

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14372 of the Sisters of Providence of Saint Mary's-of-the-Woods, Inc., as amended, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.46 for the American University to use the subject site as the campus of its Washington Semester and Study Aboard Program in an R-1-B District at premises 4344 Wisconsin Avenue, N.W. (Square 1728, Lot 1).

HEARING DATE: December 18, 1985, May 14, 1986

Decision Date: June 4, 1986

FINDINGS OF FACT:

1. The site is located at the intersection of Wisconsin Avenue and Nebraska Avenue, N.W., at the premises known as 4344 Wisconsin Avenue, N.W. The site is bounded by Yuma Street to the north, Warren Street to the south, 42nd Street to the west, and Nebraska Avenue and Tenley Circle to the east. The site is located in an R-1-B District.

2. The property is improved by five buildings, a small garage, two tennis courts, and an athletic field. Approximately fifty parking spaces presently exist on the site. The entire property contains approximately 166,013 square feet of gross floor area (0.47 FAR). The existing buildings occupy approximately twenty percent of the site.

3. The property contains a large number of mature trees largely concentrated along its borders. The topography of the site varies from a one to two percent slope along the athletic field to a ten to fifteen percent slope toward Nebraska Avenue and Tenley Circle. In addition, there is a twelve to fourteen foot grade differential between the western edge of the site and 42nd Street.

4. The property is adjacent to the Wisconsin Avenue commercial corridor, which contains a mix of commercial development including retail shops, restaurants, and mid-size office buildings. One block to the north of the site is the Sears department store. Across Wisconsin Avenue from the Sears store is the "Tenley Circle Ten" theatre site (the former Sears parking lot) as well as a Hechinger hardware store. One block south of the property is the

Tenley Mall, containing offices as well as various retail stores and restaurants.

5. The block directly north of the property contains several institutional uses, including St. Ann's Church and School, the Oakcrest School, the Tenley-Friendship branch of the District of Columbia Public Library, and the Janney Public School. The block of Nebraska Avenue adjacent to the property to the east contains several professional offices.

6. The land uses west of the site and east of Wisconsin Avenue, bounded by Albemarle Street, Van Ness Street, 38th Street, and 44th Street are low density residential in character, primarily consisting of single-family detached and semi-detached homes.

7. The Tenleytown Metrorail station is located at the intersection of Wisconsin Avenue and Albemarle Street, one block from the site. Numerous Metrobus routes run along Wisconsin Avenue and Yuma Street.

8. The property was last used as the Immaculata Preparatory School, a high school, and the Immaculata-Dunblane School, a grammar and junior high school. The school use was established on the site in the early 1900's and graduated its last class in May 1986. Approximately 455 students attended the Immaculata Preparatory School during the 1984-85 school year. Approximately 103 students attended the Immaculata-Dunblane School during this time period. A two-year college, Immaculata Junior College, operated on the property until 1976. At the height of its enrollment, the junior college had an enrollment of 278 students, plus an additional 80-100 students taking continuing education classes in the evening. The total enrollment of the existing use, at its peak, was 850 to 900 students.

9. The American University, the contract purchaser of the property, filed an application on September 12, 1985 for a special exception to use the property as the campus of its law school. On December 18, 1985, the Board held a public meeting on the application. The applicant based its plan for the law school campus on negotiations with a task force comprised of community leaders, Advisory Neighborhood Commissioners (ANC), neighboring property owners, and University officials. Despite unanimous approval by the task force, a large group of neighboring property owners raised much opposition to the proposed use. Their concerns focused on the potential adverse effects of the proposed use on neighboring property:

- (a) the University has not provided enough on-site parking to accommodate the demand for parking which would be created by the law school;

- (b) the University has not provided enough information regarding its landscaping plan for conclusions to be drawn as to the plans' adequacy in protecting neighboring property from objectionable noise and headlights;
- (c) the law school use would change the character of the neighborhood and bring objectionable noise, light, and traffic conditions to the area surrounding the school. Residents opposed the increase in the intensity of the use of the property, and the extension of the use of the property into the evening hours;
- (d) the University has not provided a master plan for its long-term use of the property;
- (e) the proposed use of the site would exacerbate traffic problems at the intersection of Nebraska Avenue and Warren Street; and,
- (f) the existence of the law school's criminal law clinic will endanger the safety of neighborhood residents.

10. At the conclusion of the original hearing, the Board required that the applicant submit the following materials into the record:

- A. copies of the American Bar Association (ABA) and American Association of Law Schools (AALS) guidelines for law school facilities;
- B. the University's security policy regarding the law school's clinical program and its proposed security plan for the subject site;
- C. performance standards for the landscaping of the site;
- D. performance standards for the lighting of the site; and,
- E. an explanation of the District of Columbia's residential permit parking system and its application to the streets surrounding the Immaculata campus.

11. On January 8, 1986, the applicant submitted the requested information. At its meeting on February 5, 1986, the Board deferred its decision on the application, requesting additional information from the parties to the case.

