

November 20, 2012

HAND DELIVERY

Lloyd Jordan, Chairperson
D.C. Board of Zoning Adjustment
Office of Zoning
441 4th Street, NW, Suite 200 South
WASHINGTON, DC 20001

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18399

EXHIBIT NO. 40

RECEIVED
D.C. OFFICE OF ZONING
2012 NOV 20 PM 12:56

Re: Case No. 18399: Proposed Findings of Fact and Conclusions of Law (Square
2707, Lot 33)("Property")

Dear Chairperson Jordan:

Enclosed is the Applicant's draft order in the above-referenced case. The Applicant agrees with the conditions proposed by the Office of Planning in its report dated November 16, 2012 with the following modifications, which are black-lined below:

1. The number of students shall not exceed 130.
2. The number of faculty and staff shall not exceed 26.
3. The hours of operation of the school shall not exceed from 8:30 AM to 6:00 PM, with students, faculty and staff permitted to arrive prior to the start of school.
4. Use of the on-site play area shall be limited to small groups of children to minimize impacts from the noise of children at play.
5. Seven off-street parking spaces shall be provided at the school, and 15 off-street parking spaces shall be available at MOSAIC Church at 4401 16th Street, NW within ½ mile of the Property.
6. Drop-off and pick-up of children shall be from the existing driveway on Decatur Street. Bus pick-up and drop-off shall be from the driveway on 16th Street take place from 16th Street.
7. Parking for large extracurricular events shall occur at the Carter Barron Fringe parking lot, with shuttle service provided to the subject property.
8. The applicant shall landscape the property in accordance with the landscape plan dated October 20, 2012 and entered into the record as Exhibit 36.
9. All faculty and staff shall be permitted to ride the school's buses for free.

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10. Four of the on-site parking spaces shall be reserved for carpoolers (JPDS proposes combining this with condition number 5).
 11. ~~The applicant shall file a monitoring report with the ANC and DDOT every year no later than November 30.~~ JPDS shall implement a monitoring program to ensure that it meets the projections set forth in its transportation analysis. JPDS will take traffic counts at the intersections of Decatur and 16th Streets and Crittenden and 16th Streets on an annual basis and will submit the results to DDOT by November 30 for two consecutive years after the proposed plans are in place. If JPDS successfully meets its projections, its obligations to continue monitoring will cease. If JPDS does not meet its projections for two years in a row, it shall work with DDOT to develop additional techniques and mechanisms to mitigate its impact and reduce parking demand and trip generation.
 12. ~~Should the applicant fail to meet the projections as outlined in the transportation study two years in a row, the applicant would then be required to work with DDOT to develop additional techniques and mechanisms to mitigate its impact and reduce parking demand and trip generation.~~

JPDS has reviewed these proposed changes with the Office of Planning and the Office of Planning stated that they are agreeable to the above modifications.

The Applicant also notes that it has reviewed DDOT's report and has considered its suggestion to use 16th Street for both southbound and northbound bus operations. In light of the comments JPDS has heard from the community, however, it prefers to use 14th Street for its southbound operations; it will use 16th Street for its northbound operations. Using 16th Street for southbound operations has a direct impact on the neighborhood streets that the community has specifically asked JPDS to avoid, such as Emerson Street and Piney Branch Road; use of 14th Street allows JPDS to avoid those streets.

This application has the support of the Office of Planning, the District Department of Transportation and the Advisory Neighborhood Commission 4C. Accordingly, in light of evidence in the record and the support from the community and District agencies, JPDS respectfully requests that the Board approve this application with the proposed conditions above.

Sincerely,


Christine A. Roddy

Certificate of Service

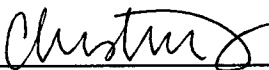
I hereby certify that the foregoing document was sent by first class mail on November 20, 2012 to the following:

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Christine Roddy

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

* * *

Application No. 18399 of The Jewish Primary Day School of the Nation's Capital ("JPDS") pursuant to 11 DCMR § 3104.1 for a special exception to increase the student enrollment and number of faculty and staff members and pursuant to 11 DCMR §3103.1 for a variance from the parking requirements, for a private school located at 4715 16th Street, NW in the R-1-B Zone District (Square 2707, Lot 33) ("Property").

