Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3–D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

March 28, 2005

Mr. Geoffrey Griffis
Chair
Board of Zoning Adjustment
441 4th Street, NW
Suite 210-S
Washington, DC 20001

D.C. ... OF ZONING
2005 MAR 28 PM 3:33

RE: Application #17276
2101 Foxhall Road, NW; Square 1346, Lot 822
Findings of Fact

Dear Mr. Griffis:

At the request of the W Street Neighbors and Mrs. Chandra Hardy, the Chair of Advisory Neighborhood Commission 3D met and jointly developed a Construction Management Plan (CMP) as per your instruction of March 8, 2005. The CMP was filed with the Board of Zoning Adjustment on Friday, March 25, 2005.

I write today to express my belief that a BZA ordered CMP is critical to the success of this project. It is critical likewise to the safety and quality of life of the neighbors who will ultimately bear the impact of the construction phase of the project.

The experience upon which I draw is based on two BZA hearings and their subsequent Orders: the Field School (16559) and St. Patrick's Episcopal Day School (16852-A). While I do not want to burden the board with excess paper, it is necessary to make the point that without a CMP the community has no recourse. The Compliance Review Program instituted by the Office of Zoning in September of 2002 cannot be implemented without a BZA-conditioned order upon which to "review and assess complaints of non-compliance with conditions of Board of Zoning Adjustment and Zoning Commission orders..." I have attached a copy of the cover of the form.

The board conditioned a CMP for Field School, but did not do so for the St. Patrick's School construction. While a Construction "Etiquette" was drawn up by the Chair of St. Patrick's Board, Katherine Bradley, the Single Member District Commissioner for ANC 3D05, Alma Gates, and representatives from Uniwest Construction (see attachment), there was no enforcement mechanism for the St Patrick's plan. And, when called upon, Toye Bello, the Office of Zoning Compliance Officer, informed the neighbors that without the plan being conditioned as a part of the BZA order, he could do nothing.

BZA
Case No. 17276
Exhibit No. 58

Board of Zoning Adjustment
District of Columbia
CASE NO. 17276
EXHIBIT NO. 58

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The Phillips property at 2101 Foxhall Road is surrounded by residential homes and faces a large dormitory belonging to George Washington University at Mt. Vernon. While silent in this case, the university is a neighbor and the privacy and well being of its students also need consideration. This project is considerably larger, will be of longer duration than either Field School or St. Patrick's, and potential construction impacts far exceed any project undertaken in this community since the construction of the different sections of Foxhall Crescents on the former Rockefeller Estate.

Therefore, ANC 3D requests the implementation of a Construction Management Plan as noted in our submission to the board on March 3, 2005 and to advise that the plan submitted to the board on March 25, 2005 was developed in compliance with direction from the board for the immediate neighbors to jointly develop such a plan.

The commission wishes to opine on the importance of BZA conditions and especially the conditioning of a Construction Management Plan in BZA Orders. In the very near future the commission's immediate community is anticipating the development of the former Brady Estate and the former Murphy Estate. Both are slated for muli-year housing construction projects that, if not properly conditioned, will have substantial impact. The BZA needs to set a precedent by making Construction Management Plans a condition of its orders. Without a conditioned Construction Management Plan for Dunmarlin at Phillips Park there will be little that the Compliance Officer or DCRA can enforce and very little recourse for the neighbors.

Sincerely,

Alma H. Gates

Alma H. Gates
Chair, ANC 3D

Enclosures (2)

Service by US Mail:

Richard Nettler
Margaret R. Brady
Chandra Hardy
William Snape

GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF ZONING

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D.C. OFFICE OF ZONING
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cordially invites you to the unveiling of its new

Compliance Review Program

This new Office of Zoning program is design to:

Review and assess complaints of non-compliance with *conditions* of Board of Zoning Adjustment and Zoning Commission orders; and if in non-compliance, assist in working with the non-complying party to achieve compliance and/or refer for mediation; and if not resolved, refer to Department of Consumer and Regulatory Affairs (DCRA) for appropriate action pursuant to Titles 11 and 16 DCMR Chapters 32, such as revocation of building permits/Certificate(s) of Occupancy, or citation action.

Assist in tracking BZA Special Exception order expiration dates and informing property owners, SMDs, ANCs and Ward Councilpersons of these impending dates.

Assist owners by informing them of possible violations and expiration of conditions and recommending steps for resolving such issues.

Saturday, September 28, 2002
at 11:00 a.m.

