ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
ATTORNEYS AT LAW

ATLANTA
BOSTON
CHICAGO
LOS ANGELES
MINNEAPOLIS
ORANGE COUNTY
SAINT PAUL
WASHINGTON, D.C.

SUITE 1200
1801 K STREET, N.W.
WASHINGTON, D.C. 20006-1301
TELEPHONE (202) 775-0725
FACSIMILE (202) 223-8604
TELEX 4931197 RKMC

RICHARD B. NETTLER
(202) 775-0725

March 27, 2000

'00 MAR 28 A11:14

BY HAND

Ms. Shelia Cross Reid
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 201
Washington, D.C. 20001

Re: BZA Appeal No. 16554

Dear Ms. Reid and members of the Board of Zoning Adjustment:

I have enclosed for your consideration the proposed findings of fact and conclusions of law in the above-referenced matter submitted on behalf of the Sheridan Kalorama Neighborhood Council.

I appreciate your consideration.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler

cc: Cornish Hitchcock, Esq.
Linda Bumbalo
Alan Hays
Rosalie Auster
Richard Turner
Richard Bowser

BZA
Case No. 16554
Exhibit No. 50

Board of Zoning Adjustment
District of Columbia
CASE NO.16554
EXHIBIT NO.50

Government of the District of Columbia
Board of Zoning Adjustment

Application No. 16554 of James H. and Julie P. Edmonds, pursuant to 11 D.C.M.R. 3108.1 and 3107.2, for a special exception under Section 206 for the location of a private school in an D/R-3 District at premises 2306 Massachusetts Avenue, NW (Square 2507, Lots 4 & 5).

HEARING DATE: March 1, 2000
DECISION DATE: April 5, 2000

I. SUMMARY OF EVIDENCE:

1. The subject application was filed on December 30, 1999, by James H. and Julie P. Edmonds (hereinafter "Edmonds"), to allow the use of the premises located at 2306 Massachusetts Avenue, NW (hereinafter the "Studio House"), and its adjacent lot, for use as a private school. The subject premises are located in an area zoned D/R-3. The Studio House, on Lot 4, was built in 1903 by Alice Pike Barney and was used as her residence and as a studio for visual and performing arts, as well as a salon. Lot 5 was used for parking in a Carriage House. After her death in 1931, until 1960, when her daughters donated the subject properties to the Smithsonian Institution, it was used as a residence and parking for that residence. From 1960 until 1979, when the properties were not subject to the local zoning regulations, the Smithsonian Institution used the studio house for office uses, including the Smithsonian's Traveling Exhibit Services, and Lot 5 as a parking garage and parking lot for nine cars. Since 1979, two of the floors in the Studio House have been used as a residence for Smithsonian scholars and the remaining portion of the main structure has been used for receptions, tours and changing exhibitions. In 1995, the Studio House and the interiors of the first two floors were designated historic landmarks.

2. The subject properties were not subject to the zoning laws of the District of Columbia from 1960 until they were purchased by the Edmonds in September 1999. The Edmonds seek to use the Studio House for individual music instruction, and recitals by students and professional musicians. The Edmonds are adding seven studios to the basement area, which presently has two studios The Carriage House on Lot 5 will be used for group art instruction and other music lessons. The open space on Lot 5 will also be used for parking for the Edmonds, their staff and others.

3. Lessons at the Studio House, for nine students at a time, will be from 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 am to 2:00 p.m. on Saturday, with a normal lesson period of 30 minutes. Recitals are scheduled for 7:00 p.m. to 9:00 p.m. on Fridays and 2:00 p.m. to 4:00 p.m. on Sunday. In addition to 4 staff members, there will be nine instructors at the Studio House.

4. Music lessons in the Carriage House, for eight students at one time, will be from 10:00 am to 12:00 p.m. on Monday through Friday. Art lessons in the Carriage House, for another eight students at one time, are scheduled for 7:00 p.m. to 9 p.m. on Monday through Thursday. The Edmonds will employ two instructors for the Carriage House.

5. The Edmonds envision 40 student recitals a year, principally in the Spring and Fall, two recitals per week, and 24 guest recitals during **[the entire year]**, for a total of 64 recitals. The Edmonds anticipate attendance at the recitals to range from 15-45 persons for the **[student]** recitals and up to 90 persons for the guest recitals..

