GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16554 of James H. and Julie P. Edmonds for the Studio House School of the Arts, pursuant to 11 DCMR § 3104.1, for a special exception under Section 206 to establish and operate a private school in a D/R-3 district at premises 2306 Massachusetts Avenue, N.W. (Square 2507, Lots 4 and 5).

HEARING DATE: March 1, 2000

DECISION DATE: April 5, 2000

DECISION AND ORDER

Preliminary and Procedural Matters

Applicants. The applicants are James H. Edmonds and Julie P. Edmonds. They are represented in these proceedings by Cornish F. Hitchcock and Andrea C. Ferster.

Application. The Edmonds filed an application pursuant to 11 DCMR § 3104.1, 46 DCR 7853 (1999), with the Board of Zoning Adjustment on December 30, 1999, for a special exception under 11 DCMR § 206 (1995), to establish and operate a private music and art school at premises 2306 Massachusetts Avenue, N.W. (Square 2507, Lots 4 and 5), located in a D/R-3 zone district. The zoning relief requested in this application is self-certified pursuant to 11 DCMR § 3113.2.

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Notice of Application and Notice of Public Hearing. By memoranda dated January 14, 2000, the Office of Zoning advised the Office of Planning, the Zoning Administrator, and Advisory Neighborhood Commission (ANC) 1D, the ANC for the area within which the subject property is located, of the application.

The Board scheduled a public hearing on the application for March 1, 2000. Pursuant to 11 DCMR § 3113.13, the Office of Zoning, on January 19, 2000, mailed the applicants, the owners of all property within 200 feet of the subject property, and ANC 1D notice of the hearing. Notice was also published in 47 DCR 280 (Jan. 21, 2000). The applicants' affidavit of posting indicates that zoning posters were placed in front of the subject property on February 14, 2000, in plain view of the public.

Requests for Party Status. The following persons in opposition to the application timely requested party status: Richard and Elizabeth Turner, whose home shares a party wall with the subject property; Lois D. Rice, Rosalie and Simon Auster, and Irving Panzer, nearby

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homeowners; and the Sheridan-Kalorama Neighborhood Council, represented by Richard B. Nettler. The Board determined that the individuals requesting party status met the party status criteria of 11 DCMR § 3106.3 since they lived adjacent or in close proximity to the subject property and would thus be more significantly affected than the general public by the proposed zoning relief. The Board likewise granted the Sheridan-Kalorama Neighborhood Council party status since it represents property owners in close proximity to the subject property who asserted that the granting of the application would result in a reduction in their property values and interference with their right to quiet enjoyment of their property.

Applicants' Case. The applicants provided testimony and evidence from James H. Edmonds, the owner of the subject property and chief executive officer of the Studio House School of the Arts, regarding the proposed school operations, as well as testimony and evidence from George H.F. Oberlander, AICP, an expert in urban planning, and Professor Everett C. Carter, an expert on transportation, traffic, and parking matters.

Government Reports. There were no government reports in this case. The applicants submitted a letter from the United States Secret Service, Department of the Treasury. The Secret Service, which provides security for all foreign embassies located within the District of Columbia, has no objection to the proposed private school location based on security concerns.

The ANC Report. At a duly-noticed public meeting held February 9, 2000, with a quorum present, ANC 1D passed a resolution to oppose the application. Linda K. Bumbalo, ANC Chairperson, presented the ANC's written report, dated February 23, 2000, recommending denial. The ANC identified the following specific issues and concerns:

1. The application proposes too intense a use of the property;

2. The proposed stacked parking in the side yard is unrealistic and unsafe;

3. Dropping students off in the curb lane of Sheridan Circle is unrealistic, unsafe, and objectionable;

4. Nearby street parking is already inadequate; and

5. The proposed mixed use is not consistent with the original use of the property in that Alice Pike Barney had a salon for celebrity performances, was herself an artist, and did not conduct money-making ventures in the house seven-days a week.

Persons in Support of the Application. Frank M. Graves, a traffic engineer, spoke in support of the application. He also submitted a letter discussing historic preservation concerns, comparable music school operations, and traffic and parking conditions. The Board received letters supporting the application from Barbara Wing, Director of the Professional Studies Program, Levine School of Music, and JoAnn M. Williams, a music instructor and performing artist. The Friends of Alice Pike Barney Studio House, Inc., a private non-profit organization

dedicated to preserving and protecting Studio House, a historic landmark, submitted a letter stating that proposed private school use is consistent with the reasons for which the subject building has been found to be historically and architecturally significant and would have no adverse effect on the building.