HEARING DATES: September 25, 2012

DECISION DATE: November 27, 2012

DECISION AND ORDER

The applicant in this case is The Jewish Primary Day School of the Nation's Capital ("JPDS" or "Applicant"). JPDS filed an application with the Board of Zoning Adjustment on April 24, 2012, for a special exception under 11 DCMR § 3104.1 to increase the student enrollment for a school located at 4715 16th Street, NW (Square 2707, Lot 33) (the "Property") from 125 students to 130 students and to increase the faculty and staff from 15 individuals to 26 individuals. It also seeks a variance under 11 DCMR §3103.1 from the off-street parking requirements to provide 17 spaces; JPDS will provide 7 on-site spaces.

The Board held a public hearing on September 25, 2012. Following the hearing, at its decision meeting on November 27, 2012, the Board voted ____ to grant the application for the school special exception and parking variance, subject to conditions.

FINDINGS OF FACT

Preliminary Matters

1. Applicant. The Application was filed by JPDS, a not-for-profit corporation. JPDS is a co-educational day school that was founded in 1988. In 2002, the School moved from Montgomery County, Maryland to the present location of its Main Campus at 6045 16th Street, NW. JPDS provides education for children in pre-kindergarten through sixth grade. The Applicant is proposing to move its pre-kindergarten, kindergarten and first grade programs to the Property and to maintain second through sixth grades at its Main Campus. (Exhibit 3).
2. Application. The application requests a special exception under 11 DCMR § 3104.1 to increase the student enrollment of the Early Childhood Center Campus ("ECCC") at the Property from 125 students to 130 students and to increase the faculty and staff from 15 individuals to 26 individuals. The application also requests a parking variance under 11 DCMR § 3103.1 from the requirement to provide 17 off-site spaces; the applicant will provide 7 of the required spaces on-site and 15 spaces off-site. (Exhibits 1 and 3).
3. Notice of Application and Notice of Public Hearing. By memoranda dated April 27, 2012, the Office of Zoning ("OZ") advised the D.C. Office of Planning ("OP"), the

Zoning Administrator, the District of Columbia Department of Transportation ("DDOT"), the Councilmember for Ward 4, Advisory Neighborhood Commission ("ANC") 4C, the ANC within which the Property is situated, and the Single Member District Commissioner, ANC 4C02, of the application. (Exhibits 16-20).

4. Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed the Applicant, the owners of all property within 200 feet of the Property, and ANC 4C, notice of the September 25, 2012, hearing. Notice was also published in the D.C. Register. The School's affidavits of posting and maintenance indicate that three zoning posters were posted beginning on September 6, 2012, in plain view of the public. (Exhibits 21-23).
5. Requests for Party Status. ANC 4C was automatically a party in this proceeding. The Board granted party status to the Carter Barron East Neighborhood Association ("CBENA"). (Exhibit 27).
6. Applicant's Case. The Applicant presented testimony and evidence from Janine Goodman, the President of the Board of Trustees, Naomi Reem, Head of School, and Nicole White, an expert in traffic engineering. Their relevant testimony will be reflected in the Findings of Fact that follow. (See September 25, 2012 Transcript).
7. Office of Planning: By a report dated September 18, 2012, supplemented by testimony at the public hearing, OP recommended approval of the special exception and variance requested in the application, subject to a series of conditions. The Applicant was in agreement with the Office of Planning's proposed conditions of approval, with the exception of the condition to impose a ten year term on the approval. The Office of Planning ultimately reassessed its proposal for a ten year term and supports the application without the imposition of a term, recognizing that the School's robust public monitoring will accomplish OP's goals. (Exhibit 28).
8. The Office of Planning noted that in light of the proposed shuttle bus operating between the JPDS campuses, the student bus service and the negligible trips generated by the requested increases in students and faculty, that the school is not likely to present any objectionable traffic conditions to adjoining and nearby properties. (Exhibit 28).
9. The Office of Planning further noted that the parking variance was appropriate given the number of students who will utilize either the shuttle bus or student bus service. JPDS is also providing showers for faculty and staff members to encourage biking to school and further reduce demand for on-campus parking. (Exhibit 28).
10. The Office of Planning filed a supplemental report dated November 16, 2012, and noted that it was no longer proposing the imposition of a term on the approval in light of the monitoring plan proffered by JPDS. The Office of Planning also found the parking plan, landscape plan, traffic mitigation plan and impact analysis to be satisfactory. It reiterated its support of the application. (Exhibit ____).
11. The Office of Planning proposed twelve conditions of approval:
 - a. The number of students shall not exceed 130.

