concerns by established a rule that “students can only smoke in a designated area.”** This is a phrase that Carolina has used on several occasions in the past two meetings, and we assume that by this she means the 116 Beacon smokers' lounge.

While on one hand, this appears responsive to community concerns; the statement is patently misleading, because Fisher has declined to enforce its own rules regarding smoking in the front of its Beacon Street properties (see *Additional Reactions* section 17-19). As a result, students regularly smoke in undesignated areas on Beacon Street.

This appears due to Fisher's belief that enforcement would result in unacceptable levels of students transferring from Fisher (see 14-15).

5. **Re: lots of students smoke: it is impractical to enforce a 100% no-smoking ban at Fisher and the surrounding neighborhood:** Lots of schools have established no-smoking campuses without the specter of 1968-type student rebellions, so we don't know why Fisher cannot impose and enforce a 100% ban on its own property, including outdoor areas. Perhaps the real reason is (14-15) fear of losing students.

6. **Re the lawfulness of smoking on Beacon Street:** This issue is irrelevant. Like virtually every educational institution, Fisher has a form of contract with its students in which the students agree to obey rules promulgated by the school. At Fisher, this is called the *Code of Conduct*, supplemented (for dorm students) by a *Housing Agreement*:

As in any well governed community, Fisher College has rules and regulations that ensure the safety, well being, and success of each individual in our community. As you adjust to your new life here, please familiarize yourself with this Student Guide and Code of Conduct (2012-2013), commonly referred to as the “Student Handbook... it ... outlines the rules and regulations that the Fisher community must abide by. -- Sheila Lally (Dean of Students), preface to Code of Conduct

Here is a similar statement by Bay State College:

Good Neighbor/Good Citizenship

The College takes its relationship with its neighbors in the Back Bay and the City of Boston very seriously. The maintenance of the rights, tranquility, and attractiveness of the neighborhood and the concern for the welfare of the people and property on the campus are of the utmost importance to everyone.

Students who attend Bay State College and/or reside in the residence halls or visit the College neighborhood or housing are expected to demonstrate respect and concern for all members of the local community.

Whether or not alleged misconduct constitutes a violation of criminal law, students may be sanctioned by the College's conduct system for violations of the Code of Conduct occurring on or off of the Bay State College campus. – Bay State College Student Handbook 2013-2014

Looking at the Fisher *Code of Conduct* and *Housing Agreement*, it is interesting that (a) Fisher asserts its right to control student behavior beyond its own buildings; and (b) it does not hesitate to do so when it wishes – good examples being noise control and a ban on alcohol usage by over-21 aged students. Therefore, **there is no reason why Fisher cannot impose restrictions on student smoking on A/B Beacon:**

Right to Control Student Behavior Off-Campus

- *All students are responsible for upholding College policies and regulations, and observing State and Federal Laws both on and off-campus. -- Code of Conduct, p. 116*
- *The term "College premises" includes all land, buildings, facilities and the property in the possession of or owned, rented, used or controlled by the College (including adjacent streets and sidewalks -- Code of Conduct, p. 116*

Application of Control Off-Campus over Noise and Alcohol Usage

- *Disturbances. Student will not conduct or permit loud activities or in any manner create disturbances which cause annoyance or discomfort to other resident(s) or the surrounding community -- Housing Agreement p.4*
- *All students are responsible for behaving in a civil manner with members of the College and external community. -- Code of Conduct, p. 116*
- *Students 21 years of age or over may consume alcohol off campus. However, the College expects these students to drink responsibly, and not to provide or procure alcohol for persons under 21 years of age. If these students are involved in unlawful behavior or creating a disturbance off campus and the College authorities are notified, the College will follow through with appropriate disciplinary processes and sanctions, if needed. – Code of Conduct, p. 132*
- *All residents should respect the rights of other residents to read, to study, and to sleep without interference. Undue disturbance or unreasonable noise will not be tolerated. Residents found responsible for violating quiet hours will be subject to disciplinary action. Any noise that is deemed by a Resident Director, Resident Assistant, or Public Safety, to be too loud, warrants the immediate removal of the source of the noise. Definitions of "too loud" are subject to whatever these authorities deem as uncomfortable or potentially noisy to residents of surroundings areas (sic). This policy is not restricted to time of day and pertains to noise on and about Fisher College property. Code of Conduct, p. 141*
- *Residents are required to monitor their noise levels when returning to the college during early morning hours. Any student who is confronted by a member of Public Safety or Residential Life for excessive noise will face sanctioning. Code of Conduct, p. 142*

7. Re if A/B Beacon is not a Fisher Campus, Fisher has no responsibility for smoking outside of its property:

While the community is adamant that we want A/B Beacon to remain a residential block and not a "Fisher Campus," we recognize that Fisher has caused problems on this block and are therefore advocating that the College take responsibility for correction.

8. Re Fisher's belief that it is better to let students smoke in areas where Fisher has some control:

We reject the argument that not letting students smoke in front of Fisher means that they will smoke further up along the block – because we have already pointed out that the College's *Code of Conduct* allows Fisher to ban both. If this results in students moving to the B/C Beacon Block or Arlington, the prohibited zone can be expanded.

9. **Re “Implement directed patrols by our Public Safety Department during key activity periods focusing on education, deterrence and direction”:**

It is unclear as to what this means. What is a directed patrol, as opposed to security guards stationed permanently on Beacon and on Back Streets dealing with smoking as well as other student behavior issues? What are the suggested key activity periods? Hearing on April 14 that an example of a directed patrol means having Fisher security patrol during the 10 or 20 minute break between classes hardly gives us reassurance that Fisher is prepared to dedicate serious resources to the smoking problem. What does it mean for security guards to educate, deter and direct students? Will staff members be included, as well as students?

In general, we agree that Fisher security can play an important role in enforcing smoking rules, but we believe that the mission needs to change, from moving smokers to the Fisher side of the block (thereby creating smoky pedestrian obstacles in front of 116 and 111 Beacon), to enforcing a smoking ban on the entire block.

10. **Re encouraging use of the 116 Beacon smoking lounge via an upgrade:**

This is the wrong answer for several reasons. First, the lounge violates Boston Public Healthcare regulations prohibiting smoking in adjacent outdoor areas including “patios/porches; decks; [and] yards.” It is therefore illegal.⁷³

**Boston Public Health Commission Regulation
Clean Air Works Workplace Smoking and E-Cigarette Use Restrictions**

1. *It shall be the responsibility of the employer to provide a smoke free environment for all employees working in a workplace. ...*

2. **Smoking shall be prohibited in the workplace. This includes all work spaces, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms, patios, decks, yards and loading docks.**

Definitions

Workplace – Any enclosed indoor **and adjacent outdoor area**, structure or facility or any portion thereof at which one (1) or more employee(s) perform services for their employer, including but not limited to: retail food stores; retail stores; restaurants; bars; cafes; and bowling alleys.

Work space or Work Spaces – any enclosed indoor **and adjacent outdoor area**, structure or facility occupied by an employee during the course of his or her employment, including but not limited to: offices; customer service areas; common areas; **patios/porches; decks; yards; loading docks; hallways; waiting areas; restrooms; lounges; and eating areas.**

[Note: we previously acknowledged that New England Conservatory does permit a designated smoking area. However, since it is over 25 feet from any NEC building, it is not an “adjacent outdoor area” and is therefore legal.]

⁷³ Note: In her conversation with Kate Shepherd, Carolina asserted that workplace regulations do not apply to colleges. We disagree. Aside from the fact that paragraph (2) of the Boston regulation clearly refers to “classrooms,” Fisher’s IRS 990 form for FYE 6/30/13 shows that the College had 580 employees in that year, so it is a workplace for hundreds of people. Additionally, Massachusetts General Law Chapter 270, Section 22b, makes it clear that smoking is prohibited on campuses:

b(2) Smoking shall be prohibited in workplaces, work spaces, common work areas, classrooms, conference and meeting rooms, offices, elevators, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms, restaurants, cafes, coffee shops, food courts or concessions.; or in a school, college, university...

Legality aside, encouraging use of the 116 lounge is a lost cause, because aside from being sparsely furnished (see photo), something that is easily correctible, it is far too small and segregated from the general student traffic flow to ever be widely used – even with a patio heater. This is something that President McGovern correctly recognized in a recent discussion with Kate Shepherd:

He, like Carolina, continue to say that students don't like the smoking area on Back Street as it's "not where the action is." -- Kate Shepherd email April 6, 2015

116 Beacon Smoking Lounge



Looking at the photo, there potentially might be room for a larger lounge by extending the area to the entire width of 116 Beacon. However, this would obstruct open egress from the rear exits.