6. The Edmonds have sought a special exception for the two lots under § 206 of the zoning regulations. Under § 206 of the Zoning Regulations (11 D.C.M.R.), the Board may approve a special exception for use as a private school, provided that the applicant meets the conditions specified in §3108 of chapter 31 of this title, and provided that (1) 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 and (2) ample parking space, but not less than that required in chapter 21 of the zoning regulations, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

7. The Edmonds have not proposed any enrollment caps. Nor have the Edmonds undertaken any extensive consultative process with the community. Instead, the Edmonds met with the Advisory Neighborhood Commission once.

8. The Office of Planning did not file any memorandum with regard to the proposed uses.

9. The Board received numerous letters and petitions in opposition to the application and many area residents testified in opposition to the application at the hearing before the Board.

10. The site of the application is located within the jurisdiction of Advisory Neighborhood Commission (ANC) 1D. ANC 1D, which is automatically a party to this application, submitted a written statement in opposition to the application.

11. James Edmonds, the co-applicant, testified in support of his application. He stated that he had been a lifelong resident of the area, had been living in Virginia and was presently living in Adams Morgan, and had a music business in Virginia. He also stated that he ran a music school in Virginia but that the area in which he was located did not provide large enough venues for the music programs he desired to have. Mr. Edmonds purchased the subject site from the Smithsonian Institution for the purpose of residing on the premises and for a number of uses, namely as a venue for giving music lessons, art lessons, holding programs for his students and presenting renown musicians at recitals throughout the year. After briefly outlining his proposed uses, Mr. Edmonds presented a twenty-five minute video showing the interior of the Studio House and a number of shots showing the traffic and parking conditions at the site from 3:30 - 3:45 p.m. one weekday afternoon. The video also provided a demonstration of how one would have to back-up out of the parking lot to allow cars to leave the site and the discharge of a passenger in the traffic lane. Mr. Edmonds acknowledged that the video did not represent the time during which his traffic consultant studied the property nor during the period of the heaviest traffic in the area and the video did not demonstrate conditions which would exist after construction on the nearby Q Street bridge is completed which

would result in different traffic patterns and volume.

12. The Edmonds presented two expert witnesses. The first was George Oberlander, a former employee of the National Capital Planning Commission. Mr. Oberlander was accepted as an expert in urban planning. According to Mr. Oberlander, since the site had previously been used for mixed-use purposes while owned by the Smithsonian Institution and the zone is a mixed-use zone, that is, a low density residential zone that permits chancery uses, he testified that Studio House would be an appropriate place for a music school. Mr. Oberlander did not address the specific criteria of the zoning regulations which applied to the uses proposed and it became apparent that he was not familiar with the regulations. For example, in response to questions concerning the fact that the applicant would need another special exception to use Lot 5 for accessory parking, Mr. Oberlander stated that an assessment and taxation ("A&T") lot obtained for the site had created a combined lot. Mr. Oberlander was informed by the Board that an A&T lot had no application to the requirements of the zoning regulations which governed the use of record lots. Further, Mr. Oberlander stated that he had seen only two subdivisions in his whole tenure at the National Capital Planning Commission, and thus he could not see how any subdivision could remedy the issue. Mr. Oberlander also confused the "mixed use" D/R-3 zoning (residential zone with a diplomatic overlay) with the "mixed use" of a music/art school and residence proposed for the Studio House and other mixed-use zones authorizing a mix of residential, office and retails uses.

13. The second expert witness was Dr. Everett Carter. Relying on an analysis he had performed at the end of 1999 and had revised in early 2000, Dr. Carter, a transportation planner, testified that he did not believe that either the parking needed for the proposed uses or the traffic impacts on the community would have any adverse impacts. However, Dr. Carter acknowledged that if the findings in his analysis were not accurate that would undermine his conclusions. On cross-examination, Dr. Carter agreed that his traffic study inexplicably showed 884 vehicles either already in Sheridan Circle or entering the circle from Massachusetts Avenue heading in a south easterly direction while the same exhibit showed 1,237 vehicles either turning onto 23rd Street or moving past 23rd Street during the same time period. Dr. Carter admitted he could not explain the 400+ vehicle discrepancy between the cars entering the circle from the north and those exiting the circle. Dr. Carter also asserted that the closing of the Q Street bridge had no material impact on his study results but then acknowledged that a 1984 traffic count by the Department of Public Works showed almost twice as many vehicles entering the Circle from the north than Dr. Carter's study. Dr. Carter said he had also conducted a study of available, legal parking places in the surrounding streets and found more than 30 spaces on each of four 20 minute trips on a recent Friday evening. Dr. Carter was unaware as to whether those spaces were limited to residential parking permit holders nor did he do a full parking analysis for the vehicles coming to the premises for the more than twice weekly recitals. Responding to questions about how many cars would have to be backed out of the lot adjacent to the Studio House used for parking (Lot 5), in the absence of a access lane, Dr. Carter asserted that there would be no safety problem backing several cars into the Circle.