Parties and Persons in Opposition to the Application. Rosalie M. Auster, Richard Turner, Richard Bowser, and Alan Hayes spoke in opposition to the proposed private school use. They asserted that the school use would increase traffic congestion, the risk of traffic accidents, and demand for street parking; further erode the residential character of the neighborhood, which they claim already has many chanceries and embassies; and add to the terrorism and security concerns presented by the foreign missions; and that music as well as noise and cigarette smoke from guests gathered outside for the recitals would adversely affect the adjacent property. Stephen G. Peterson, a traffic planning and engineering consultant, testified as an expert witness on behalf of the Sheridan-Kalorama Neighborhood Association.

The Board received letters in opposition to the application from Richard Bowser; Donna S. and Alan S. Hays II; Alan N. and Heather K. Jacobs; Ellen and Paul Hoff; Irene and Charles R. Tanguy and Charles R. Tanguy, Jr.; Carol Ann Kell; and Audre J. McLoughlin. These letters cited as objectionable conditions that would result from the proposed zoning relief, increased traffic; an existing shortage of street parking spaces, with illegal alley parking, which would worsen; safety concerns relating to the proposed drop-off and pick-up operation; concern that the premises would be rented out for private parties and functions; adverse impacts on the neighbors' quiet enjoyment of their property; and decreased property values. The Board also received a petition in opposition to the application signed by 28 individuals, citing similar concerns. The Dupont Circle Citizens Association opposed the application based on pedestrian and traffic safety concerns and the lack of sufficient parking for the student and guest recitals.

Closing of the Record. The record was closed at the conclusion of the hearing on March 1, 2000, with the exception of the parties' proposed findings of fact and conclusions, which were due on March 27.

Decision Meeting. At its decision meeting on April 5, 2000, the Board, by a 4 to 0 vote, with one member not present and not voting, denied the application.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The property that is the subject of this application is identified as Lots 4 and 5 in Square 2507. It is located on the southwest quadrant of Sheridan Circle and has an address of 2306 Massachusetts Avenue, N.W. It is zoned D/R-3, and is within the Ward 1 Sheridan-Kalorama neighborhood and the Massachusetts Avenue Historic District.

2. The property is trapezoidal in shape. It has a land area of 8600 square feet, with a frontage of 62 feet along Sheridan Circle to the north and 101 feet along the Rock Creek and Potomac Parkway to the south. The Embassy of the Republic of Korea is to the west. A single-family dwelling is to the east.

3. The property is developed with two buildings. The first, known as the Alice Pike Barney Studio House (Studio House), is located on Lot 4 and on part of Lot 5. It is a semi-detached dwelling with four upper floors, a basement, and a subbasement. It contains approximately 11,000 square feet, approximately 2,000 of which is basement and subbasement. Studio House has been designated a District of Columbia and National Register historic landmark based upon the property's association with events that made a significant contribution to the broad patterns of our history and with the lives of persons significant to our past. The first two interior floors are designated as historic on the District of Columbia Inventory of Historic Sites. The second building, located on Lot 5 to the west of Studio House, is a two-story accessory carriage house with 860 square feet of gross floor area.

4. Studio House and the carriage house were built in 1903 by Alice Pike Barney, a painter, playwright, patron of the arts, and suffragist. Mrs. Barney constructed and used the house as a residence, studio for the visual and performing arts, and salon for entertaining the political, intellectual, and artistic leaders of her day. After Mrs. Barney died in 1931, the property passed to her daughters, who leased it to such tenants as the Peruvian Embassy from 1925 to 1926; the Columbian Legation, a British Officers Club during World War II, from 1936 to 1938; and the National Capital Film Laboratories, Inc., from 1939 to 1949. In 1960, the property was donated to the Smithsonian Institution. Immediately before the Smithsonian acquisition, Studio House was either vacant or had no associated telephone listings. The Smithsonian used Studio House for office space, occasional tours, occasional receptions and entertaining, and special programs, including performances and exhibitions. The top two floors were occasionally used as apartments for visiting scholars and dignitaries. The Smithsonian closed Studio House to the public in 1991 due to the need for substantial repairs, and sold it to the applicants in late 1999.