Finally, we are concerned that a television set installed outside, even if silent, could create unacceptable noise levels of on Back Street (from the students watching TV).

11. **Re education as the solution:** We have several issues regarding Fisher's reliance on education as its primary solution:
- Despite intimations to the contrary, Fisher already offers educational solutions, which seemingly have been insufficient to deal with the neighbors' smoking issues. How will the new programs change things?
The College ... offers educational programs regarding the hazards of smoking and tobacco use. Students seeking to learn more about these hazards or interested in quitting smoking or tobacco use may contact the Health Services Office and/or Counseling Services. -- Code of Conduct, p. 134 and Course Catalog, Academic Year 2014-2015
 - Looking at the first proposed educational program ("*Enhance existing orientation of new and returning students to incorporate a more robust component on the dangers of smoking as well as a component on its impact on the community, including messages from neighbors. Include a mid-year program to keep information and messaging fresh.*"): This appears to be a once-per-semester lecture, which hardly seems sufficient to be a robust solution. A recent college graduate hearing about this plan snickered and suggested that the students would largely spend the time texting their friends.
 - Looking at the second program ("*pilot program with criminal justice students to foster peer-to-peer education and redirection of smokers*"), it is unclear what this means or entails. Does the involvement of criminal justice students mean that the program will

emphasize violations of the *Code of Conduct*? How will this deal with the complex issues of nicotine addiction and social smoking?

While we are not against educational programs, we see these as supplements to strict enforcement of non-smoking regulations and which require no-smoking campuses to be effective. One reason is that for young smokers, smoking is a social activity, which is fostered by continual smoking in front of the main entrance to the College. Similarly, if a smoker is trying to “kick the habit,” this is much harder to do if there is a group of people smoking whenever he/she walks outside 116 Beacon:

Today's smoking culture includes a subpopulation of smokers called "social smokers". Although there may be different explanations of what a social smoker is, many college students define "social smokers" as those who use tobacco on a regular basis, dictated by nicotine dependence. Social smokers are not addicted to smoking, or worried about the social acceptability of their smoking habits. In a study conducted in 2004, 51% of current college smokers stated that they primarily smoked with other people and in social activities. 71% of occasional smokers smoked in a social situation, compared to daily smokers, 19% of which smoke in social environment. Students who started smoking within the past two years of the study were more than twice as likely to be social smokers than students who had been smoking for a longer period of time prior to the study. Characteristics of social smokers have been found to include more females and non-Hispanic whites, than other demographic characteristics and spent more time socializing with friends, were binge drinkers and had a high importance for the arts. Lastly, social smokers don't perceive themselves at risk to tobacco related illnesses, nor believe they will ever become nicotine dependent. Since social smokers don't think they'll become dependent on nicotine, they don't plan on quitting during college, but have intentions to quit once they graduate. -- http://en.wikipedia.org/wiki/Cigarette_smoking_among_college_students

12. Re: Fisher will “Revise Student Code of Conduct to include requirement to smoke in designated smoking area, courtesy to pedestrians, etc.”

Given that Fisher in (5-11) argued that there should not be regulations prohibiting smoking except at the designated smoking lounge, (12) seems to be in contradiction. What areas will be included in the designated smoking area? Will it simply include the 116 Beacon smoking lounge, or will there be other designated areas on Beacon Street or elsewhere? What will the penalty be for non-compliance? Given that Fisher does not enforce the existing Code of Conduct rules on smoking (17-19), how can we be assured that the new rules will be enforced?

13. Re: Fisher will test a pilot program this summer in which there will be “strict enforcement of no smoking within 25 feet of a Fisher Building with its summer students.”

Aside from the fact that it is unclear as to whether the 25 foot proposal refers to the entire building or just the main entrance, this comes across as a red herring. Fisher currently has thirteen buildings on Beacon and Arlington that it uses for institutional purposes. If summer students are prohibited from smoking in front of one building (presumably not 116 Beacon), they will still have twelve other buildings to choose from – which will result in a failed experiment. In addition, the front yards on Beacon are twenty feet from building to sidewalk, so the no smoking zone will only extend part way onto the chosen building's front sidewalk.

A true pilot program would include the entirety of Fisher, and/or the entirety of A/B Beacon.

14. Re Fisher losing students if it enforces no-smoking rules: Since every other Boston-area college has instituted 100% non-smoking rules, we question whether the situation is as dire as Fisher states (i.e., where would they transfer to).

If students want to smoke, they can go elsewhere in the City to do so.

To the extent that Fisher does lose some students, we point out that this is yet another reason why having an expanding educational institution in the middle of a residential neighborhood does not work, and why Fisher needs to seriously consider solutions allowing for growth elsewhere.

15. **Re Fisher being dependent on international student smokers:** In large part, the same answers for (14) hold true here. We are aware that Fisher has been able to recruit wealthy international students who park late-model high-end Mercedes, BMWs, Audis and Porsches on Beacon Street with regularity. For the most part (since they regularly park on the street), it appears that these students, rather than living in dorms, live elsewhere – presumably in high-end condominiums with parking. They easily can smoke in their condominiums or elsewhere in Boston.
16. **Re residents not having the right to object to Fisher smoking because Fisher has been here longer:** Although Carolina told this recently to Kate Shepherd, it is hard to believe that Fisher really wishes to argue this point, since hearing this only infuriates the neighborhood.

To the extent that Fisher is serious, we make the following counter-arguments:

- For the past 35 years, the neighborhood has been zoned residential, with educational institutions defined as a “forbidden use.” It therefore is incumbent on Fisher to mitigate its impact on the neighborhood, not for the neighborhood to accept Fisher’s behavior based on “we were here first” arguments.
- Fisher’s presence as an **institution** on A/B Beacon only dates to 1939. In contrast, the residential Back Bay neighborhood predates the Civil War, with Gibson House at 137 Beacon built in 1860. So Fisher is the new arrival, **not residents**.
- The BRA’s September 2013 Scoping Determination explicitly addresses the need for Fisher to manage its impact on the surrounding neighborhood as a condition for obtaining a positive Adequacy Determination:

*The City of Boston views its academic institutions as important economic and cultural assets and as valuable partners in a wide range of public policy priorities. However, while the benefits of Boston’s academic institutions are felt across the city and even regionally, nationally, and globally, the negative impacts are generally limited to the immediate neighborhood. **This dictates that both the BRA and academic institutions work to carefully balance the goals of vibrant institutions and healthy neighborhoods.** – BRA Scoping Determination, September 9, 2013*

- An essential element in being a Good Neighbor is to try to deal cooperatively with neighborhood issues.

Additional Reactions

Fisher’s willingness to deal with the smoking problem is called into question by the fact the school (a) is in violation of state and city smoking regulations; (b) refuses to enforce its own rules; and (c) has inconsistent rules for students and staff:

17. **Fisher violations of State and City smoking regulations:** It was previously mentioned in (10) that Boston Public Health Commission rules mandate no smoking in all workspaces or adjacent outdoor areas, and that the use of a smoking lounge directly outside the rear entrance is in violation of that rule.

In a similar vein, we believe that allowing smoking in the entryways to Fisher properties on Beacon Street, and on the garden pavers in front of 114-118 Beacon (which act as a type of

patio/porch/common area), are violations of the regulations, since these are immediately adjacent to enclosed workspaces:

**From Boston Public Health Commission Regulation
Clean Air Works Workplace Smoking and E-Cigarette Use Restrictions**

Smoking shall be prohibited in the workplace. *This includes all work spaces, common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms, patios, decks, yards and loading docks.*

Workplace – *Any enclosed indoor and adjacent outdoor area, structure or facility or any portion thereof at which one (1) or more employee(s) perform services for their employer, including but not limited to: retail food stores; retail stores; restaurants; bars; cafes; and bowling alleys.*

Work space or Work Spaces – *any enclosed indoor and adjacent outdoor area, structure or facility occupied by an employee during the course of his or her employment, including but not limited to: offices; customer service areas; common areas; patios/porches; decks; yards; loading docks; hallways; waiting areas; restrooms; lounges; and eating areas.*

18. **Fisher violations of State sign regulations:** In the process of thinking about smoking issues, it came to our attention that that Fisher does not appear to display no-smoking signs in 116 and 118 Beacon, as well as in the Fisher Mall. We have not checked the other buildings.