14. One person testified in support of the application, Frank Graves, who resides on 1930 Columbia Road, N.W. Mr. Graves does not live near the site or within either ANC 1D or the Sheridan Kalorama Historic District.

15. Linda Bumbalo, the designee for ANC 1D, submitted a report describing why the ANC opposed the application. Ms. Bumbalo also recounted her own experience in driving to the Studio House and utilizing the adjacent lot (Lot 5) for parking. Ms. Bumbalo testified that she had driven to the Studio House and pulled into the parking area through a very narrow entrance flanked on the house side by a large tree and on the other side by a wall which had been damaged by someone driving into the parking area. According to Ms. Bumbalo, her passenger had to help her back the car out because the passageway was so narrow that she could not keep the tree and the wall in view simultaneously. In response, the Edmonds represented that they were considering paving over the grassy areas around the parking black top area and removing the tree to widen the entryway. This alteration would reduce the visual landscaping of the site.

16. Rosalie Auster, as a party to the proceeding, spoke for herself and her neighbors who had all received notices. She said she had lived at her present location for 29 years and knew intimately each of the limited number of parking places on Massachusetts Avenue and around the Circle. She said that like all of her neighbors, but one, they had no driveways and are forced to park in the few available resident spaces on the street. They have an unusual problem with repair companies and contractors, many of whom refuse to work for them because of the lack of parking.

17. Richard Turner, the next door neighbor and another party to the proceeding, clarified that there are only two legal, non-diplomatic spaces in front of his and the Studio House, not four as represented by Dr. Carter. He said they often tried to use one of the spaces but other cars were usually parked there and he did not think the school would be able to count on loading and unloading children in these spaces. He discussed the close proximity of the Studio House and the Korean Chancery driveways, corrected Dr. Clark's testimony, and spoke of the dangers for children in the vicinity of these driveways. Mr. Turner testified that cars coming out of the Korean Chancery driveway posed dangers to pedestrians and that the separation of the Korean and Studio House driveways was about 3', not the 10' asserted by Dr. Carter. Mr. Turner, who is an architect, also expressed concern over the fact that the Studio House does not meet building code requirements for a mixed residential/business use. He also spoke of the noise problems at some length. He explained that at a recent affair hosted by the Edmonds, relatively loud piano music was heard through the abutting second floor party wall in his and his son's bedrooms, and explained that guests, while congregating around the entryway to the Studio House, produced objectionable noise and cigarette smoke which entered their windows while his family tried to sleep. He also testified that the Edmonds had refused to specify in their application that the Studio House would not be rented out for weddings, corporate affairs, etc. On cross examination, he said that the party wall had developed cracks, due to the rear of the houses settling, which had not been repaired properly and that he was not sure but suspected that draperies would not eliminate the objectionable sounds.

18. Rick Bowser presented his written statement for the record and then covered a number of issues in his oral testimony. He said that in his experience the sound proofing proposed by the Edmonds was inadequate and that music lessons would be conducted at the same time as the next door neighbor's six year old son's bedtime. Regarding traffic safety issues, he said that you cannot regiment "soccer moms" who will arrive at unpredictable times and may get out of the car, open the trunk to unload an instrument, and help their child out of the car. For this reason he feels that cars will queue up in the Circle and double park in the traffic lanes. He feels this problem will be compounded when the Q Street bridge reopens. He pointed out that fire codes and ADA building codes had to be met before a Certificate of Occupancy would be issued. Mr. Bowser then discussed the security problems posed to neighboring embassies by a music school, a problem he is familiar with as an architect for the General Services Administration.

