Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-D

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April 4, 2002

Board of Zoning Adjustment
441 4th Street NW Suite 210-S
Washington DC 20001

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Re: BZA # 16852

Dear Members of the Board of Zoning Adjustment:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on Wednesday, April 3, 2002 at Sibley Hospital's Ernst Auditorium. A quorum (3) was present at all times. Proper notice of this meeting was given in the Northwest Current Newspaper and notices were distributed throughout the neighborhoods at least seven days prior to the meeting. One of the items on the agenda was the request of St. Patrick's Episcopal School for a special exception from residential zoning restrictions to establish a middle school in an existing building at the corner of MacArthur Boulevard and Ashby Street (4925 MacArthur Boulevard NW). After long deliberation, the Commission voted 5-0-0 against this request for a special exception. The Commission adopted the following letter to the BZA to explain how and why it reached its position.

Before reaching its conclusion in this difficult case, ANC3D held three separate hearings in February, March and April, providing ample time for the school to present its case and for residents to express their views on the location of a new school in a residentially zoned area.

Many issues were raised—the need for more private school spaces; the difficulty encountered by students at St. Patrick's School in finding enrollment at other private schools after completion of 6th grade; the expansion of private schools in the Palisades neighborhood in the past decade or so and its impact upon the residential nature of the Palisades; (there are already eight private schools and a college within less than one mile of the proposed new school), the traffic congestion that has developed on public streets, such as MacArthur, Foxhall and Whitehaven, during morning and afternoon rush hours as parents queue up to drop off and pickup up their children at these private schools; whether in view of the city's fiscal needs, private property should be revenue-producing or tax-exempt, and if the school did not occupy the building, what kind of homes might be built on the property.

But we would like to emphasize that in our final deliberations on our recommendation to you, the ANC3D chose, as does the BZA in considering requests from private schools for a special exception to limit its consideration to the terms set forth in zoning regulations 200, 206 and 3018 in Title 11 of D.C. Municipal regulations.

The burden of proof lay upon St. Patrick's School to demonstrate that the location of the proposed new school would be in harmony with the general purpose and intent of these zoning regulations, both designed to protect residentially zoned neighborhoods. For

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reasons to be elaborated upon below, ANC3D concluded that St. Patrick's School failed to prove that the new school building in a strictly residential area would meet the requirements of the applicable zoning regulations.

The proposed school would be located in square 1393 that is zoned R-1-B. Section 200 of the zoning regulations defines the purpose of R-1 zoning "to protect quiet residential areas now developed with one family detached dwellings"...and to "stabilize the residential areas and to promote a suitable environment for family life."

To appreciate the adverse impact that the proposed school would have upon the neighborhood, one has to look at the homes in the residential square where the school would be located. There are 33 homes within 200 feet of the proposed school site, a zone determined by BZA in sending out notices of St. Patrick's request. The two closest homes are less than four feet and about 11 feet from the proposed school site. It is a quiet, residential neighborhood where most residents have lived for more than 20 years, raised their children and now in their senior years seek the tranquility that the neighborhood has thus far provided.

Into this residential haven would be imposed a private school with at least 60 students and a dozen or more faculty. In effect the daytime population of the residential square would be doubled and the noise and bustle of school children would erode the calm and tranquility of the neighborhood. Gone would be the privacy of adjoining homes. Seriously eroded would be the residential quality of life that attracted residents to the area in the first place. And with a school in their midst, many residents fear the value of their property will diminish.

It should be noted that the St. Patrick's proposal represents the first time in the Palisades neighborhood that a private school has attempted to locate in the middle of a residential square. In the past the schools have been located on the fringes of residential areas or in commercial zones. The case, therefore, assumes precedent-setting proportions in weighing the desire of a private school to expand against the desires of residents to preserve the residential nature of their neighborhood.

After long and careful consideration, ANC3D came to the conclusion that location of the school at that site would not be in harmony with the general purpose and intent of Zoning regulations and the Zoning Map "to protect quiet residential areas now developed with one-family detached dwellings..." and "to stabilize the residential areas and to promote a suitable environment for family life."