This is a violation of Massachusetts General Law Chapter 270, Section 22b, which states, “every area in which smoking is prohibited by law must have “no-smoking” signs “conspicuously posted.”

b(1) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace.

b(2) Smoking shall be prohibited in workplaces, work spaces, common work areas, classrooms, conference and meeting rooms, offices, elevators, hallways, medical facilities, cafeterias, employee lounges, staircases, restrooms, restaurants, cafes, coffee shops, food courts or concessions...; or in a school, college, university, museum,...

g(4) Every area in which smoking is prohibited by law shall have “no smoking” signs conspicuously posted so that the signs are clearly visible to all employees, customers, or visitors while in the workplace.

19. **Fisher’s failure to enforce its own rules:** In a number of our GNA negotiations, ‘agreed-upon’ elements frequently have involved adding additional *Code of Conduct* rules to control certain types of student activities. In this context, it is disconcerting to see that Fisher already has a number of smoking rules in place but chooses not to implement them:

- Per the *Student Code of Conduct*, “smoking is ... not allowed in ... stairwell entrances to the buildings.” Yet, students smoke there routinely.
- “Students are strongly encouraged to not smoke on the Beacon Street side of the College.” Yet, Fisher provides butt receptacles in its entryways for use by smokers in front of 114 Beacon and 111 Beacon.

Butt Receptacle In front of 114 Beacon



Butt Receptacle In front of 111 Beacon



- “The *Employee Manual* states, “No smoking is allowed on the College Campus or within 20 feet of any College or any residential buildings, except for the Designated Smoking Area.” Yet, students and staff are allowed to smoke routinely along the entrances to buildings and on Fisher property pavers on the front gardens of Fisher buildings.
- *If students are smoking on the Beacon Street side and reports of smoke entering windows is reported students must move to the designated smoking area behind [the] building.*” Yet, both Carolina and President McGovern each told Kate Shepherd that they did not enforce this rule:

Carolina's office is in one of the buildings above where students congregate and she said, "Believe me, I know exactly when they (the students) are there (out front on Beacon) and when they are smoking." – Kate Shepherd email March 26, 2015

[McGovern] indicated that he, like Carolina, has a window above the smokers and can smell smoke when it's open. I reminded him that per his student handbook, he could use that to push the students behind 116 Beacon. He, like Carolina, continue to say that students don't like the smoking area on Back Street as it's "not where the action is". – Kate Shepherd email April 6, 2015

20. **Inconsistent rules for students and staff:** At the April 7 meeting, Carolina stated that the smoking rules for students and staff are the same. Here are the comparative texts of the two sets of rules, which show substantial differences. Surprisingly, the staff regulations appear to be more stringent than the student rules. Going forward, there needs to be a unified set of rules for everyone at Fisher.

FROM STUDENT CODE OF CONDUCT

SMOKING/TOBACCO

Fisher College has established a no smoking policy throughout the college. No smoking is allowed in the common areas, which include: corridors, classrooms, auditoriums or residence halls. There is a smoking area located behind building 116 Beacon Street. This policy results from the College's compliance with the Massachusetts Clear Air Act. If a student is smoking on the Beacon Street side and a student or employee complains about smoke entering via a window etc. the student will be required to move to the designated smoking area. Smoking is not allowed on the stairways to any buildings. Chewing tobacco is also not to be consumed in any College building. Failure to abide by the Smoking & Tobacco Policy will result in disciplinary action. The College also offers educational programs regarding the hazards of smoking and tobacco use. Students seeking to learn more about these hazards or interested in quitting smoking or tobacco use may contact the Health Services Office and/or Counseling Services.-- Code of Conduct, p. 134 and Course Catalog, Academic Year 2014-2015

SMOKING

Smoking is prohibited in all residence halls. Smoking is also not allowed in hallways, stairwells, elevators, bathrooms, lounges or stairwell entrances to the buildings. A designated smoking area is located behind building 116. Further, students are strongly encouraged to not smoke on the Beacon Street side of the College. If students are smoking on the Beacon Street side and reports of smoke entering windows is reported students must move to the designated smoking area behind building. -- Code of Conduct, p.149

FROM EMPLOYEE MANUAL

SMOKING/TOBACCO USE

In accordance with the Massachusetts Clean Air Act, Fisher College has established a no smoking policy throughout the college, except for the designated smoking area located behind building 116 Beacon Street ("Designated Smoking Area"). **No smoking is allowed on the College Campus or within 20 feet of any College or any residential buildings, except for the Designated Smoking Area. Electronic cigarettes or chewing tobacco are also not to be consumed in any College building.** Failure to abide by the Smoking & Tobacco Policy will result in disciplinary action.

If a member of the Fisher College community is observed smoking within 20 feet of any College buildings or a residence, he or she should be directed to the Designated Smoking Area.

The College also offers educational programs regarding the hazards of smoking and tobacco use. Employees and students seeking to learn more about these hazards or interested in quitting smoking or tobacco use may contact the Health Services Office and/or Counseling Services.

Looking at the above, we note that the student and staff policies are inconsistent, with the staff provisions being more restrictive:

- In the Student Code, smoking on Beacon Street only is prohibited if the smoke blows into a Fisher building, and the Code requires a student or staff complaint to trigger action. The Employee Manual bans all smoking within 20 feet of a Fisher or residential building entrance irrespective of where the smoke is blowing, and it does not require a complaint by student or staff as a basis for telling the offender to move to the designated smoking area behind 116 Beacon.
- The Employee Manual bans all smoking at Fisher except for the designated smoking area, while the Student Code only bans smoking in common areas – thus seemingly allowing smoking in private offices.⁷⁴
- The Employee Manual bans all smoking within 20 feet of a Fisher or residential building entrance, while the Student Code only bans smoking in stairwell entrances to the Fisher buildings.
- The Employee Manual bans e-cigarettes, while the Student Code does not mention them.

* * * * *

Conclusion

Based on the Committee's discussions after the April 14, 2015 Fisher negotiation session, we have concluded that Fisher's proposed solutions are inadequate and that the College needs to do more. It is not the responsibility of the residential neighborhood to accommodate the operations of a forbidden college zoning use in the residential district, but for Fisher College to conduct its operation in a manner that does not impact the residential district negatively.

While we are not opposed to educational solutions, we note that Fisher's *Student Code of Conduct* and *Employee Manual* say that such programs are already in place. If so, they clearly have not been successful, and the limited scope of Fisher's proposed new programs is underwhelming. In our opinion, effective educational programs need to be reinforced by the creation and enforcement of smoking prohibitions. This is because pervasive smoking at campus entryways fosters social smoking by new smokers and makes it difficult for existing smokers to quit.

Fisher's willingness to deal with the smoking issue also is called into question by the fact the school: (a) is in violation of state and city smoking regulations; and (b) refuses to enforce its existing *Code of Conduct* rules, even placing ashtrays in its entryways on Beacon Street. Neighbors who have engaged Fisher on this issue have come away feeling that nothing ever changes.

As a result, we propose a robust solution in which:

- Fisher becomes a 100% non-smoking school indoors and outdoors
- Smoking by students and staff is prohibited on the entire A/B Beacon block (reflecting Fisher's unique pervasive geo-positioning on the block); expanding this zone if necessary
- These prohibitions are rigorously enforced by Fisher.

In making these recommendations, we recognize that Fisher may decide that they are beyond what it can accept, because aggressive enforcement on A/B Beacon risks turning Fisher into a form of police state, alienating students and hurting enrollment. However, we believe that only

⁷⁴ Smoking in non-common areas would violate both state and city regulations.

these steps can deal with the current smoking situation, let alone any intensification of non-conforming use resulting from Fisher's soon-to-be released IMP.

For us, the smoking issue illustrates that when one has a concentration of students in a residential neighborhood, there are things inherent in that concentration which simply cannot be effectively addressed. That is one of the reasons why educational institutions have been designated a forbidden use in the Back Bay residential district.