19. Alan Hays entered petitions opposing the application signed by 67 immediate neighbors. He then entered an official letter from Representative Eleanor Holmes Norton to the Secretary Madeleine Albright wherein she states that the Sheridan Kalorama neighborhood has an impossible parking situation. He then described traffic on 23rd Street and the Q Street bridge which he can see from his house. Vehicles stopped for the red light at Q and 23rd Streets often backed up into Sheridan Circle during the evening rush hour when the Q Street bridge was open. He described the speed with which vehicles enter the circle (35 mph) and that the driver's attention is focused on vehicles already in the circle who have the right of way and not on parked and moving traffic near the Barney House. He spoke of the parking problems on and in the vicinity of the 2200 block of Q Street caused by organizations who rent the Church of the Pilgrims for meetings one to three times per week. Lastly, he spoke of the parking problems caused by the potential of renting the Barney House and serving alcoholic beverages for weddings, social and corporate affairs as is done at Tudor House.

20. Steve Petersen, who was accepted as an expert traffic engineer, submitted a report and spoke at some length about deficiencies pertaining to the large traffic count errors in Dr. Carter's analysis, the methodology used by Dr. Carter, what can be expected when the Q Street bridge reopens in August 2000, problems with backing out of the Barney House parking space and serious inaccuracies in the other data relied upon by Dr. Carter. Mr. Petersen testified that the methodology used by Dr. Carter for evaluating the conditions was inappropriate and that better methods have been developed to model this type of circle, which closely resembles a "round about", for purposes of analyzing the impacts of the uses proposed. Finally, Mr. Petersen pointed out that the operational details provided to Dr. Carter were inadequate for Dr. Carter to reach a valid conclusion as to the effect of the curbside drop-off and pick-up of students on traffic around the Circle.

II. PROPOSED FINDINGS OF FACT:

21. While the Edmonds assert that they will be using the Studio House as a residence, if the Board finds that, in light of the severity of the school use and the fact that the Edmonds do not reside at the Studio House, its principal use will be that of a private school.

22. The Board finds that the principal use of the Carriage House lot is presently that of a garage and parking lot. The intention is to use the site principally for parking to serve the needs of the private school on the adjacent lot.

23. The Board finds that the proposed use by the Edmonds of the two parcels is likely to have an objectionable impact on neighboring property because of noise, traffic, the intensity of the use and parking concerns. In so finding, the Board further finds that the Edmonds have failed to present an adequate traffic and parking study that demonstrates that the almost continuous use of the properties for school uses and recitals have been thoroughly evaluated for their impacts on the immediate neighborhood. The number of recitals, their frequency and the number of expected guests to each recitals suggests that the principal use of the two lots will be for a public hall or concert hall which is first permitted as a matter of right in a C-2 district and which is not permitted by special exception in the D/R-3 district.

24. The Board further finds that since the Edmonds have not proposed any conditions to lessen the intensity of use any conditions that the Board might impose are not likely to alleviate any objectionable impacts of the proposed school uses.

III. CONCLUSIONS OF LAW AND OPINION:

The applicant is seeking a special exception for two adjacent record lots. The Board may grant special exceptions, "where, * * * those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps * * * ." *Levy v. Board of Zoning Adjustment*, 570 A.2d 739, 742 (D.C. 1990) (quoting 11 D.C.M.R. § 3108.1). *See Rose Lees Hardy Home and School Association v. District of Columbia Board of Zoning Adjustment*, 324 A.2d 701, 706 (D.C. 1974).

With regard to special exceptions, such a use

> [i]s part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible *absent any fact or circumstance negating the presumption.* The duties given the Board are to judge whether the *neighboring properties in the general neighborhood would be adversely affected* and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Schultz v. Pritts, 291 Md. 1, __, 432 A.2d 1319, 1325 (1985) (emphasis in original). Nevertheless, a special exception must be denied when the grant of such a request would result "in an adverse effect upon adjoining and surrounding properties unique and different from the adverse effect that would

otherwise result from the development of such a special exception use located anywhere within the zone." *Id.* at 1327. In sum,

> the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect, and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects beyond those inherently associated with such a special exception use irrespective of its location within the zone. [*Id.* At 1331].