5. The subject property is surrounded by similar detached and semi-detached residential buildings. Of the 14 neighboring properties within 200 feet, eight are owned by private individuals, while six are owned by foreign governments and operated as embassies or chanceries.

The Proposed Private School Use

6. Mr. Edmonds is the owner of Foxes Music Company in Falls Church, Virginia, which sells musical instruments, sheet music, and music education supplies and which operates a music school. Mr. Edmonds also operates a music school in Arlington, Virginia. The Edmonds propose to establish and operate the Studio House School of the Arts, a nonprofit corporation, at the subject property, a private school offering students of all ages and skill levels individual music instruction. The school would also offer group music instruction to very young children and adult group art instruction. In addition, the school would hold student and professional

and adult group art instruction. In addition, the school would hold student and professional recitals. If the application is granted, the Edmonds family would reside on the top two floors of Studio House. They have also offered to make Studio House available for public functions, such as the Dupont Circle Museum Tour. Mr. Edmonds stated that there would be no commercial sales at the promises, and that liquor would never be served or sold to the public on the premises.

7. Lesson Hours and Number of Students, Faculty, and Staff. On weekday mornings, the school would use the second floor of the carriage house to offer one one-hour group lesson in musical concepts per day to no more than eight children between the ages of four and six. Lessons would take place between 10:00 a.m. and noon. Thus, during morning hours, there would be up to eight students and one instructor on the property.

8. Studio House would be used for individual music lessons during the hours of 3:00 p.m. to 8:00 p.m., Monday through Thursday; 3:00 p.m. to 6:00 p.m. on Friday; and 9:00 a.m. to 2:00 p.m. on Saturday. The lessons would be 30, 45, and 60 minutes in duration. The school would conduct the lessons on the basement level, which presently contains two studios, to which the school would add seven studios. There would thus be no more than nine students and nine instructors in Studio House at any one time.

9. A group art class for up to eight adults, with one instructor, would be held in the carriage house from 7:00 p.m. to 9:00 p.m., Mondays through Thursdays.

10. The proposed schedule means that there would generally be a maximum of nine music students and nine instructors on the property during most hours of operation. For a one-hour period from 7:00 p.m. to 8:00 p.m. on Mondays through Thursdays, there would be a simultaneous group art lesson in the carriage house, which would bring the maximum number of students on the property to 17 and the maximum number of instructors to ten.

11. Staff would include a director, a registrar, a part-time custodian during the morning, and a part-time security guard/parking attendant during the afternoon, whose job would include escorting young students during drop-off and pick-up operations.

12. Student and Guest Recitals. As part of the music education program, the school would offer recitals by both students and professional musicians. The recitals would be scheduled on Friday evenings from 7:00 p.m. to 9:00 p.m. and on Sunday afternoons from 2:00 p.m. to 4:00 p.m. No lessons would be offered during these times, and only one recital would be held at any one time. Recitals would be held in the performance studios on the historically designated floors, several of which can seat 20 to 50 guests and the largest of which can seat 90 guests. Student recitals would generally consist of a single teacher presenting approximately 15 students to an audience of their families and friends. Guest recitalists would consist of small groups, such as trios or quartets. Once demand for student tickets had been met, the school would open the guest recitals to members of the public on a space-available basis.

13. The school would hold 40 student recitals each year, with 20 each in the fall and spring. Student recitals would be attended by up to 45 people, including the recitalists.

14. The school also plans to offer 24 professional guest recitals each year, with up to six each in the fall and spring. Up to 90 people would attend the guest recitals.

Noise Impacts

15. Lessons in the Studio House would be conducted in soundproofed basement rooms. No lessons or recitals would be held outdoors. The windows would be closed during recitals to prevent distractions from street sounds. The applicants did not anticipate that any music would reach the street given the thickness of the walls, including the 24-inch thick front walls. The side walls at 18-inches are similarly thick. There was no evidence to suggest that the music lessons in the Carriage House would create adverse noise impacts.