- b. The number of faculty and staff shall not exceed 26.
- c. The hours of operation of the school shall not exceed from 8:30 AM to 6:00 PM, with students, faculty and staff permitted to arrive prior to the start of school.
- d. Use of the on-site play area shall be limited to small groups of children to minimize impacts from the noise of children at play.
- e. Seven off-street parking spaces shall be provided at the school, and 15 off-street parking spaces shall be available at MOSAIC Church at 4401 16th Street, NW.
- f. Drop-off and pick-up of children shall be from the existing driveway on Decatur Street. Bus pick-up and drop-off shall be from the driveway on 16th Street.
- g. Parking for large extracurricular events shall occur at the Carter Barron Fringe parking lot, with shuttle service provided to the subject property.
- h. The applicant shall landscape the property in accordance with the landscape plan dated October 20, 2012.
- i. All faculty and staff shall be permitted to ride the school's buses for free.
- j. Four of the on-site parking spaces shall be reserved for carpoolers.
- k. The applicant shall file a monitoring report with the ANC and DDOT every year no later than November 30.
- l. Should the applicant fail to meet the projections as outlined in the transportation study two years in a row, the applicant would then be required to work with DDOT to develop additional techniques and mechanisms to mitigate its impact and reduce parking demand and trip generation.

(Exhibit _____).

12. JPDS concurred with the Office of Planning's conditions but proposed modifications to subparagraphs (e), (f) and (k) as follows:

- e. Seven on-site parking spaces shall be provided on the Property. Fifteen spaces shall be provided off-site and within ½ mile of the Property.
- f. Drop-off and pick-up of children shall be from the existing driveway on Decatur Street. Bus drop-off and pick-up operations shall take place from 16th Street.
- k. JPDS shall implement a monitoring program to ensure that it meets the projections set forth in its transportation analysis. JPDS will take traffic counts at the intersections of Decatur and 16th Streets and Crittenden and 16th Streets on an annual basis and will submit the results to DDOT by November 30 for two consecutive years after the proposed plans are in place. If JPDS successfully

meets its projections, its obligations to continue monitoring will cease. If JPDS does not meet its projections for two years in a row, it shall work with DDOT to develop additional techniques and mechanisms to mitigate its impact and reduce parking demand and trip generation.

(Exhibit ____).