Nor does the Commission believe that St. Patrick's proposal meets all the individual conditions set forth in Section 206 that must be met before a private school can be granted a special exception to establish a school building in an area zoned R-1-B As the Board members know, section 206.2 specifies that "the private school shall be so 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."

In studying that section, our ANC found several words or phrases significant in reaching its conclusion. One is "likely," which carries a judgmental connotation of something that is likely to happen in the future. Another was the phrase "adjoining and nearby property." In other words priority must be given to the objections of immediate neighbors of the

proposed school over the views of the encompassing neighborhood known as the Palisades. This priority becomes particularly relevant in view of the ambivalence of the Palisades Citizens Association about the proposed location of the school. The PCA Board of Directors, which is composed of a cross section of leaders within the community and whose policy recommendations commonly are adopted by the general membership, voted 13-2 with two abstentions to **oppose** the granting of the special exception to t. Patrick's. But then, at a standing-room-only general membership meeting, at which St. Patrick's made an organized effort to get supporters to attend, the vote was 169-99 **against** the recommendation of the Executive Board. Meanwhile, the owners of 31 of the 33 homes within 200 feet of the proposed school site signed a petition strongly opposing the location of the school in their residential neighborhood. (The owners of two of the homes preferred to remain neutral) In its deliberations, ANC3D accorded "great weight" to the views of the nearby neighbors and their petition, as it believed was mandated by section 206.2 The final phrase, which influenced commission thinking, was "or otherwise objectionable conditions." That phrase can be interpreted to mean that the conditions in 206.2 are separable and the school can meet some of the conditions and yet fail to meet others, which would thereby disqualify its application. Let us take the conditions of section 206.2 in order:

Noise— It is likely that in playtime or recess, a cacophony of noises will arise that will be audible and disturbing to nearby neighbors, thus disturbing the tranquility of their neighborhood which zoning regulations are supposed to protect. The noise could become a year-round problem for the nearby neighbors, since St. Patrick's School is talking in terms of using the MacArthur campus for a summer school.

Traffic—Recognizing that the new school could present traffic problems in the residential neighborhood, St. Patrick's has proposed that parents deliver and pickup their children at the main campus on Whitehaven, and it will deliver the students to the MacArthur campus by shuttle buses. This indeed should reduce traffic at the MacArthur campus but at the price of adding to the congestion that now exists on Whitehaven in morning and afternoon hours. The commission, however, does not believe that this shuttle bus plan is likely to be endurable or enforceable. Given human nature, it is likely that parents over time will decide that rather than queuing up in a long line on Whitehaven, they can get another half hour of sleep time by delivering their children directly to the MacArthur campus. It is likely, therefore, that over time we shall see increased traffic on Ashby, a narrow, three-lane street and on residential roads such as 49th Street and W, as parents drop their children off in the morning and then wend their way to work through side streets.

Another traffic complication could arise from the requirement under DCMR 18.2401.6 that school buses must activate a flashing red light when stopped to pickup or discharge students. That would mean traffic in the northbound lanes of MacArthur would have to stop for a considerable period while the St. Patrick's school buses unload or pickup students in the proposed Metro bus stop on MacArthur at the corner of Ashby.

Numbers of Students—St. Patrick's has proposed a cap of 60 students for the building on MacArthur, although it claims there would be room for 88 students. Given the pressure on St. Patrick's to find academic placement in private schools for its students as they graduate from its 6th grade, it is likely that over time the school will want to expand

the size of the student body at the MacArthur campus. But even at 60, the ANC finds the number excessive and likely to create conditions objectionable to nearby neighbors. In taking that position, the ANC draws upon the precedent set by the BZA in a 1962 case involving the proposed expansion of a student body in a school in the same building that St. Patrick's would occupy. (BZA Decision Appeal # 6830, July 24, 1962).