16. There are two small studios on the first and second floors along the party wall with the adjacent dwelling at 2304 Massachusetts Ave., N.W. The neighbor's bedrooms are next to these studios. In addition, the Studio House entranceway is adjacent to and below the neighbor's bedroom window. During a party held by the applicants, the neighbor was able to hear music and noise coming from these areas. Mr. Edmonds stated that he planned to install an acoustical curtain in front of the party wall. If that should prove to be insufficient, he would restrict recitals to the main studio area, which is in the rear of the house and does not share a party wall. He would also ask guests to remain in the building during recitals, to refrain from gathering at the entranceway, and to leave quietly once the recitals were over.

Traffic Impacts

17. The proposed private school would serve the entire metropolitan area, with most students coming from the District of Columbia. Most students would arrive at the school by vehicle. The Dupont Circle Metrorail station is located three blocks away. There are four Metrobus routes serving Sheridan Circle, with 44 buses entering the circle between 3:00 p.m. and 8:00 p.m. on weekdays. Students from the surrounding neighborhood would likely walk to the school. The applicants' traffic impact analysis, however, conservatively assumed that all the instructors and students would arrive and depart from the site by private vehicle.

18. Massachusetts Avenue is a major northwest-southeast arterial with two movement lanes around Sheridan Circle. The roadway in the circle is 40 feet wide. There are three unsignalized intersections with yield sign control, with two approach lanes on Massachusetts Avenue from the northwest and from the southeast and a single approach lane from 23rd Street.

19. The school will not operate during the morning peak hour, when traffic is primarily headed inbound on Massachusetts Avenue, directly in front of Studio House.

20. According to Professor Everett C. Carter, the applicants' traffic expert, the Sheridan Circle intersections operate at a Standard Level of Service "B" or better during the 5:00 p.m. to

6:00 p.m. afternoon peak hour. In Appendix B to his Supplemental Traffic Impact Study, dated February 14, 2000, Professor Carter describes Level of Service B as an excellent level of service, with a stable traffic flow, more platooning of vehicles, and less than ten percent of the cycles loaded, as compared with Level of Service A, which has a free flow of traffic, easily made turns, and excess green time on all phases. He observed some queuing outbound during the afternoon peak hour, with three or four vehicles held up by the traffic signal at 24th and Massachusetts Avenue. He stated that the school traffic, an addition of up to 36 vehicles per hour, would not affect the level of service. Stephen G. Peterson, the traffic expert for the Sheridan-Kalorama Neighborhood Council, however, criticized Professor Carter's use of the "critical lane technique" to determine Level of Service. According to Mr. Peterson, Level of Service at intersections is defined as average delay/vehicle and the critical lane technique does not measure delay. As stated below in finding of fact number 30, the Board does not accept the conclusions of the applicants' traffic studies.

21. The Q Street Bridge, which provides access to Georgetown, was closed for repairs in September 1999. It is scheduled to re-open in August 2000. Mr. Peterson stated that Sheridan Circle has between 25 to 50 percent less traffic now than when the bridge will re-open. One of the neighbors, a Q Street resident, stated that when the bridge is open, it is not unusual for evening traffic to back up at the Q Street and 23rd Street traffic light and into Sheridan Circle. Moreover, due to the left-turn prohibition at 22nd Street, drivers heading outbound on Massachusetts Avenue drive around the circle, past Studio House, to access 23rd Street and the Q Street Bridge. Frank M. Graves, a traffic engineer and person in support of the application, observed that the closure of the Q Street Bridge probably has had no effect on inbound traffic, which would simply travel one block further south to access the P Street Bridge. The Board finds that upon the re-opening of the Q Street Bridge, Sheridan Circle will carry significantly more traffic than it did at the time of the applicants' traffic studies.

22. Sheridan Circle had a total of three accidents each year for 1995, 1996, and 1997, three of which were injury accidents.

23. Moving from west to east along Massachusetts Avenue in the curb lane around Sheridan Circle, there are three Korean Embassy parking spaces, the Korean Embassy driveway, the Studio House driveway, two curbside parking spaces in front of Studio House and the adjacent residence, and then two diplomatic parking spaces in front of the Turkish Embassy. The area between the Korean Embassy driveway and the Studio House driveway is generally not used for parking because of the curb cuts.

24. The applicants propose to use both the curb parking lane and the outer traffic lane immediately in front of Studio House for drop-off and pick-up operations. Tr. at 207 (Mar. 1, 2000). Parents would drop-off or pick-up the students in the curb lane in the space between the Korean Embassy driveway and the Studio House driveway, in the space in front of the Studio House driveway, in the two parking spaces in front of Studio House and the adjacent residence, or in the outer traffic lane of Sheridan Circle in front of Studio House. Their vehicles would then re-enter or continue on in the traffic lanes around Sheridan Circle.