13. District Department of Transportation: DDOT, by report dated September 21, 2012, and supplemented by testimony at the hearing, requested an operational analysis of the intersection of 16th Street and Crittenden Street, a supplemental parking analysis and details about off-site parking spaces. It further recommended active management of bus operations and management and continuation of JPDS' carpool and bus programs. DDOT otherwise supports the application. DDOT noted that it supports the implementation of the proposed Transportation Demand Management measures and intercampus connectivity programs. (Exhibit 31).
14. DDOT submitted a supplemental report dated November 16, 2012. DDOT stated that its concerns outlined in its previous report were addressed adequately. Specifically, it noted that the intersection of Crittenden and 16th Streets is operating and will continue to operate at acceptable levels of service under the existing and future conditions analysis; the provision of satellite parking is sufficient to address parking needs; and the proposed transportation demand management plan will reduce single-occupancy trips once it is implemented. (Exhibit ____).
15. DDOT noted that it preferred routing the buses to using 16th Street for both northern and southern operations. This was a modification of JPDS' proposal to use 14th Street for southern travel. JPDS prefers use of 14th Street given community concerns regarding use of local streets. (Exhibit ____).
16. ANC 4C: On August 8, 2012, the ANC voted 7-2-1, at a regularly scheduled meeting with a quorum present, to recommend unconditional approval of the special exception and variance for JPDS. The Single Member District representative noted that she sent a questionnaire to all property owners within 200 feet to solicit their feedback regarding the application. She found that many people within the community supported JPDS' application. (Exhibit 30)
17. Parties and Persons in Support of Application. There were no parties or persons in support of the application present at the hearing.
18. Parties and Persons in Opposition to the Application. Doreen Thompson testified in opposition to the application on behalf of CBENA, a party to the case. She testified to parking and traffic concerns. She noted particular concern with the possibility of vehicles stacking on Piney Branch Road from Decatur Street to Emerson Street and with vehicles speeding on neighborhood roadways. CBENA residents live in close proximity to the Property and are the ones who would be impacted by the traffic operations of the School. She further requested that a term be imposed on any approval of the application to confirm compliance with the variance standard and ensure no adverse impacts result from

the reduction in required parking. She noted that she did not otherwise oppose the application. (Exhibit 27 and Transcript, p. ____).

The Subject Property and the Surrounding Area

19. The Early Childhood Center Campus is located in the 16th Street Heights neighborhood of Northwest DC. The Property is bound by 16th Street to the west, Decatur Street to the north and Piney Branch Road to the east. It is located in Ward 4. (Exhibits 3, 32).
20. The Applicant acquired this property in 2011 and is leasing it to the Washington Latin Public Charter School through 2013. The site is approximately 18,682 square feet in area. (Exhibit 3).
21. The Early Childhood Center Campus is also located east of Rock Creek Park. The remainder of Square 2707 is comprised primarily of single-family houses. Surrounding uses on adjacent blocks include institutional uses primarily consisting of churches. (Exhibit 3).
22. The Early Childhood Center Campus is located in the R-1-B Zone District. The site was first approved for private school use pursuant to BZA Order No. 14919, dated March 2, 1989, which granted the Lowell School approval to use the site for a maximum of 125 children in grades kindergarten through third, a staff of 14, and a variance allowing a 25% reduction in the required parking as well as from the minimum size of the parking spaces. (Exhibits 3, 9, 11).

The Applicant's Proposed Project

23. The Jewish Primary Day School of the Nation's Capital Inc. is a co-educational elementary school providing a Jewish and general studies education for grades pre-K through six at 6045 16th Street, NW, and is the only Jewish Day School in the District of Columbia. Its mission is to provide a strong foundation in Jewish and secular learning, laying the groundwork for its students to become knowledgeable, responsible Jews and citizens, who are deeply committed to the community at large, to Jewish living and values, and to the people and state of Israel. The School strives to create an environment filled with warmth, joy, and intellectual excitement that celebrates the unique qualities of each student, respects varied approaches to Judaism, fosters a strong sense of ethics and of self, embraces diversity, and builds a community of lifelong learners. (Exhibit 3).
24. JPDS was founded in 1988 by a small group of parents looking to provide for a Jewish primary education closer to their homes in the District. It first operated as a kindergarten, part of the Adas Israel Congregation on Quebec Street, NW, and grew slowly over the years to first include K through 3rd grade, and ultimately at that location, to 6th grade. In 2000, after becoming independent of the Congregation, and after several failed attempts to find a permanent home in the District of Columbia, the School found temporary accommodations in Montgomery County in the former Montgomery Hills Junior High School. Finally, in 2002, the School purchased the building at 6045 16th Street, NW, (a building that was built in 1950 to house the Hebrew Academy, and later was the home of the Owl School), added a pre-kindergarten class, and settled into its permanent home in

the District of Columbia ("Main Campus"). (Exhibit 3).