In that case, the Board denied permission to the German School Society to increase the student body in the same building now sought by St. Patrick's from approximately 25 children to 75. In explaining its denial, the Board said it was "of the opinion that the granting of this appeal would result in conditions objectionable to the adjoining and nearby property because of noise, traffic and number of students. Further, the Board also is of the opinion that granting of this exception would not be in harmony with the general purpose and intent of Zoning Regulations and maps and would tend to affect adversely the use of neighboring property in accordance with said zoning regulations and maps."

The Board also noted that "considerable opposition to the granting of this request was registered at the public hearing." From the letters and petitions of nearby neighbors that will be filed in the St. Patrick's case, it is fair to conclude there is "considerable opposition" from residents living near to the proposed school.

Or Otherwise Objectionable Conditions—If in the Board's opinion in 1962, 75 students would result in "objectionable conditions," then it would follow that nearly the same number of 60 students proposed by St. Patrick's is likely to create "objectionable conditions" in 2002 and into the future.

Parking—Section 206.3 requires that the private school provide "ample parking space..." to accommodate the students, teachers and visitors likely to come to the site by automobile." St. Patrick's claims that with 15 existing parking spaces behind the building, there will be ample spaces for faculty and visitors. The ANC is skeptical. It believes that when space is taken to provide landscaping buffers for adjoining houses, when room is made for play area, and turn-around room is provided for delivery and trash trucks, it is likely that the parking will be inadequate to handle visitors as well as staff and that some will park on Ashby, thereby depriving residents of parking spaces by their homes.

There are other BZA precedents that we believe support ANC3D's position, one in particular involving the same building. In a 1962 opinion (Appeal 7630), BZA permitted the Washington Psychoanalytic Institute and Society to establish an office in the building and to conduct a post-graduate school of psychoanalysis for physicians in the Washington area. In granting permission, the Board, said it was of the "opinion in view of the limited use of this premises by appellant that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students or otherwise objectionable conditions. This position is further substantiated by the fact that there was no objection to the granting of the appeal by persons residing in the neighborhood. We further find that ample parking space has been provided to accommodate the teachers, students and visitors likely to come to the site by automobile."

In contrast, the request from St. Patrick's School has been met with strong objections from residents living near the proposed school site. The contrast does not stop there. The exception for the Institute limited the students to physicians—and thus adults. The exception requested by St. Patrick's would be for 60 children aged 12, 13 and 14 years old. The exception for the Institute specifically limited class use to four and one half hours on Saturday mornings, plus two Wednesday nights a month. Thus the total class time usage of the building by the Institute was from 35 to 39.5 hours a month. Plus, the Institute did not run summer classes.

Contrast the Institute's usage with that in the St. Patrick's proposal. For the regular school year, St. Patrick's proposes to use the building five days a week, for a minimum of 9.5 hours a day when arrival and departure times are included. Thus, St. Patrick's would use the premises 209 hours a month as a minimum. That would be over five times as much as usage by the Institute. In addition, St. Patrick's suggests it may run a summer school in the building.

Thus, the special exception granted the Institute for "limited use" does not provide a precedent for granting a special exception to St. Patrick's to operate a full-time school for 60 young students. To the contrary, the very limitations imposed on the Institute's usage of the building as conditions for granting of the special exception provide precedent for not approving the much broader usage proposed by St. Patrick's, particularly in view of the objections by nearby residents.

It is the view of the commission that when the limitations imposed in the case of the Institute are combined with the Board's refusal to permit enlargement of the student body of the German school, there is ample precedent in the Board's record, involving the very same building and neighborhood, for not granting St. Patrick's request for a special exception.

ANC3D recommends that the Board of Zoning Adjustment **not grant** the special exception sought by St. Patrick's School. The commission believes that the proposed school would be inconsistent with the character of the neighborhood and would not be "in harmony with the general purpose and intent" of the residential zoning in this neighborhood. The commission also believes that the applicant has not made the requisite showing that it would meet all the requirements set forth in zoning regulation 206.2 The vote by the Commission, as stated in the first paragraph of this letter, was 5-0-0.

In submitting its finding and recommendation, the commission hopes the Board will accord the commission's views "the great weight " to which it is entitled under DC law.

Respectfully yours,

John W. Finney (bpm)

John W. Finney

Chair, ANC3D