25. There might be as many as 18 vehicles attempting to drop-off or pickup students at any one time, not counting the vehicles dropping off the art students. Many of the students would be bringing their musical instruments with them, and there would be some delay as they unloaded and loaded the instruments.

26. The two curb parking spaces in front of Studio House and the adjacent residence are regularly used by others, including the adjacent and nearby neighbors, and might not be available for drop-off and pick-up.

27. According to the neighbors, many inbound vehicles drive in the curb lane and in excess of the speed limit around Sheridan Circle as they prepare to turn right on 23rd Street.

28. There is no place for a drop-off or pick-up queue to form. If the proposed drop-off zone were occupied, parents waiting to drop-off or pick-up their children in front of Studio House would confront the alternatives of parking illegally, potentially blocking the Korean Embassy driveway and backing up into inbound Massachusetts Avenue traffic; continuing to circle around Sheridan Circle; or double-parking in the traffic lane, any one of which would result in increased traffic congestion and pedestrian and traffic safety hazards.

29. Parents pulling out into the traffic lanes after dropping off or picking up students, particularly during the afternoon rush hour, could interfere with the traffic flow around Sheridan Circle and increase traffic congestion and the potential for traffic accidents.

30. The Board finds that the applicants' traffic studies are not reliable. First, there is a significant discrepancy in the peak hour traffic counts between the number of cars entering and exiting Sheridan Circle. Second, a traffic count taken on February 11, 2000, showed 64 more vehicles travelling around the Sheridan Circle during non-rush hour than during the December 9, 1999, rush hour traffic count. Third, the traffic studies were conducted at a time when the Q Street Bridge was closed for construction, and therefore did not accurately reflect the number of vehicles that typically use Sheridan Circle. Fourth, a 16-year old Department of Public Works traffic count, relied upon by the applicants (and which also contained counting discrepancies) showed significantly more vehicles entering Sheridan Circle than the applicants' 1999 peak hour counts. Finally, methods developed for modeling "round-about" traffic circles may have yielded a more accurate assessment of the traffic impacts of the proposed use than the "critical lane technique" used by the applicants. The applicants therefore may have significantly underestimated the traffic volumes in Sheridan Circle as well as the traffic impacts of the proposed use.

31. The Board also finds that while the number of vehicles associated with school traffic, potentially 36 vehicle trips per hour, might not in itself affect the Level of Service at the Sheridan Circle intersections, the proposed drop-off and pick-up operations, most of which would take place during busy afternoon hours, including the peak hour; the lack of space for queuing; and the use of a traffic lane for drop-off and pick-up could significantly increase traffic congestion and traffic safety hazards in the vicinity of Studio House.

Number of Students

32. The proposed lesson schedule would result in a constant stream of students arriving and departing throughout the afternoon and evening during the weekday and half a day on Saturdays. If the lessons were 30 minutes long, as many as 106 students and 11 instructors would be entering and leaving Studio House on Mondays through Thursdays. If each of these individuals were to arrive and depart by vehicle, it would add 234 vehicle trips to Sheridan Circle. While there would be a lesser number on Fridays (potentially as many as 62 students and 10 instructors) and Saturdays (potentially as many as 90 students and 9 instructors), recitals would take place on those days, bringing up to 90 guests to Studio House. Given the traffic and parking conditions described in this decision, the number of students presents an objectionable condition.

Parking Space

33. On-Site Parking. The applicants propose to provide eight stacked parking spaces in the side yard area between the Studio House and the carriage house. The Smithsonian had marked this area for eight spaces. The spaces are marked off at 9 feet by 19 feet. In addition, the carriage house provides one parking space, for a total of nine on-site parking spaces. The applicants propose to provide a parking attendant/security guard who would assist vehicles with parking and backing out of the driveway.

34. With most of the lessons beginning at 3:00 p.m. and ending at 8:00 p.m., the applicants anticipate that the teachers would arrive as a group shortly before 3:00 p.m. and then leave shortly after 8:00 p.m., with movements on and off the parking area during lesson hours unlikely. The applicants do not expect and would advise against parents remaining on-site during lessons.