25. Since the School's return to Washington, D.C., enrollment has steadily increased and in the school year 2011-2012 the student population reached 273 at the Main Campus, very close to the current maximum occupancy pursuant to BZA Order No. 17700. Because it wants to meet the needs of local Jewish parents for an excellent Jewish and secular education in the District of Columbia, the Board of Directors is expanding the JPDS campus to establish an Early Childhood Center Campus at the Property. (Exhibit 3).
26. The building located on the Early Childhood Center Campus was constructed in 1922 as a single family house. It was subsequently converted for use as the Lowell School and was later used by the British School of Washington. It is currently being used by the Washington Latin Public Charter School; JPDS does not intend to use the property as its Early Childhood Center Campus until the charter school's lease expires at the end of 2013 or is otherwise terminated by agreement of the parties. The current certificate of occupancy permits a maximum of 125 students; JPDS is proposing a modest increase to 130 students. The Applicant will be moving the children in pre-kindergarten through first grade from the Main Campus to the ECCC. (Exhibit 3).
27. The Property is currently used by the Washington Latin Public Charter School. The Applicant will assume use of the Property no later than January 2014. (Exhibit 3).
28. The Applicant is proposing to increase the student cap at its Early Childhood Center Campus from the existing cap of 125 students to 130 students and to increase the permitted number of faculty and staff from 15 to 26 individuals. (Exhibits 1 and 3).
29. Though two separate locations, the School will function like a single school. JPDS will operate a shuttle between both locations so that parents with children at both locations will only have to drop them off at one of the campuses. (Exhibit 3).
30. In addition to seeking approval for an increase in population cap, JPDS seeks variance approval from the parking requirements. The ECCC requires 17 parking spaces but there are only 7 spaces on-site. Accordingly, the School seeks variance relief for 10 spaces. (Exhibits 1 and 3).
31. The Applicant will provide an additional 15 spaces off-site and within one-half mile of the Property. These spaces will be made available to faculty and staff and visitors to the ECCC. (Exhibit 36).
32. The ECCC will operate between 8:30 am and 6:00 pm, with students, faculty and staff arriving prior to 8:30. (Exhibit 26).
33. The ECCC is located on the corner of Decatur Street and 16th Street. It will use both street frontages in its drop-off and pick-up operations. Guardians driving children to the Property will utilize Decatur Street. Children will be dropped-off or picked-up via the lay-by on Decatur. Parents will be instructed to exit the lay-by via a left hand turn in

order to avoid use of Piney Branch Road. (Exhibits 3 and 26).

34. Buses will utilize 16th Street to drop-off and pick-up children. Buses will park temporarily in front of the ECCC to drop children off and to pick them up. These buses will transport students between both campuses. It will utilize 16th Street when moving north-bound and it will utilize 14th Street when traveling south-bound toward the ECCC. (Exhibits 26, 32, and 36).
35. JPDS operates a successful student bus program. It has three buses that currently transport approximately 140 students (over half of its existing population). The bus program will ultimately be expanded to include a fourth bus, which will help streamline bus routes and services provided to children. (Exhibits 3 and 26).
36. In addition to providing 15 off-site parking spaces, the Applicant will also make parking available at the Carter-Barron parking lot when large extra-curricular events occur. JPDS will provide shuttle service to and from the parking lot to the Property. (Exhibits 26 and 36).
37. In order to promote carpooling, JPDS provides a zip code list to help connect families with other JPDS families interested in carpooling. JPDS also encourages carpooling among its staff by reserving four on-site parking spaces for faculty and staff who carpool to the Property. (Exhibit 36).
38. In order to promote alternative modes of transportation, JPDS provides shower facilities in the ECCC as an incentive for faculty and staff members to either bike or walk to campus. Bicycle racks are also available for faculty or staff biking to campus. JPDS will also increase the transit subsidies it provides its faculty and staff to encourage taking public transportation to school. (Exhibits 3, 26 and 36).
39. JPDS will implement a monitoring program to ensure that it meets the projections set forth in its transportation analysis. JPDS will take traffic counts at the intersections of Decatur Street and 16th Street and Crittenden Street and 16th Street on an annual basis and will submit the results annually to DDOT by November 30 for two consecutive years after the proposed plans are in place. If JPDS successfully meets its requirements, the monitoring plan will expire. (Exhibits 3, 26, and 36).