Appendix: Local Educational Institution Smoking Policies

College/ University	Smoking Policy	100% no smoking campus	Outside School Property
Bay State College	<p>Smoking is prohibited in all Bay State College buildings. Smoking in rooms, hallways, stairwells, lounges, lobbies, fire escapes, balconies, and bathrooms is strictly prohibited.</p> <p>Additionally, smoking near Bay State College buildings is prohibited. This includes, but is not limited to, the front and back entryways to the buildings, as well as the front steps of each building.</p> <p>In addition to cigarettes, beedi and clove cigarettes, cigars, and pipes are also prohibited in and around Bay State College buildings.</p>	X	X
Benjamin Franklyn Institute of Technology	No smoking anywhere inside the Benjamin Franklyn Institute of Technology buildings or residence or within 25 feet of any college entrance	X	X
Berklee College	<p>Smoking is prohibited at all interior and exterior areas at all Berklee College campuses, including but not limited to;</p> <p>* throughout all property owned, leased or used by the College, in and around college buildings, facilities and residence halls, and on all outdoor grounds, including walkways, parking lots, green areas</p> <p>*In vehicles owned, leased, or used for college purposes on or off campus and which the College has control, and</p> <p>*in personal vehicles on all college campuses</p>	X	
Boston Architectural College	No smoking on the Boston Architectural College campus	X	
Boston College	Smoking is prohibited in all Boston College buildings and vehicles including private faculty and administrative offices, all areas or residences, and dining facilities and all outdoor areas within twenty feet of a residence hall.	Indoor + 25 ft from dorm	X dorms only
Boston Conservatory	Smoke-free policy applies to all Conservatory facilities, owned or leased, including common areas and individual rooms in residence halls and within twenty-five feet of all exits.	X	X
Boston Medical Center	No smoking on all property owned or leased by Boston Medical Center and the Boston University Medical Campus	X	
Boston University Agganis Arena	Agganis Arena is a smoke-free facility. There are no areas designated for smoking outside of Agganis Arena. Electronic cigarettes are prohibited.	X	

College/ University	Smoking Policy	100% no smoking campus	Outside School Property
Boston University	Prohibited in all Boston University facilities and enclosed workplace areas including all offices, work spaces, common work areas, auditoriums, classrooms, conference and meeting rooms, all other enclosed areas in the workplace and all University student residences.	indoor only	
Curry College	Smoking is prohibited in any campus building including all residences and outdoors within twenty-five feet of all campus buildings . This policy includes electronic cigarettes.	X	X
Emerson College	Smoking is prohibited in all Emerson College owned or leased buildings, within the archway of the 80 Boylston Street entrance way, within 25 feet of 150 Boylston Street , in all Emerson College owned or leased transportation vehicles including buses, vans, shuttles, police patrol cars and facilities management vehicles	X	X dorm and one archway
Emmanuel College	Prohibits smoking or use of tobacco products on both the Fenway and Notre Dame Campuses . No smoking or tobacco use permitted on College grounds, in common or private work areas, elevators, hallways, restrooms, dining areas, lounges, parking garages (including inside personal vehicles), grounds, rooftops, courtyards, entrance/exit ways, athletic facilities, College owned or leased vehicles and any other indoor or outdoor areas owned or managed by the College.	X	
Harvard School of Public Health	No-smoking policy in school buildings and on school grounds	X	
Harvard Kennedy School of Government	Smoking is prohibited inside any campus building or outside on Harvard Kennedy School grounds, including the courtyard, and within 25 feet of building entrances, outdoor air intakes and windows .	X	X
Harvard Longwood Campus	The Harvard Longwood Campus is 100% smoke-free both inside and outside	X	
Massachusetts College of Pharmacy and Health Care	No-smoking policy in school buildings and on school grounds	X	
MGH Institute of Health Professionals	Smoking (including the use of electronic cigarettes) is prohibited in the interior as well as within 15 feet around the perimeter of buildings . Individuals who wish to smoke must do so at least 15 feet from buildings and doorways.	X	X
New England Conservatory of Music	Smoking is not allowed in any New England Conservatory building, including the Residence Hall. Smoking is permitted outside the building only in designated smoking areas (25 feet from the buildings) .	designated smoking area 25 ft+	

College/ University	Smoking Policy	100% no smoking campus	Outside School Property
Northeastern University	Smoking of any tobacco products is prohibited at all locations, campus buildings and outdoor areas owned and/or operated by the University including parking lots, green spaces and pedestrian walkways.	X	
Simmons College	All locations, campuses, buildings, vehicles, and outdoor areas owned and/or operated by Simmons College prohibit the use of all smoking and tobacco products	X	
Suffolk University	Smoking, including the use of electronic smoking devices, is prohibited in Suffolk University academic and administrative facilities and the residence halls. Smoking is permitted in outdoors areas more than 25 feet from the entrance to Suffolk buildings provided the smoke does not migrate back in to the building and is also prohibited in outdoor areas where no smoking signs are posted.	OK outdoors more than 25 ft from bldg. entrances	X
Tufts University	Has implemented a smoke-free environment. The no-smoking policy affects all indoor spaces, all university facilities, residences, fraternities and sororities.	Indoor only	
University of Massachusetts Boston	Prohibits the use of any tobacco or nicotine product including e-cigarettes anywhere on campus - in all buildings and outdoor areas controlled by the university	X	
Wentworth Institute of Technology	Tobacco-free environment - smoking and chewing are not allowed on Institute property. Our tobacco free community includes all areas of the campus (e.g. buildings and facilities, parking lots, campus parks/green spaces, the front lawn, main quadrangle, Sweeney Field and all pedestrian walkways). The smoking of electronic, vapor or other substitute forms of cigarettes is prohibited	X	
Wheelock College	Smoking is prohibited in all Wheelock buildings, including residence halls, and on all Wheelock College grounds	X	

**24. GNA Committee Proposals:
Student (and Staff) Behavior**

24. GNA Committee Proposals: Student (and Staff) Behavior

This memo is a discussion of the Committee's view on Fisher student behavior and how behavior-related issues can be mitigated. In general, we believe that 'students will be students' and therefore can be counted upon to misbehave on occasion. This is why we strongly believe that Fisher College should not be expanding in a residential neighborhood and will be opposing any increase in non-conforming usage in Fisher's IMP.

Misbehavior Issues

- a. **Excessive noise** on the street, particularly in the early morning hours on weekends (Thursday through Sunday), when students and their friends return after bar closing hour and wish to keep partying on Beacon Street. While some of the severe excesses of academic year 2013-14 were improved in 2014-15, we are concerned that it would not take much to return to the out-of-control situation of the prior year.
- b. **Alcohol and drug use** on the street, particularly in the early morning hours on weekends (Thursday through Sunday). In the 2013 IMPNF comments, a number of neighbors complained about these issues; and in particular, cars parked late at night seemingly involved in drug transactions.
- c. **Smoking**. Some people have told us that they find heavy smoking on Beacon Street to be as troubling to them as traffic/parking issues.
- d. **Unacceptable blocking of the sidewalk**. Students (and in particular, smokers) tend to congregate at the entrances to 116 Beacon, as well as 111, 131 and 133 Beacon, making it difficult to walk down the street, particularly during daylight hours. This is particularly troublesome to mothers with young children who find it difficult to 'part the Red Sea' with strollers.
- e. **Litter** on the street; in particular cigarette butts and empty packs; empty bottles (including alcohol bottles), and empty snack wrappers/food containers. Although Fisher generally does a good job of picking up litter in front of its own buildings, the same is not true of abutter properties. The traditional Fisher response 'how do you know this comes from Fisher' generates further upset.
- f. **Student jaywalking** between the north and south sides of Beacon Street. As people who have to maneuver our cars through groups of jaywalkers, we see this as an accident waiting to happen. We also recognize the need to facilitate heavy traffic flows into the rest of Back Bay as well as Storrow Drive.
- g. **Renting out dorm rooms to non-Fisher students**: Fisher rents dorm rooms to non-Fisher students, over whom it has less control.
- h. **Trespassing**: Students smoke and litter on abutter properties.
- i. **Parking issues**: Students doubleparking on Beacon Street; parking/standing on Back Street or in abutter deeded spaces; illegally parking at the loading zone in front of 100 Beacon.
- j. **Park issues**: Misuse of the Public Gardens for athletic contests; breaking of children's' playground equipment on the Esplanade.

Proposed Steps

1. **Inclusion of appropriate language in the *Student Code of Conduct and Employee Manual*:** In the process of researching our proposed Fisher policy on smoking, we noticed that each of these documents represents a binding contract between Fisher and its students, giving Fisher contractual control over behavior even on nearby public streets. Accordingly, we propose that Fisher meet with GNA members to craft appropriate language to prohibit objectionable student and staff behavior.
2. **Enforce *Code of Conduct*:** Having appropriate language is irrelevant if Fisher does not strictly enforce its own code.
3. **Periodic meetings to educate students about the rules.** Given that there is a continuing inflow/outflow of students, there needs to be meetings at least once a year and possibly once a semester to review these rules.
4. **Increased Fisher security outdoor policing and video surveillance on the entire A/B Beacon block:** This proposal constitutes three elements:

First, the Committee wishes to see substantially increased outdoor patrols by Fisher police on a 24/7 basis – during the day, to patrol to deal with issues such as smoking, littering, jaywalking and sidewalk obstruction (as well as vendor/bus doubleparking); and at night, to deal with noise, jaywalking and alcohol/drug issues. As previously noted in our transportation discussions, enhanced security will be needed to implement any transportation issues regarding Back Street as well as Beacon Street.