35. The driveway is narrow. There is a wall on both sides of the entrance to the sideyard and a large tree where the driveway meets the sidewalk, obstructing visibility. For the vehicles parked in the inner spaces to back out of the parking area, at least one or two other vehicles would have to be first backed out into Sheridan Circle, potentially blocking the Korean Embassy driveway and interfering with the traffic lanes. Although Professor Carter claimed that there was sufficient room to back out, he acknowledged the potential for traffic accidents.

36. The applicants also noted that there are two triangular areas at the front of the lot that are currently landscaped that could be paved over to provide a wider parking lane and the large tree taken down.

37. Street Parking and Other Off-Street Parking. Street parking is limited, especially during the weekdays, primarily due to the operation of many foreign embassies and chanceries and diplomatic parking. Diplomatic parking restrictions apply from 7:00 a.m. to 6:30 p.m.

38. The applicants do not anticipate a need for street parking during the lesson periods, since most students would be dropped-off and picked-up; however, particularly for the shorter half-hour lessons, parents would likely wait nearby, requiring parking in the vicinity of the school.

39. Parking for the student and guest recitals, with up to 45 and 90 attendees respectively, would be a combination of off-street and street parking. In addition to the nine spaces available on the property, the applicants obtained a written commitment from the Westin Fairfax Hotel, located two blocks away, to provide ten parking spaces during recital periods. The remaining individuals driving to Studio House for the recitals would have to find street parking.

40. The applicants' traffic expert stated that he did not expect that there would be any problem finding street parking since the recitals would be scheduled during off-peak times of the day and week, when street parking restrictions, including those related to chanceries, are lifted. He conducted a survey on a Friday evening, finding between 32 and 38 spaces available in the general vicinity of Studio House.

41. The neighbors, however, observed that parking is often unavailable on Friday and Saturday evenings as a result of the many restaurants, movie houses, and establishments that draw people to the commercial neighborhood of P Street and Dupont Circle. They noted that the embassies often host affairs during the weeknights, while the nearby Church of the Pilgrims hosts many functions on weekend evenings. They stated that people often park illegally, creating safety hazards, blocking emergency vehicle access to the alleys, and blocking access to residential garages. The neighbors also explained that many dwellings in the immediate area do not have off-street parking, and that there is little commercial or private parking nearby.

42. While the applicants' traffic expert was able to find a large number of parking spaces during his survey, the Board finds the testimony of the neighbors, many of whom search for parking spaces on a regular basis, and the ANC report to be reliable evidence that street parking in the vicinity of Studio House is in short supply.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under the Zoning Act of June 20, 1938 (52 Stat. 797, as amended, D.C. Code § 5-424(g)(2) (1994)), to grant special exceptions as provided in the Zoning Regulations. The Edmonds applied under 11 DCMR § 3104.1 for a special exception pursuant to 11 DCMR § 206 to allow the use of the subject premises as a private school. The notice requirements of 11 DCMR § 3113 for the public hearing on the application have been met.

To meet their burden of proof under Subsection 3104.1, the applicants must demonstrate that the proposed private school use is in harmony with the general purpose and intent of the Zoning Regulations and Maps; that it will not adversely affect the use of the neighboring property in accordance with the Zoning Regulations and Maps; and that it meets the special conditions listed in Subsection 206 for private schools. Under Subsection 206.2, "The private school shall be located so that it is not likely to become objectionable to adjoining and nearby

property because of noise, traffic, number of students, or otherwise objectionable conditions." Under Subsection 206.3, "Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile."

The Board's discretion in reviewing a special exception application is limited to a determination of whether an applicant has complied with the requirements of these subsections. If the applicant meets its burden, the Board ordinarily must grant the application. *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 698 (D.C. 1981).

Further, the Board is required under D.C. Code § 1-261(d) (1999) to give "great weight" to the affected ANC's recommendation. The Board must "articulate why the particular ANC itself, given its vantage point, does – or does not – offer persuasive advice under the circumstances." *Kopff v. District of Columbia Alcoholic Beverage Control Bd.*, 381 A.2d 1372, 1384 (D.C. 1977). The Board has carefully considered the ANC's report and as discussed below finds the ANC's recommendation persuasive.

Based upon the findings of fact and having given great weight to the ANC's recommendations, the Board concludes that the proposed private school use does not meet the requirements of the Zoning Regulations. Specifically, the Board finds that the proposed use will adversely affect adjacent and nearby properties in the following respects.