12. By letters dated February 26, 1986 and February 28, 1986, the applicant requested that the Board reopen the record in this application and hold a further public hearing limited to a proposed alternative use of the property. In letters dated February 26, 1986, ANC 3E and the party in opposition supported this request to reopen the record. At a March 5, 1986 meeting, the Board on its own motion reopened the record for consideration of an alternative use of the site.

13. On May 14, 1986, the Board conducted a hearing on the continued application of American University. The University had modified its original application due to the high cost of renovating the campus for law school use and due to concern regarding the impact of the law school on the neighborhood. The University proposed a less intense use of the property. It now proposed to relocate its Washington Semester and Study Abroad Programs as well as certain administrative offices to the site.

14. The Washington Semester Program is a one semester academic program wherein students from other colleges and universities attend seminars, engage in research projects, and pursue two-day a week, off-campus internships in congressional offices, executive agencies, interest groups, and the media. This program, which has been in existence since 1947, operates on a year-round basis. While the student population fluctuates between semesters, the student enrollment on the property will not exceed 500 students in a semester. The Program has a faculty and staff of approximately thirty-five, including the administration of the University's Study Abroad Program. The University will need approximately fifteen additional staff members to provide groundskeeping, custodial, and other support services to the Immaculata campus.

15. The University intends to provide housing on this campus for most, if not all, Washington Semester students. Marian Hall, which currently houses 150 students, will continue to be use as a dormitory. The existing residence facilities in Immaculata Hall will be expanded and a portion of Loretta Hall will be used for housing. There would be housing for approximately 450 students on campus.

16. The University intends to relocate to the Immaculata property one of its administrative units, the specific nature of which has not yet been finalized. These offices will be located in Regina Hall and will accommodate approximately forty professionals and twenty support staff.

17. The University intends to limit building construction on the property to minor additions such as stairwells and elevators in order to meet building code

standards and to provide access for physically disabled persons.

18. The University intends to provide sixty-eight long term and nine visitor parking spaces to accommodate the parking demand generated. Students enrolled in the Washington Semester Program will not be allowed to have a car during that semester. Shuttle buses will run frequently between the main campus and the proposed satellite campus. Furthermore, the University responded to community concerns and provided a workable circulation and access plan for the property in Exhibit 84B of the record.

19. The applicant's landscape plan would provide a buffer between the campus and neighboring property. The revised site plan will maintain the courtyard between the academic buildings and will retain most of the healthy trees on the campus. The use of berms, trees, and shrubs, as well as the existing tree cover and topography (shown in Exhibit 84B of the record), will shield neighbors from the direct impact of automobile headlights.

20. The University's proposed lighting plan is designed to direct all light onto the site in order to minimize the effect on the neighborhood.

21. The Office of Planning in its written report dated May 6, 1986 recommended that the application be approved with conditions. The OP was of the opinion that the applicant has complied with Paragraph 3101.46 and Sub-section 8207.2 of the Zoning Regulations. The OP recommended the following conditions:

- (a) the number of students not exceed 500;
- (b) the number of total faculty/staff not exceed 125;
- (c) the proposed University automobile policy for this portion of the campus remain in effect; and,
- (d) the Board will not consider any other request from the University until its overall Master Plan has been updated and approved.

22. The OP reported that the reuse of the existing campus for another educational use is a logical land use adaptation; the Generalized Land Use Map of the Land Use Element of the Comprehensive Plan designates property for institutional use; the intensity of the proposed use is similar to the existing use; the proximity of the campus to the Tenleytown Metrorail station and many bus routes is a positive transportation factor; and the landscaping and berming proposed to screen the parking area is sufficient.

The Board concurs with the reasoning and recommendation of the OP.

23. The Advisory Neighborhood Commission 3E (ANC), by letter dated May 7, 1986, supported the application. Since the modification of the application, the applicant has met with ANC representatives and neighboring property owners on numerous occasions regarding the University's use of the property. The agreement between the University and ANC 3E, submitted as Exhibit 89 of the record, is supported by the vast majority of the residents of ANC 3E and by a clear majority of the residents within 200 feet of the subject property. The agreement adequately protects neighboring property owners from objectionable conditions on the subject property.

24. Several neighborhood residents testified in opposition to the application. The principal points in opposition were as follows: the University has not provided enough on-site parking to accommodate the demand for parking that will be created by the University's use of the property; the University's use of the property would change the character of the neighborhood and bring objectionable noise, light, and traffic conditions to the area surrounding the school; and, the University has not provided a master plan for its long-term use of the subject property.

25. Several neighboring property owners submitted a joint letter, dated May 14, 1986, indicating support for the application and the agreement between the applicant and the ANC, but requested the additional conditions be imposed by the Board with regard to the landscaping, lighting, and use of the premises by the University.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence in the record, the Board concludes that the applicant is seeking special exception relief. In order to be granted such relief, the applicant must demonstrate substantial compliance with the requirements of Paragraph 3101.46 of the Zoning Regulations and that the relief can be granted as in harmony with the intent and purpose of the Zoning Regulations and will not tend to affect adversely the use of the neighboring property.