Noise Impacts

40. The increase in the number of students at the ECCC is very modest and will not have a discernible impact on the noise level of the children. The children will be indoors for the majority of the day. When they are outside, they will utilize the area at the eastern end of the site for a play area. This space is adjacent to Piney Branch Road and is set back from the only adjacent property, which is located to the south. (Exhibit 3).
41. There is an approximate 5 foot setback from the southeastern property line, providing a buffer between JPDS and the property to the south of it. In addition to the spatial buffer,

there is a wood-planked fence that will absorb some of the noise from the children during their outdoor play time. (Exhibits 3 and 36).

42. The school is integrating additional plantings along the southwestern property line in order to supplement the buffering already provided by the school. (Exhibit 36).
43. Neither of the neighboring property owners to the south participated in the case.

Traffic Impacts

44. JPDS' expert in traffic engineering confirmed that the increase in student enrollment at the Early Childhood Center Campus is so modest that it will not have a negative effect on traffic in the community. The analysis provided by Symmetra Design projects that the ECCC will result in a net increase of 6 morning and 17 school PM trips as compared to current traffic operations, which is negligible. During the commuter PM peak hour, there will be a decrease of approximately 29 trips to the school. (Exhibits 10, 26, Transcript, p. ____).
45. Traffic counts taken at 16th and Decatur Streets and 16th and Crittenden Streets confirm that the intersections will continue to operate at acceptable levels once the ECCC begins operations. (Id.)
46. Symmetra Design's traffic impact statement concludes that the maximum on-street queuing will be four vehicles for a brief period of time. (Id.)
47. Nicole White testified that 83% of JPDS students currently carpool and/or take the bus to school and this statistic is expected to remain true once the ECCC opens, further minimizing the amount of traffic driving to the Property. (Id.)
48. Nevertheless, the School is going to run a shuttle between the Main Campus and the Early Childhood Center Campus to reduce the number of trips made to the Early Childhood Center Campus. Families with children at both campuses will drop both children off at only one of the campuses. It is a trip that would have otherwise been made to the campus, but this process will reduce the traffic traveling between both campuses. A shuttle will instead run between both campuses so that parents can simply drop all of their children off at their preferred campus instead of making an independent trip to the second campus. (Id.)
49. JPDS is proposing a monitoring program to ensure that its operations align with the projections provided in its transportation analysis. If JPDS meets the projections set forth in its analysis for two years in a row, its monitoring obligations will cease. (Id. and Exhibit 36).
50. JPDS will also implement a transportation demand management ("TDM") program that includes reserving four on-site parking spaces for carpools, increasing transportation subsidies, providing showers and bicycle racks for those who bike to work, and linking families that live near each other in order to encourage carpooling. (Exhibit 36).

51. In addition to the TDM program, JPDS will minimize traffic impacts on the community by prohibiting right-hand turns by parents dropping or picking their children up as they exit the lay-by on Decatur Street. (Exhibits 26 and 36).

Parking

52. The Zoning Regulations require two parking spaces for every three faculty and other employees. 11 DCMR § 2101.1.
53. As a private school use, the School is also required to have "ample" parking, 11 DCMR 206.
54. The Zoning Regulations therefore require that a minimum of 17 parking spaces be provided on-site. The site only has capacity for 7 on-site parking spaces and JPDS will provide 15 spaces off-site, for a total of 22 spaces. (Exhibits 1 and 26).
55. The transportation analysis provided by Symmetra Design states that 84% of JPDS faculty and staff drive to campus, indicating that 22 spaces will meet parking demand. (Exhibits 10 and 26).
56. In an effort to reduce parking demand, JPDS will encourage carpooling among its faculty and staff by reserving four on-site parking spaces for carpools. It will also encourage alternative modes of transportation by providing transit subsidies and making showers available to those biking to work. (Exhibits 10, 26 and 36).