In our opinion, having a Fisher police staffer monitoring remotely does not deter misbehavior, and the indoor staffers rarely leave their desk to deal with low-intensity issues (like a group of 4-5 students in front of 116 Beacon talking loudly for 5-10 minutes at 2AM on a Saturday morning).

Second, we wish to increase Fisher's video surveillance on the A/B Beacon block, in a manner consistent with BBAC requirements. We believe that if students (and drug dealers) know that the block is being monitored by video, they will behave better and/or avoid the block entirely. In addition, if there is a complaint by a neighbor, Fisher will be in a better position to ID the violators.

Third, we want see Fisher's patrols extended from its current Fisher property sweeps to the entire A/B Beacon block, including Back Street and the cross-streets (Berkeley and Mugar). This because we have observed that enforcement in front of Fisher simply pushes the problems in front (or back) of our residential buildings.

5. **Courteous treatment of neighbor complaints:** Fisher should encourage neighbors to call with any issues and to deal with them courteously and promptly. There needs to be an end to the 'how do you know it is a Fisher student' mantra, which has resulted in neighbors giving up on contacting Fisher security.
6. **Increased enforcement of violations, with escalating penalties.** Having police and video presence is irrelevant if Fisher treats violations as nuisance issues imposed by neighborhood pressure that it does not enforce. The Committee needs reassurances that Fisher will treat these student behavior issues seriously, enforce the rules if possible to deal with transgressions in real time, and punish transgressions after the fact.
7. **Maintenance of a database on incidents and enforcement.** Fisher should maintain a database tracking incidents and enforcement. These data (with appropriate redacting of individual names) should be made available to the community for inspection. In addition, Fisher should prepare reports showing aggregate results and comparing these to previous periods.
8. **Quarterly meeting with neighbors and City Neighborhood services to discuss issues on an ongoing basis.** Given that there currently is low faith that Fisher will implement these steps, we propose that Fisher should meet at least quarterly with

neighbors and City Neighborhood services to discuss any issue and to decide on next steps, as needed.

* * * * *

Topic-Specific Proposals

9. **Smoking:** Fisher should become a 100% non-smoking campus with no designated smoking area. There also should be no smoking on the A/B Beacon block, including Back, Berkeley and Mugar; to be extended if necessary. Fisher should amend its Code of Conduct and Employee Manual accordingly.
10. **Litter:** Fisher's maintenance staff should clean up litter on the entire A/B Beacon Street at least weekly.
11. **Dorms:** Fisher should not rent out rooms to non-Fisher students, including transient groups during vacation periods.

Appendix:
Michael Weingarten Memo
on Noise and Public Drinking
(January 29, 2014)

Michael Weingarten
120 Beacon Street #4
Boston, MA 02116
mikew@signallake.com

January 29, 2014

Fisher Weekend Noise and Public Drinking

Overview

This memo discusses my concerns regarding Fisher's failure to deal with an unacceptable level of early morning noise and drinking occurring on weekends. Fisher's failure comes despite the fact that:

- I brought this issue to Fisher's attention in October in four emails. These were ignored or rejected.
- The fix is obvious – proactive outdoor Fisher police patrols on Beacon Street from midnight to 4:00 AM on Saturday and Sunday mornings.
- The cost for the extra coverage is trivial relative to Fisher's annual cashflow. Two additional four-hour shifts from midnight to 4:00 AM on Saturday and Sunday mornings for 28 non-holiday weeks @ \$20/hour⁷⁵ = \$4,480. To the extent that Fisher's summer dorm rental practices cause similar problems, the number of weeks should be extended accordingly at low cost.

This raises concerns that Fisher either is unable or unwilling to deal with these questions effectively.

* * * * *

Detailed Analysis

Starting Point: Fisher Policy on Noise

Fisher's Student Code of Conduct contains the following section on *Noise and Quiet Hours*, which mandates quiet on Friday and Saturday evenings hours after midnight, and requires dorm students "to monitor their noise levels when returning to the college during early morning hours. Any student who is confronted by a member of Public Safety or Residential Life for excessive noise will face sanctioning."

In theory, then, Fisher already has in place regulations for dealing with early morning street noise.

⁷⁵ From mid-2000s data in <http://masscops.com/threads/new-fisher-college-police-department.9722/>, the average salary is in the \$10/\$20 per hour range.

NOISE AND QUIET HOURS

The primary aim of Housing and Residential Life is to maintain an atmosphere conducive to the pursuit of residents' academic goals and to provide an opportunity for uninterrupted study and rest. College quiet hours have been established to respect the rights of all residents. The cooperation of every resident is expected for the maintenance of an atmosphere conducive to study. Residents are expected to be respectful and considerate at all times; however, certain hours have been specifically designated as quiet hours. Noise should be confined to individual rooms.

Sunday – Thursday 10:00 p.m. – 10:00 a.m.

Friday & Saturday 12:00 a.m. – 10:00 a.m.

All residents should respect the rights of other residents to read, to study, and to sleep without interference. Undue disturbance or unreasonable noise will not be tolerated. Residents found responsible for violating quiet hours will be subject to disciplinary action. Any noise that is deemed by a Resident Director, Resident Assistant, or Public Safety, to be too loud, warrants the immediate removal of the source of the noise. Definitions of "too loud" are subject to whatever these authorities deem as uncomfortable or potentially noisy to residents of surroundings areas. This policy is not restricted to time of day and pertains to noise on and about Fisher College property.

Please be advised that all buildings have 24 hour courtesy hours and we expect students to comply with requests to reduce noise at any time of the day. During the period of final exams, quiet hours are in effect for 24 hours and no overnight guests are allowed in the Residence Halls.

Complaints of excessive residence hall noise, which interferes with classes and business in College offices, are occasionally received by the Department of Public Safety and will be addressed. Residents are prohibited from placing stereo speakers in their windows with the sound directed outside or operating any other device that unduly disturbs the peace of the College and neighboring community.

Residents are required to monitor their noise levels when returning to the college during early morning hours. Any student who is confronted by a member of Public Safety or Residential Life for excessive noise will face sanctioning. – Student Code of Conduct, pp.141-142

Fisher Policy on Alcohol

Fisher's Code of Conduct also contains a strong prohibition on student/guest use of alcohol on College premises. The definition of College premises includes "adjacent streets and sidewalks."

Fisher College prohibits the unlawful possession, use or distribution of illicit drugs and alcohol by any student of the College while on College premises... – Student Code of Conduct p. 131

Use of Alcohol on Campus

(1) Although in the Commonwealth of Massachusetts the legal drinking age is 21, at Fisher College, no student, regardless of age, may possess, consume, or transport alcohol onto the Fisher College campus. At certain times the College may hold an event and alcohol may be served to those who are of legal drinking age.

(2) A student's use of alcoholic beverages, disruption of the community or action endangering individuals within the Fisher College community or their guest(s) as a result of such use, is/are subject to investigation.

(3) Any guest(s) on the campus is/are subject to the same policy as any member of the Fisher College community, and guest(s) are the responsibility of the Fisher College student host.

– Student Code of Conduct p.132

The term "College premises" includes all land, buildings, facilities, and the property in the possession of or owned, rented, used or controlled by the College (including adjacent streets and sidewalks). – Student Code of Conduct p. 116

Fisher's Claims of Effective Police Monitoring/Supervision

In its June 2013 IMPNF, Fisher repeatedly touts the quality of its police force⁷⁶ as providing close monitoring/supervision of student behavior as well as protection for abutting residents:

*The active 24-hour presence of the Campus Police allows a level of oversight and enforcement that is unique among Boston's college campuses in that Campus Police headquarters is in the heart of the Fisher dormitories, and embedded in the very tight perimeter of its facilities. Not only does the police presence reinforce the safety of students, but it also **provides an additional layer of protection for residents too – whether from unwanted student behavior or from the dangers and inconveniences that can present themselves in the center of a big city.** -- IMPNF p. 20*

*The Fisher College Police Department operates 24 hours a day, 7 days a week, 365 days a year, including holidays and vacation periods to **provide for the security and protection of all students, staff and employees, along with residents and visitors in and around the Beacon and Arlington Streets blocks...***

Public Safety officers are authorized by the college to enforce rules and regulations and to assist police officers to serve and protect Fisher community. Fisher College Police Department communicates, cooperates, and collaborates with the Boston Police Department, Massachusetts State Police, and other Campus Police Departments throughout Boston to ensure the safety of students, staff, and faculty and by extension, resident and visitors in their area.