One Judiciary Square
441 4th Street, N.W., Suite 220-S
Washington, D.C. 20001

RSVP, please contact Sara Bardin at (202) 727-5372

Meeting Notes on Construction "Etiquette" for 4925 MacArthur Boulevard
March 21, 2003

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Attendees:

Alma H. Gates, ANC 3D
Katherine Bradley, St. Patrick's
Dan Lutsky, St. Patrick's
John Klakamp, VP Uniwest Construction
Charley O'Neill, Superintendent, Uniwest Construction

Schedule

Uniwest is currently shooting for a May 1 start date. Permits may be delayed beyond that date, but Uniwest anticipates a four month construction period.

Work at the site will begin with work on the footings for the elevator, and the general site work will start June 1. The elevator is the longest lead time item, and requires approvals from DC Government at several levels.

Trees

Mrs. Gates reiterated the neighborhood's deep concern about protecting the trees on the property from new or further damage. The beech tree is already badly damaged, and one magnolia is near the planned elevator. Mark DeOlivera was mentioned as an arborist with Care of Trees, with whom Uniwest will consult. GTM Architects will include a "tree instruction" page in its construction documents. A particular item to watch is frequent driving of heavy equipment near the magnolia's root bed.

Neighbor Communication

The group proposed monthly meetings during construction, starting in May, to which all neighbors would be invited. Attendees would include representatives from the school, the neighborhood, and Uniwest. Daytime is likely the best time frame, although neighbors will be consulted before that schedule is set.

In addition, St. Patrick's will set up an e-mail tree for weekly updates and for ease of miscellaneous communication. Uniwest will prepare a weekly "Week Ahead" summary of activity at the site, noting in particular expected cumbersome deliveries that might require street parking. A St. Patrick's staff member (TBD) will be named as the principal contact for neighbor concerns. Neighbors will also have telephone numbers for St. Patrick's and Uniwest staff for emergency contacts.

Fencing

The meeting participants discussed fencing the entire property during construction in order to maximize safety and minimize construction views in the neighborhood: perhaps a chain link fence with a green mesh vinyl covering to look as unobtrusive as possible. There will be a second (safety) fence around any excavation areas.

The Wright/Skrivseth property will have permanent fencing installed, as per their wishes. That fencing *may* be able to be installed soon, before the stormwater work is accomplished this summer. The only area we know cannot be fenced permanently until stormwater completion is the paved stretch at the back of the

property, where the parking lot meets the Skrivseth-Wright property. St. Patrick's will explore temporary solutions with the Wright-Skrivseths.

Hours of Operation

St. Patrick's will ask neighbors, led by Mrs. Gates, to decide which regular construction schedule they favor. Choices are: 7 AM – 3:30 PM (This is the typical schedule the workers use.); 7:30 AM – 4 PM; 8 AM – 4:30 PM. Some irregular work or deliveries may fall outside this schedule, but never before the 7 AM city ordinance start time.

Worker Parking

This issue may prove a little tricky because workers do need to pull up to the site to unload tools, and there may be days when the parking lot is filled with ongoing work (paving, excavation, etc.) The 3-21-03 meeting settled on a proposal (subject to neighbor approval) that will allow workers to pull up on Ashby Street to unload tools, but will then require them to park on MacArthur Boulevard on the opposite side from the site, next to parkland, where there are no hourly restrictions. The near side of MacArthur is also acceptable about a hundred yards up where the Battery Kemble parkland begins. This protocol attempts to keep workers' cars away from parking spaces in front of residents' homes.

Possible Disruptions

Uniwest anticipates that the two most disruptive delivery days will be delivery for the elevator and delivery for the stormwater system. For both of these, neighbors will have notice. Also, the stormwater system will require new utility connection on MacArthur. It is impossible to tell how fast the DC Government will complete the utility hookup once the hole is uncovered. Mrs. Gates suggested better steel plates (than usual) would be appreciated. Uniwest will investigate.

Houy Property

Sharon and Charlie Hoy's property is of special concern. While St. Patrick's will ask the Houys directly for their input, the initial meeting surfaced these ideas: Different (higher?) fencing, if practical; careful attention to health of trees that buffer Houy garden from top floor 4925 windows; St. Patrick's will offer to have Houy windows professionally cleaned after periods when dust may accumulate; and special attention to hours of operation such that late afternoon/evening periods can be retained for quiet family time.

Dumpster

The dumpster's location is not yet determined. Dumpster pulls will be frequent at first (2-3 times per week) and then taper off to weekly pulls. Mrs. Gates suggested that Uniwest slightly widen the driveway in order to facilitate trash truck entry to the property. Mrs. Gates also suggested Uniwest confer with the Fire Department about the possible location of a water pipe under the driveway.