Paragraph 3101.46 authorizes the Board to approve the use of property situated in an R-1 District as a college or university, which is an academic institute of higher learning, provided that:

3101.461 Such use is so located that it is not likely

to become objectionable to neighboring property because of noise, traffic, number of students, or other objectionable conditions.

3101.462 In R-1, R-2, R-3, R-4, R-5-A, and R-5-B Districts, the maximum bulk requirements normally applicable in such districts may be increased for specific buildings and structures provided the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-B District. In all other residential districts, similar bulk increases may also be permitted provided the total bulk of all buildings and structures on the campus shall not exceed the gross floor area prescribed for the R-5-C District. Because of permissive increases as applicable to normal bulk requirements in the low-density districts regulated hereunder, it is the intent of this sub-paragraph to prevent unreasonable campus expansion into improved low-density districts;

3101.463 The applicant shall submit to the Board a plan for developing the campus as a whole, showing the location, height, and bulk, where appropriate, of all present and proposed improvements, including, but not limited to buildings, parking and loading facilities, screening, signs, streets, and public utility facilities, athletic and other recreational facilities, and a description of all activities conducted or to be conducted therein, and of the capacity of all present and proposed campus development;

3101.464 Within a reasonable distance of the college or university campus and subject to compliance with the provisions of Sub-paragraph 3101.461 hereof and Sub-section 8207.2 the Board may also permit the interim use of land or improved property with any use that the Board may determine is a proper college or university function; and

3101.465 Before taking final action on an application for such use, the Board shall have submitted the application to the District of Columbia Office of Planning and Development and the District of Columbia Department of Transportation for review and report.

The Board concludes that the applicant has met its burden of proof for special exception relief pursuant to Paragraph 3101.46 and Sub-section 8207.2 of the Zoning Regulations. The proposed use, as conditioned below in the grant of this application, is not likely to become objectionable to neighboring property because of noise, traffic, number of students, or other conditions. The applicant's parking, landscaping, and circulation plans adequately address the concerns of the neighborhood and the demands of

the proposed use. As a result, the use will not have an adverse effect on neighboring property.

Under Sub-paragraph 3101.464, the Board has the authority to permit the interim use of land or improved property with any use that the Board may determine is a proper college or university use. In this instance, the Board has determined that the subject property is within a reasonable distance of the campus of the American University and the proposed use is approved until the property is included within an approved campus plan for the university.

The grant by the Board in this application does not constitute an amendment of the university's campus plan as approved in application No. 14250.

Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The use of the subject site shall be limited to the University's Washington Semester and Study Abroad Programs and University Administrative Offices located in Regina Hall.
2. The University shall comply with its obligations pursuant to the agreement identified as Exhibit No. 89 of the record.
3. The number of students shall not exceed 500. The University shall provide dormitory accommodations for a minimum of 400 students and a maximum of 450 students on the subject property.
4. The total number of faculty, administrative, and support staff shall not exceed 125.
5. Eighty-five parking spaces shall be provided on the subject site in accordance with the plan marked as Exhibit No. 84B of the record.
6. Access and egress to the parking area shall be from Yuma Street with a right turn only exit on Yuma Street as shown on the plan marked as Exhibit No. 84B of the record. The exit shall be designed so as to discourage left turns onto Yuma Street.
7. Landscaping on the subject site shall be in accordance with the plans marked as Exhibit No. 84B of the record and shall be maintained in accordance with the standards set forth in the agreement marked as Exhibit No. 89 of the record.
8. Existing trees to be retained in the parking area

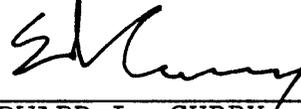
as identified on Exhibit No. 84B of the record shall not be removed by the University unless so advised after examination by an expert arborist. Any existing tree which is removed on the advice of the arborist shall immediately be replaced by a tree of a caliber comparable to those indicated in the scheduled of Exhibit No. 84B of the record.

9. Lighting used to illuminate the parking lot shall be arranged so that all direct rays of such lighting are confined to the surface of the lot. The lighting fixtures shall be designed so as to shield the globes of such lighting from view from surrounding streets.
10. The existing fence shall be retained and extended as shown on Exhibit No. 84 of the record. If the fence should be replaced at any time, the replacement fence shall be black vinyl clad chain link fencing.
11. The University will assist the neighboring community in obtaining residential permit parking for streets surrounding the subject site.
12. The University shall prohibit resident students from having vehicles on the site or in the surrounding neighborhood.
13. The University shall provide food service for students on the subject site.
14. The subject site shall be included as part of the University's campus plan at the time that such plan is submitted for Board approval.
15. The University shall provide shuttle bus service from the subject site to the main campus.

VOTE: 5-0 (Lindsley Williams, Charles R. Norris, Paula L. Jewell, William F. McIntosh, and Carrie L. Thornhill, to grant).

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

ATTESTED BY:



EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: SEP 10 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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