Fisher College Police Officers patrol the neighborhood regularly and investigate any suspicious activities or people they encounter. Public Safety officers are primarily used inside buildings to maintain a fixed post, perform interior safety checks of buildings, enforce college rules and regulations, monitor surveillance cameras and deter criminal activity. -- IMPNF p.42.

*Because the abutting streets and alleys serve the Fisher community, Fisher's Campus Police **function as a reassuring presence as they patrol the blocks in the vicinity of Fisher buildings.** The extra security provided by patrols and security cameras, in addition to Boston police presence, **contributes to the feeling of safety that students, faculty and neighbors experience when they walk in this area, especially at night.** -- IMPNF p. 45*

*Fisher is presenting proposals in this IMPNF [for additional dorms] to locate them where police and administrators can monitor student behavior and inculcate the respectful attitude it expects from the members of the Fisher community, and **provide extra protection and security for students and residents alike.** -- IMPNF p. 18*

Thus, Fisher has appropriate anti-noise policies in place to deal with street noise, and it has a police force that can enforce these regulations.

Reaction: Poor Fisher Performance

Unfortunately, our recent experience is that Fisher is doing a poor job monitoring student noise and alcohol consumption behavior on Friday and Saturday nights (in one case, we found syringes on the front garden at 122 Beacon). As evidence, see the photos in the Appendix.

In particular, there does not appear to be an active Fisher police outdoor presence on Beacon Street during the critical 12:00 AM to 4:00 AM period, when students and their friends are coming back from bars – often intoxicated – and talking loudly on the street. As a result, we are finding it increasingly difficult to get a full night's sleep on weekends.

There also is drinking taking place on Back Street, with beer bottles being left on the green strip behind 120 Beacon (see Appendix photos).

⁷⁶ A somewhat dated 2005 blog thread makes a number of scathing comments about the Fisher police force. See <http://masscops.com/threads/new-fisher-college-police-department.9722/>

Based on our experience as long-standing Beacon Street residents, the level of weekend noise and apparent alcohol usage, which had improved substantially in recent years, has degraded to levels we have not seen in a decade. This is despite the fact that Fisher has touted its early 2013 hiring of Chief William Chase as Director of Public Safety as adding a new level of professionalism.

In addition to renewed noise levels, we are seeing evidence this year that students and/or their guests are drinking on the street during early morning weekend hours, typically between 120 and 124 Beacon – just beyond the perimeter of the Fisher College properties. Apparently, Fisher's police department is only concerned about bad behavior in the direct Fisher College perimeter – ignoring that fact that this approach is pushing students to drink on the privately owned parts of the block just out of police and video camera range.⁷⁷

As a result, we have been finding empty liquor and beer bottles on numerous occasions on the sidewalks/streets on Beacon as well as Back Street. At this point, we have come to expect to see empties on the sidewalk as a standard behavior.

Complaints to Fisher

In four emails sent to Fisher in October (or to other parties who forwarded my emails to Fisher), I made these concerns known to the College (attached photos not included here but are listed later in this memo):

From: Michael Weingarten <mikew@signallake.com>
Subject: Public Noise and Drinking Issue
Date: October 1, 2013 at 11:42:55 AM EDT
To: Shaina Aubourg <Shaina.Aubourg@cityofboston.gov>, Katelyn Sullivan <Katelyn.Sullivan.BRA@cityofboston.gov>, linda.kowalcky.BRA@cityofboston.gov, Howard Kassler <hmkassler@verizon.net>, Jacquelin Yessian <jyessian@gmail.com>, Vicki Smith <VSmith0513@aol.com>, Vic Castellani <vic_castellani@msn.com>, Sue Prindle <sprindl@verizon.net>, Kate Shepherd <kathrynshepherd@yahoo.com>, "Claude Cicchetti (claude.cicchetti@gmail.com)" <claude.cicchetti@gmail.com>, Ned Gray <nagray@delinvest.com>, "Dina Catini (dinacatani@gmail.com)" <dinacatani@gmail.com>, Edward Zuker <ezuker@chestnuthillrealty.com>, Peter Sherin <petermsherin@gmail.com>, livingstone.james@gmail.com, "Ross, Michael (City Council)" <Michael.Ross@cityofboston.gov>, Sarah Hinton <Sarah.Hinton@cityofboston.gov>, perkinsfs@aol.com, susanmorrisuk@yahoo.com, tony@morris-company.com, bob.robbins@catchpointpartners.com, ellen.robbins@robbins.eh@gmail.com>

As a separate issue from my traffic email string, I wish to bring to your attention an incident that occurred early last Saturday morning on September 27 around 4AM. There were loud noises that sounded as though they came from young people. Earlier that evening at around 2AM, a car pulled up and kept making brief soft honking noises (presumably to summon people from the dorms; for drug deals?). My wife and I were too tired to call the police.

The next morning, we found an empty bottle of Captain Morgan rum in front of the tree at 122 Beacon (see photo). Since the Fisher police only seem to watch their own buildings and sidewalks, this pushes students to misbehave in front of residential properties.

Fisher prides itself on its enhanced policing capabilities (see IMPNF statements below), but it certainly was not evidenced last Friday night/Saturday morning.

I demand the right to sleep on weekends without interference. Next time this happens, I'll call 911. I will encourage my neighbors to do the same

⁷⁷ Residents at the BRA public hearings in May and June raised the perimeter problem repeatedly. Apparently, Fisher doesn't listen to what we say.

From Fisher IMPNF

... police and administrators can monitor student behavior and inculcate the respectful attitude it expects from the members of the Fisher community, and provide extra protection and security for students and residents alike.

The active 24-hour presence of the Campus Police allows a level of oversight and enforcement that is unique among Boston's college campuses in that Campus Police headquarters is in the heart of the Fisher dormitories, and embedded in the very tight perimeter of its facilities. Not only does the police presence reinforce the safety of students, but it also provides an additional layer of protection for residents too – whether from unwanted student behavior or from the dangers and inconveniences that can present themselves in the center of a big city.

From: "Aubourg, Shaina" <Shaina.Aubourg@cityofboston.gov>
Subject: RE: Public Noise and Drinking Issue
Date: October 1, 2013 at 4:16:04 PM EDT
To: "Michael Weingarten" <mikew@signallake.com>, "Sullivan, Katelyn" <Katelyn.Sullivan.bra@cityofboston.gov>, "Kowalcky, Linda" <Linda.Kowalcky.bra@cityofboston.gov>, Howard Kassler <hmkassler@verizon.net>, Jacquelin Yessian <jyessian@gmail.com>, Vicki Smith <VSmith0513@aol.com>, Vic Castellani <vic_castellani@msn.com>, Sue Prindle <sprindl@verizon.net>, Kate Shepherd <kathrynshepherd@yahoo.com>, "Claude Cicchetti (claude.cicchetti@gmail.com)" <claude.cicchetti@gmail.com>, Ned Gray <nagray@delinvest.com>, "Dina Catini (dinacatani@gmail.com)" <dinacatani@gmail.com>, Edward Zuker <ezuker@chestnuthillrealty.com>, Peter Sherin <petermsherin@gmail.com>, "livingstone.james@gmail.com" <livingstone.james@gmail.com>, "Ross, Michael (City Council)" <Michael.Ross@cityofboston.gov>, "Hinton, Sarah" <Sarah.Hinton@cityofboston.gov>, "perkinsfs@aol.com" <perkinsfs@aol.com>, "susanmorrisuk@yahoo.com" <susanmorrisuk@yahoo.com>, "tony@morris-company.com" <tony@morris-company.com>, "bob.robbins@catchpointpartners.com" <bob.robbins@catchpointpartners.com>, ellen robbins <robbins.eh@gmail.com>
Cc: "slally@fisher.edu" <slally@fisher.edu>

Hi Michael,

I am looping in Shiela Lally who is the Dean of Students for Fisher College.