Other Potentially Objectionable Conditions

57. There are no potentially objectionable conditions suggesting the requested relief is not appropriate. (Exhibit 3).
58. The ECCC is located among numerous institutional uses and it is taking affirmative steps to minimize its impact on the community, particularly on residential neighbors. (Id.)
59. The existing building is well-equipped to handle an additional five students. (Id.)

Harmony with the Zoning Regulations and Map

60. The Applicant is undertaking numerous precautions to ensure that neighboring property owners will not be adversely affected by an increase in the enrollment of students and staff. The Applicant is taking affirmative steps to decrease its trip generation, and to minimize any noise that may be generated by the requested relief. These measures will diminish any possibility of adverse effects on neighbors as consistent with the Zoning Regulations and Zoning Maps. (Exhibits 3, 10, 26, 32, 36).

Parking Variance

61. The Property meets the "exceptional conditions" element of the variance test because the building was constructed prior to the adoption of the Zoning Regulation. The building on

the Early Childhood Center Campus was constructed in 1922 as a home for the Himmelfarb family. (Exhibit 3).

62. To the south of the building is the children's outdoor play area. There are seven existing parking spaces in the front and side yards of the building; however, between the parking spaces and the lay-bys located along both 16th Street and Decatur Street, there is no additional room for providing the required parking. (Exhibit 3).
63. In this case, a strict application of the parking regulations would limit the amount of faculty and staff the School could hire, which, in turn, would hinder the quality of the education for the students. Imposing such a restriction on the Applicant's ability to grow would force the School to choose between increasing its student population and looking for a new location for the School. (Exhibit 3).
64. In order to mitigate any impacts of the lack of parking, the Applicant will provide the required amount of parking; albeit some spaces will be provided off-site. (Exhibits 3 and 36).
65. JPDS is providing 15 spaces off-site within one-half mile of the Property. (Exhibit 36).

CONCLUSIONS OF LAW AND OPINION

The Board is authorized to grant a special exception where, in its judgment, the special exception will be "in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property." 11 DCMR §3104.1. Certain special exceptions must also meet the conditions enumerated in the particular sections pertaining to them. In this case, the Applicant had to meet both the requirements of § 3104 and § 206 (Private Schools) with respect to the ECCC.

The Board is authorized to grant a variance where, in its judgment, the variance satisfies the three-pronged test set forth in § 3103 of the Zoning Regulations. In this case, JPDS meets those requirements with respect to its variance from the parking requirements.

The School Special Exception

Section 206.2 of the Zoning Regulations mandates that the ECCC be located so as not to become objectionable to surrounding properties due to noise, traffic, number of students, or other objectionable conditions. 11 DCMR § 206.2. Section 206.3 states that ample parking must be provided, but not less than that required by Chapter 21, to accommodate students, teachers, and visitors. 11 DCMR § 206.3. Similarly, § 3104 stipulates that the special exception use not tend to affect adversely neighboring properties, and further, that it be in harmony with the Zoning Regulations and Map.

The Board finds that the increase in enrollment and faculty and staff will not adversely affect, or be objectionable to, the surrounding properties. The building is located such that there is buffering between it and the neighboring property owner. Further, many of the neighboring properties are institutional uses and the building has been used historically as a school. To

further mitigate any such impacts, the Applicant has agreed to be bound by a Transportation Demand Management Plan and Monitoring Plan.

The size of the School, at 130 students and 26 faculty members, is manageable on the site and within the community. The School will be providing ample parking on-site and off-site. The 22 spaces provided will be more than sufficient to accommodate the needs of teachers, and visitors. Parking is also addressed in the TMP and the Applicant has been sensitive to the needs of the community regarding parking, as well as student drop-offs and pick-ups.

The Applicant's proposal for the ECCC is in harmony with the purpose and intent of the Zoning Regulations and Map.