1. Objectionable Conditions (11 DCMR § 206.2). First, the Board concludes under Subsection 206.2 that the proposed private school is likely to become objectionable to adjoining and nearby property because of traffic impacts and the number of students. The Board concludes that the proposed drop-off and pick-up operations and the proposed on-site parking arrangements would result in serious pedestrian and traffic safety hazards that cannot be effectively managed. These hazards will increase once the Q Street Bridge-related traffic returns to Sheridan Circle. They include lack of sufficient space to safely drop-off and pick-up students, including lack of space to form a queue; the proposed use of an active traffic lane on an arterial roadway to drop-off and pick-up students; safety hazards related to the traffic back-ups that would occur as drivers waited to drop-off and pick-up students and then re-entered or continued on in the traffic lane; and limited visibility and room to maneuver when backing a car out of the parking area. These conditions would also result in traffic congestion.

Given the likely traffic impacts, as well as the parking conditions discussed below, the Board concludes that the number of students and guests coming to Studio House for instruction and recitals is objectionable. The Board finds the ANC's report as to these conditions persuasive, and concludes under 11 DCMR § 206.2 that the traffic conditions and the number of students associated with the proposed private school use provide a sufficient basis upon which to deny the application.[1]

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[1] For the record, the Board concludes that other objectionable conditions likely to result from the proposed private school use could be mitigated. The Board concludes that there is some potential for music and noise, particularly during the recitals, to adversely affect the adjacent neighbor. The applicants proposed measures that would

2. The "Ample Parking" Requirement (11 DCMR § 206.3). The Board concludes that the applicants fail to meet the ample parking requirement of Subsection 206.3. But for the historic landmark exception discussed below, the applicable schedule of parking spaces in 11 DCMR § 2101.1 would require the proposed private school to provide two parking spaces for each three teachers and other employees, plus the greater of one space for each 20 classroom seats or one space for each 10 seats in the largest auditorium or area usable for public assembly. Under Subsection 2118.3, the number of teachers or employees is computed on the basis of the greatest number of persons to be employed at any one period of time, including both full-time and part-time employees. Under Subsection 2118.6, fractional spaces of one-half or greater are rounded up. The greatest number of teachers and employees at any one period of time would be ten teachers plus three staff, requiring nine spaces. The school would have 17 classroom seats (nine studio seats plus eight seats in the carriage house); thus no additional spaces would be required pursuant to the requirement of one space for each 20 classroom seats. However, the requirement of one space for each 10 seats in the largest area usable for public assembly, the 90-seat recital studio, would necessitate an additional nine spaces. Therefore, Chapter 21 requires a total of 18 parking spaces for the proposed private school use.

In addition, Subsection 2101.1 requires one parking space for each one-family dwelling unit. Under Subsection 2118.5, the required number of parking spaces for mixed uses is the sum of the requirements for the individual uses computed separately. Parking spaces for one use may not be considered as providing the required number of parking spaces for another use. Under Subsection 2116.1, all parking spaces must be located on the same lot with the buildings or structures they are intended to serve.[2] The parking space schedule in Chapter 21 therefore requires a total of 19 on-site parking spaces for the proposed residential and private school use. The Board thus disagrees with the ANC that the provision of nine spaces would satisfy the numerical requirements of the Zoning Regulations.

The parking space schedule, however, does not apply to buildings constructed before May 12, 1958. *See* 11 DCMR § 2100.1. But under Subsection 2100.4, upon changing the use of a building to a use that requires more parking spaces than required for the use existing immediately prior to the change, a property owner must provide additional parking spaces in an amount conforming to the requirements for the new use. In this case, the Smithsonian use existing immediately prior to the proposed private school use did not require any parking spaces pursuant to the Zoning Regulations since the Smithsonian Institute is an independent trust instrumentality of the United States. *See* Section 16 of the Zoning Act of June 20, 1938 (52 Stat. 802, D.C. Code § 5-432 (1994)) (federal buildings excepted from the Zoning Regulations).

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effectively mitigate these impacts. The ANC and community concerns that Studio House would be used in a manner inconsistent with its landmark designation or for commercial purposes could be addressed through appropriate conditions in the Board's order or through other provisions of law, and do not provide grounds for denying the application. Based upon the United States Secret Service letter dated February 14, 2000, the proposed school location does not present an objectionable impact on the security of nearby foreign missions.