Best,
Shaina Aubourg

From: Michael Weingarten <mikew@signallake.com>
Subject: Fisher Complaint and a Suggestion
Date: October 7, 2013 at 4:15:15 PM EDT
To: Shaina Aubourg <Shaina.Aubourg@cityofboston.gov>
Cc: Katelyn Sullivan <Katelyn.Sullivan.bra@cityofboston.gov>, "Kowalcky, Linda" <Linda.Kowalcky.bra@cityofboston.gov>, Howard Kassler <hmkassler@verizon.net>, Jacquelin Yessian <jyessian@gmail.com>, Vicki Smith <VSmith0513@aol.com>, Vic Castellani <vic_castellani@msn.com>, Sue Prindle <sprindl@verizon.net>, Kate Shepherd <kathrynshepherd@yahoo.com>, "Claude Cicchetti (claude.cicchetti@gmail.com)" <claude.cicchetti@gmail.com>, Ned Gray <nagray@delinvest.com>, "Dina Catini (dinacatani@gmail.com)" <dinacatani@gmail.com>, Edward Zuker <ezuker@chestnuthillrealty.com>, Peter Sherin <petermsherin@gmail.com>, livingstone.james@gmail.com, "Ross, Michael (City Council)" <Michael.Ross@cityofboston.gov>, Sarah Hinton <Sarah.Hinton@cityofboston.gov>, perkinsfs@aol.com, susanmorrisuk@yahoo.com, tony@morris-company.com, bob.robbins@catchpointpartners.com, ellen robbins <robbins.eh@gmail.com>

For the second Friday night in a row, Fisher students kept me awake on Friday night/Saturday morning. Things definitely seem worse than in recent years -- and Sheila Lally never responded to my earlier email that you forwarded to her last week.

At 115 AM, my wife and I were awoken by a group of young women talking loudly outside of 116 Beacon (see photo). They were trying to hail a cab -- for around 20 minutes or so. There were no

Fisher police outside asking them to stop making noise. I called 911 to complain.

I then tried to go to sleep but I kept hearing more noises, this time by young men from somewhere on the block, around 220 AM. When I checked the window, I saw a Fisher policeman in front of 116 Beacon, just standing there and looking at the source of the noise doing nothing (see photo). Finally I saw a group of 10-15 young men going into 131 or 133 Beacon (they had been obscured by a tree until they went up the stairs; not able to take a clear photo in time). The Fisher cop did nothing.

I would like for this to stop, so that I can get some sleep on Friday nights. It may be that my neighbor Claude Cicchetti is right and there simply is no way to get college students to behave -- which is why Fisher should move out of Back Bay entirely -- or at least all of their dorms.

But in the meantime, I would like to suggest that having two Fisher police outside from 1230-430AM on each side of the block on weekend nights would be a good start -- along with a directive to stop noise proactively rather than waiting for resident complaints.

From: Michael Weingarten <MIKEW@SIGNALLAKE.COM>
Subject: Friday Night (in advance)
Date: October 11, 2013 at 7:50:35 AM EDT
To: Shiela Lally <slally@fisher.edu>

Sheila,

As you undoubtedly know, my wife and I (and presumably others on the block) have been awakened for the past two weeks by student noise on Friday nights/Saturday mornings between 1-430 AM. I am asking you in advance to take whatever steps are necessary to ensure that this does not happen tonight, or on future weekends.

From: Michael Weingarten <MIKEW@SIGNALLAKE.COM>
Subject: Saturday Night Noise
Date: October 20, 2013 at 9:35:06 AM EDT
To: Shiela Lally <slally@fisher.edu>, wchase@fisher.edu
Cc: Shaina Aubourg <Shaina.Aubourg@cityofboston.gov>, Katelyn Sullivan <Katelyn.Sullivan.bra@cityofboston.gov>, Linda Kowalcky <Linda.Kowalcky.bra@cityofboston.gov>, Howard Kassler <hmkassler@verizon.net>, Jacquelin Yessian <jyessian@gmail.com>, Vicki Smith <VSmith0513@aol.com>, Vic Castellani <vic_castellani@msn.com>, Sue Prindle <sprindl@verizon.net>, Kate Shepherd <kathrynshepherd@yahoo.com>, Jonathan Shepherd <jonathanchoateshepherd@yahoo.com>, "Claude Cicchetti" <claudc.cicchetti@gmail.com>, Ned Gray <nagray@delinvest.com>, "Dina Catini" <dinacatani@gmail.com>, Edward Zuker <ezuker@chestnuthillrealty.com>, Peter Sherin <petersherin@gmail.com>, livingstone.james@gmail.com, "Ross, Michael (City Council)" <Michael.Ross@cityofboston.gov>, Sarah Hinton <Sarah.Hinton@cityofboston.gov>, perkinsfs@aol.com, Susan Morris <susanmorrisuk@yahoo.com>, bob.robbins@catchpointpartners.com, ellen robbins <robbins.eh@gmail.com>

On Saturday night (Sunday morning) around 2AM in the morning, my wife and I were awakened by loud talking noise by two groups of around 3 young men each. One group was parked right in front of our building at 120 Beacon and were talking for 15-20 minutes in front of their car (see photo) before going into Fisher's 116 Beacon entrance. They then returned 20 minutes later and started talking again.

A second group started talking at 116 Beacon and then crossed the street, sitting on the stoop at 129/131 Beacon. They then went into the white car parked on that side of the street.

Although I called 911 to complain, I again ask that Fisher do a better job of policing its students. 2AM is when bars close in Boston, so this is when students return back to Fisher. You need to have your police out on the street proactively policing your students and/or their friends.

Fisher's Response to Complaints

If Fisher wished to deal with these concerns, it could have responded along the following lines:

- We value our relationship with our neighbors, and wish to be good members of the Back Bay community.
- We're sorry that you have been disturbed by noise from the street.
- While it is unclear that Fisher students were the source of the noise in each and every instance, we are concerned enough by the continuing incidents that we plan to institute the following steps:
 - We will assign a Fisher police officer to patrol Beacon Street outdoors on Saturday and Sunday early AM during the hours of 12 midnight to 4 AM
 - The police officer will patrol all of Beacon Street between Arlington and Berkeley, not just the areas directly in front of Fisher properties
 - The Student Code of Conduct will be amended to include explicitly the entire Beacon Street block in its definition of "College Premises" in addition to its current "adjacent streets and sidewalks" terminology.⁷⁸
 - The police officer will attempt to deal with student/guest violations in real time
 - The police officer will create a digital photo or video record along with an incident report, and provide these to the Dean of Students for disciplinary action.
 - Fisher will work cooperatively with local residents to deal with the problems that I described.

Unfortunately, this is not what Fisher did:

- Fisher's response to my initial October 1 email was to ignore my complaints entirely.
- In response to my October 11 email, Peter Gori replied for Fisher. His email rejected the validity of the complaints I made in my previous emails (October 1, October 11 and possibly October 7); said that Fisher was doing everything that it should be doing; and that if I had any issues, I should report them to the Fisher Police.

From: "Gori, Peter D" <Peter.Gori@colliers.com>
Subject: Note to Shiela
Date: October 11, 2013 at 5:16:12 PM EDT
To: "MIKEW@SIGNALLAKE.COM" <MIKEW@signallake.com>
Cc: Shiela Lally <slally@fisher.edu>, "wchase@fisher.edu" <wchase@fisher.edu>

Hi Mr. Weingarten,

We are in receipt of your note to Shiela and I assure you, as we do every day and night, we will remain vigilant with regard to our students' behavior.

If you have any issues, please contact the Fisher College Police at 617-236-8880 or the Boston Police at 911 as we have repeatedly asked neighbors to do in order that we may catalog the date, time, and circumstances of any such incidents that you have experienced or are predicting.

We are also well aware of the incidents that you have incorrectly attributed to our students in the past two weeks and the incident with the Sysco Truck breakdown (which was also completely incorrect) and will be preparing a thorough response.

⁷⁸ To the extent that Fisher is allowed to use 10/11 Arlington for institutional purposes, a similar designation would be needed for Arlington from Beacon to Commonwealth.

Have a nice weekend,
Peter

- In response to my October 20 email, Shiela Lally sent me a reply email dated October 22, in which she said that:
 - Any noise may have been due to students concerned about four of their classmates being assaulted in Copley Square (and therefore perhaps understandable under the circumstances),
 - The police did not control the noise because they had more important matters to deal with.

She then reiterated Gori's position that Fisher's Police Department would continue to provide a police presence on Beacon Street and that I should address any issues to them directly in real time.