The Parking Variance

In order to be granted a variance from the parking requirements, the application must satisfy the three-pronged variance test. The application has satisfied the requisite test. The first prong of the test requires a showing that there is a unique condition of the property that ultimately creates a practical difficulty in complying with the parking requirements. This property is unique because it is improved with a building constructed in 1922. The building was constructed prior to the adoption of the Zoning Regulations, thus the parking requirements promulgated under the regulations were not yet in effect, meaning that when the building was designed, the parking requirement was not taken into consideration. The building is placed such that only seven parking spaces can be located on-site. The property is otherwise occupied by a lay-by along Decatur Street and an outdoor play area for the children. Complying with the parking requirement would create a practical difficulty for the school and would either require modifications to a building constructed in 1922 or elimination of outdoor play area for the children. In order to mitigate any impacts that may be created as a result of the variance from the parking requirements, the applicant is providing an additional 15 spaces off-site within ½ mile of the Property. The Applicant is providing a total of 22 spaces rather than the 17 spaces that are required by zoning; it is providing an additional five spaces without being required to do so.

Great Weight

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations of the Office of Planning. D.C. Official Code §§ 1- 309.10(d) and 6-623.04 (2001). Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive.

ANC 4C recommended unconditional approval of the School special exception and variance. The Board agrees with the ANC's recommendation of approval. The Board acknowledges that the ANC considered imposing conditions on the approval, including a term on the special exception; however, the ANC specifically voted against doing so. Its ultimate vote was for unconditional support of the application.

The Office of Planning recommended conditional approval of the School special exception and the Board likewise agrees with this recommendation. OP recommended a list of 7 conditions, addressing various aspects of the School's operations. The Board concludes that all of OP's

concerns are adequately recognized, addressed, and dealt with in the conditions to this Order and by the provisions of the Applicant's Traffic Management Plan.

The Board will also note that although it is not required to give great weight to CBENA's concerns, it believes that the TDM and Monitoring Plan will address CBENA's concerns with parking and traffic. The Board notes that CBENA is otherwise supportive of the application.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof with respect to an application for a special exception pursuant to §§ 3103, 2101, 3104 and 206 to expand enrollment and faculty and staff and to provide less than the required on-site parking. **THEREFORE**, it is hereby **ORDERED** that the application for a special exception for a private school for Lot 33 in Square 2707 is **GRANTED, SUBJECT** to the following **CONDITIONS, NUMBERED 1 THROUGH 10**:

1. The number of students shall not exceed a maximum enrollment of 130.
2. The number of faculty and staff shall not exceed 26 individuals.
3. The hours of operation shall not exceed 8:30 a.m. to 6:00 p.m. Children and staff may be present on-site before 8:30 a.m.
4. Use of on-site play area shall be limited to small groups of children to minimize impacts from the noise of children at play.
5. Seven on-site parking spaces shall be provided on the Property. Fifteen spaces shall be provided off-site and within ½ mile of the Property. Four of the on-site parking spaces shall be reserved for faculty and staff who carpool.
6. Drop-off and pick-up of children shall be from the existing driveway on Decatur Street. Bus drop-off and pick-up operations shall take place from 16th Street.
7. Parking for large extracurricular events shall occur at Carter Barron, with shuttle service provided to the Property.
8. The applicant shall landscape the property in accordance with the landscape plan dated October 20, 2012 and entered into the record as Exhibit _____.
9. All faculty and staff shall be permitted to ride the school's buses for free.
10. JPDS shall implement a monitoring program to ensure that it meets the projections set forth in its transportation analysis. JPDS will take traffic counts at the intersections of Decatur and 16th Streets and Crittenden and 16th Streets on an annual basis and will submit the results to DDOT by November 30 for two consecutive years after the proposed plans are in place. If JPDS successfully meets its projections, its obligations to continue monitoring will cease. If JPDS does not meet its projections for two years in a row, it shall work with DDOT to develop additional techniques and mechanisms to mitigate its impact and reduce parking demand and trip generation.