[2] The Sheridan-Kalorama Neighborhood Council argues that the proposed parking area fails to meet this requirement since Studio House is located on Lot 4 while the carriage house and parking area are located on Lot 5. This technical objection could be addressed through special exception relief under 11 DCMR § 2116.5 or by combining the two lots through subdivision.

Subsection 2100.4 would thus ordinarily require the applicants to provide the 19 on-site parking spaces. However, Subsections 2100.4 and 2100.5 provide that additional parking is not required for historic landmarks. Chapter 21 therefore does not mandate the provision of on-site parking spaces for the proposed private school use.

Notwithstanding the historic landmark exception from the Chapter 21 parking space schedule, the proposed private school must provide sufficient parking to comply with other provisions of the Zoning Regulations. Subsection 206.3 requires that the proposed private school provide "ample parking" to accommodate the students, teachers, and visitors likely to come to the site by automobile, while Subsection 3104.1 requires that the proposed special exception not adversely affect the use of neighboring property. With the proposed half-hour lesson schedule, many parents would likely park near the school while waiting to pick up their children. In addition, older students driving to the school would require parking. The recital schedule would also create a significant demand for parking. The Board therefore concludes that the proposed parking arrangements do not provide a sufficient number of parking spaces to accommodate the students, teachers, staff, parents, visitors, and guests likely to come to the school by vehicle. The failure to provide ample parking would reduce the already limited amount of available street parking space and adversely affect the use of neighboring residential properties, many of which lack off-street parking.

Moreover, the proposed on-site parking arrangements present serious pedestrian and traffic safety hazards. The driveway is narrow, such that vehicles would have to be backed out across the public sidewalk and into the curb lane (and potentially into the outer traffic lane) of Sheridan Circle. Two side walls and a large tree restrict visibility, adding to the difficulty of pulling out safely into traffic. While the Smithsonian had marked off the parking area for nine spaces, the applicants did not provide any evidence related to the nature or pattern of use of those spaces. Since the Smithsonian parking area was not subject to District of Columbia zoning review, which would have among other considerations addressed the design of the parking area, the Board is reluctant to rely upon the Smithsonian usage as a basis for evaluating the proposed parking arrangements. The Board therefore concludes that the proposed parking arrangements would create objectionable public safety conditions.

3. General Requirements for Special Exceptions (11 DCMR § 3104.1). Subsection 3104.1 requires first that the proposed special exception be in harmony with the Zoning Regulations and Map. Studio House is located in a D/R-3 district. Under 11 DCMR § 320, an R-3 district is designed for row dwellings, which may be mingled with one-family detached and semi-detached dwellings and groups of three or more row dwellings. Property located in a Mixed Use Diplomatic (D) overlay zone may be used for embassy and chancery use if not disapproved by the Foreign Missions Board of Zoning Adjustment. Uses permitted with the Board of Zoning Adjustment approval include private schools. The Board concludes that but for the objectionable traffic and parking conditions discussed in this decision, the use of the subject property for a public school would be in harmony with the Zoning Regulations and Map.

Finally, the Board concludes that the applicants fail to meet the second requirement of Subsection 3104.1 that the proposed special exception not adversely affect the use of

neighboring properties. As discussed above with respect to the requirements of Section 206 for private school use, the Board concludes that the proposed school would result in a reduction in the amount of available street parking, an increase in traffic congestion, and serious pedestrian and traffic safety hazards. These impacts would adversely affect the use of neighboring property and require denial of the application.

For the reasons stated above, the Board concludes that the applicants have not met their burden of proof. It is hereby **ORDERED** that the application be **DENIED.**

VOTE: 4-0-1 (Robert N. Sockwell, Anthony J. Hood, Sheila Cross Reid, and Rodney L. Moulden to deny; Anne M. Renshaw not voting, not present).

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

Each concurring member has approved the issuance of this Decision and Order and authorized the undersigned to execute this Decision and Order on his or her behalf.

ATTESTED BY: Jerrily Kress
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: JUL 24 2000

UNDER 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBSECTION 3125.6 OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16554

JUL 24 2000

As Director of the Office of Zoning, I hereby certify and attest that on _____, a copy of the foregoing Decision and Order in BZA Application No. 16554 was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning this matter and who is listed below:

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ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director