From: Shiela Lally <slally@Fisher.edu>
Subject: Saturday Night Noise
Date: October 22, 2013 at 12:42:35 PM EDT
To: Michael Weingarten <MIKEW@SIGNALLAKE.COM>
Cc: Shaina Aubourg <Shaina.Aubourg@cityofboston.gov>, Katelyn Sullivan <Katelyn.Sullivan.bra@cityofboston.gov>, Linda Kowalcky <Linda.Kowalcky.bra@cityofboston.gov>, Howard Kassler <hmkassler@verizon.net>, Jacquelin Yessian <jyessian@gmail.com>, Vicki Smith <VSmith0513@aol.com>, Vic Castellani <vic_castellani@msn.com>, Sue Prindle <sprindl@verizon.net>, Kate Shepherd <kathrynshepherd@yahoo.com>, Jonathan Shepherd <jonathanchoateshepherd@yahoo.com>, "Claude Cicchetti" <claude.cicchetti@gmail.com>, Ned Gray <nagray@delinvest.com>, "Dina Catini" <dinacatani@gmail.com>, Edward Zuker <ezuker@chestnuthillrealty.com>, Peter Sherin <petersherin@gmail.com>, "livingstone.james@gmail.com" <livingstone.james@gmail.com>, "Ross, Michael (City Council)" <Michael.Ross@cityofboston.gov>, Sarah Hinton <Sarah.Hinton@cityofboston.gov>, "perkinsfs@aol.com" <perkinsfs@aol.com>, Susan Morris <susanmorrisuk@yahoo.com>, "bob.robbs@catchpointpartners.com" <bob.robbs@catchpointpartners.com>, ellen robbs <robbs.eh@gmail.com>, Caroline Rende <crende@Fisher.edu>, "Gori, Peter D" <Peter.Gori@colliers.com>, Jennifer Courtney <jcourtney@Fisher.edu>, Steve Rich <srich@Fisher.edu>

Michael,

As you can see from the email below in anticipation of the Red Sox ACLS playoff game the city of Boston asked all Colleges to send out a memo to students on behalf of Supt William Evans regarding the weekend ALCS series.

Fisher delivered this memo to all students on Friday as well as a reminder about appropriate behavior in the community. We also added an additional officer on duty Saturday night in anticipation of any excitement from a red sox win.

The game ended at approximately 12:15am and there were no incidents reported. Unfortunately, at approximately 2am four of our Fisher College students were attacked and robbed in Copley square by approximately six men.

Three Fisher students were hospitalized and one is currently in intensive care at MGH. As you can imagine Fisher Police and Boston Police were busy trying to manage the situation and investigation and therefore any noise you may have heard after 2am could have gone unnoticed due to this incident. I've also been informed by campus police that some friends of the injured students traveled to the hospital and a vehicle picked them up out front. However, I do not know if this is the vehicle that you refer to.

We will continue to have a police presence on Beacon Street and will continue to monitor

our students and enforce our Student Code of Conduct. We will also have additional officers on patrol during the World Series games to assist with any potential student and pedestrian traffic and/or noise.

In the future I urge you to call campus police directly at 617-236-8880 as they are able to respond in a more timely manner than receipt of an email days after the incident.

Thank you,
Shiela Lally, J.D.
Dean of Students
Fisher College

[Note: there are some troubling inconsistencies in Lally's claims as compared to the official Boston Police Department Crime Report and other evidence. We address these in a postscript.]

In sum, rather than responding to my emails in a constructive manner, Fisher has either ignored my complaints entirely or taken a stance that:

- My complaints are simply wrong
- Fisher's police department is doing a fine job dealing with student noise issues
- The events of October 20 were due to understandable student upset over a violent robbery
- If I have a complaint, I should call the Fisher police department in real time.

Post October Developments

In the six weeks since October, my wife and I continue to hear sporadic noise during early weekend morning hours. Generally, by the time we are about to call 911 to complain, the noise stops. On multiple occasions, the next morning, we see liquor and beer bottles (or beer cups) on the sidewalk between 120 and 124 Beacon.

As a result, we don't see that our complaints have led to any substantive improvement by Fisher.

Conclusions

It would be easy for Fisher to solve the noise and drinking problems, by instituting proactive outdoor Fisher police patrols on Beacon Street from midnight to 4:00 AM on Saturday and Sunday mornings.

This should be separate from the current police officer manning the desk at 116 Beacon. A policeman sitting at a desk cannot deal with the issues we describe here.

The cost for the extra coverage is trivial. Two four hour shifts from midnight to 4 AM on Saturday and Sunday mornings for 28 non-holiday weeks @ \$20/hour = \$4,480. If Fisher's summer dorm rental practices cause similar problems, the number of weeks should be extended accordingly.

Unfortunately, Fisher's non-response to my October complaints suggests that it apparently will not listen to the community, unless forced by the City and the BRA.

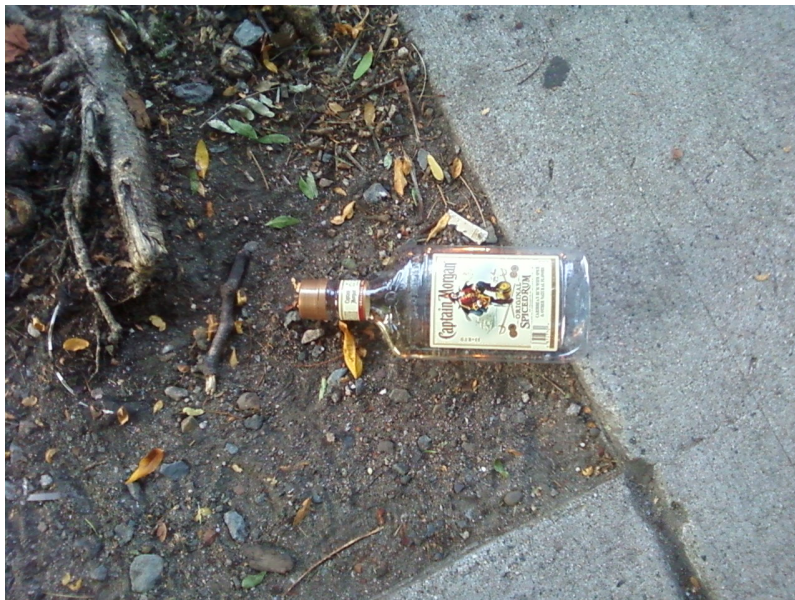
Accordingly, we urge that the City of Boston and the BRA make it clear to Fisher that its failure to deal with these concerns are grounds for rejecting its plans to grow its footprint in the Back Bay; and in particular, Project 1's plan for an increase of 48 beds in existing dorms.

* * * * *

Appendix: Photographic Evidence

Saturday September 28, 2013 6:20 AM

Liquor bottle by tree in front of 120 Beacon



Saturday October 5, 2013 1:18 AM

***Group of women leaving 116 Beacon talking loudly for 20-25 minutes
and trying to hail a cab***



Saturday October 5, 2013 2:19 AM

Fisher policeman taking a smoking break; does nothing as a group of young men talking loudly go into dorms across the street (no clear photo available)



Saturday October 5, 2013 2:25 AM

Blurred picture of young men entering dorm



Early October 2013
Syringes found on front garden at 122 Beacon



Sunday October 20, 2013 1:55 AM
Young men parked in white car and talking loudly in front of 120 Beacon



Sunday October 20, 2013 1:56 AM

***Second group of young men talking loudly in front of 116 Beacon
and jaywalking to the dorm at 133 Beacon***



Sunday October 20, 2013 1:57 AM

***Second group of young men talking loudly
in front of Fisher Dorm at 133 Beacon***



Monday November 11, 2013

Alcohol bottle on sidewalk curb in front of 120 Beacon



Sunday December 1, 2013 8:09 AM

Alcohol bottle on sidewalk curb in front of 120 Beacon



Monday December 2 9:27AM
Alcohol bottle on sidewalk in front of 122 Beacon



Friday December 6, 2013, 7:00 AM
Beer Bottle left on 120 Beacon front fence.
Previous night disturbed by loud voices,
(presumably by the beer drinkers at our entrance)



Saturday December 7, 2013, 7:47 AM

***One of two beer cups on road near curb in front of 122 Beacon.
Loud noises the previous morning***



Saturday December 7, 2013, 7:47 AM

***2nd of two beer cups on road near curb in front of 120 Beacon.
Loud noises the previous morning***



Wednesday December 11, 430 PM
Bottle of Southern Comfort near curb by 124 Beacon



Friday January 17, 830 AM
2 Bottles hidden under Post Office box in front of 124 Beacon
(2 days after start of Fisher Spring Semester on January 15;
no bottles seen during winter break)



Saturday January 18, 700 AM
1 Bottle on street near curb at 122 Beacon



Wednesday January 29, 830 AM
1 Sutter Home Wine Bottle on street near curb at 128 Beacon
next to Marlboro pack and Monster drink



Back Street Photos

Tuesday November 19, 12 noon
Heineken Beer Bottles on Grass Strip Behind Back Street