"[T]he applicant is not charged with considering every option that any party in opposition might conceptualize." *Don't Tear it Down, Inc. v. District of Columbia Dept. of Hous. And Community Dev.*, 428 A.2d 369, 379 (D.C. 1981). The Board's discretion in reviewing an application for a special exception is limited to a determination of whether the Applicant has complied with requirements of the section. If the Applicant meets this burden, the Board ordinarily must grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695, 698 (D.C. 1981).

The Edmonds have the burden of demonstrating that its proposal addresses the issues reflected in §§ 206, 3108.1 and that "the use, height, bulk, and design are in harmony with existing uses and structures on neighboring property," ample parking space is provided and that "the use will not create dangerous or other objectionable traffic conditions." In passing on an application for a special exception in a residential use district, the Board must consider all pertinent factors enumerated in the ordinance, such as fire hazards, traffic problems, transportation requirements and facilities, streets and paving, and schools, parks, and playgrounds, and its action must be reasonable in light of the facts relating to these factors. *Levy v. Board of Zoning Adjustment*, ___ A.2d ___, ___ (D.C. 199_); *Health v. Mayor and City Council of Baltimore*, 49 A.2d 799, 804 (Md. 1946). Furthermore, with respect to traffic problems, adverse traffic impact is a sufficient basis to deny an application for a special exception if, as with other adverse impacts, the impacts uniquely affect neighboring property owners. *See Schultz v. Pritts*, *supra*, 432 A.2d at 1325. Based on the testimony and evidence presented at the public hearing, the Edmonds have not met their burden.

We recognize that the zoning regulations consider a school to be compatible with the Zone Plan for residential areas. Private schools are permitted in R-1 districts by special exception and public schools are permitted in R-1, the most restrictive district, as a matter of right. However, the zoning regulations require that the Edmonds demonstrate that it is not *likely* that the proposed site will become objectionable to neighboring properties. *See* 11 DCMR § 206.2 (1991). The Edmonds have not been able to do so regardless of the laudatory purposes of the proposed uses and the history of the use of the premises.

The proposal by the Edmonds does not accommodate the reasonable concerns of the residents. The two aspects of the proposed use having the greatest potential for adverse impact are visual intrusion and traffic disruption. With regard to visual intrusion, the Edmonds did not present

any landscape plan and even suggested removing landscaping to accommodate parking needs. This would result in an additional adverse impact on the community related solely to the need to alter the parking situation to accommodate the intensity of use for the properties.

Regarding traffic disruption, the evidence before the Board is insufficient to demonstrate that the extensive use of the properties for recitals, together with the number of expected guests at each recital, and the limited and awkward parking places available on site will do anything but cause severe traffic disruptions in the area as testified to by residents, the Advisory Neighborhood Commission, whose opinion is entitled to great weight, and the traffic expert who testified on behalf of those in opposition to the application. Indeed, the traffic study prepared by the applicants' witness was unreliable and to the extent the Edmond's witness relied upon its findings for his opinion, even the witness acknowledged that his reliance was misplaced.

In addition, while this is a self-certification matter, under § 2116.1 of the zoning regulations, the Edmonds may not use Lot 5 for accessory parking related to the special exception use on Lot 4. As a consequence, the Edmonds representations regarding parking availability for staff and guests of the recitals must be discounted.

Section 2116.1 provides that "[e]xcept as provided in §§213, 510, 708, 730, 743.2(d), 753.1(c), 803.1, 2116.5 and 2117.9(c), all parking spaces shall be located on the same lot with the buildings or structures they are intended to serve." With regard to the use of the Carriage House on Lot 5, a special exception is not necessary to park motor vehicles for those participating in the music and art classes carried out on that lot. That is not the case with regard to Lot 4, the Studio House. Thus, the Edmonds will need another special exception, or a subdivision of the two lots.[1] In that regard, the following zoning regulations apply to the use of Lot 5 for accessory parking for the uses on Lot 4:

> 204.1 Accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which the main use is permitted, except for a one-family dwelling, shall be permitted in an R-1 district if approved by the Board of Zoning Adjustment, in accordance with the conditions specified in §3108 of chapter 31 of this title, subject to the provisions of this section.
>
> 214.2 Accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.

---

[1] A subdivision must be approved by the Historic Preservation Review Board and the Mayor's agent for D.C. Law 2-144 because the site is a historic landmark. *See* D.C. Code § 5-1000.

214.3 Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.

214.4 Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.

214.5 All provisions of chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under §2303.3 modify or waive the conditions specified in §2303.2 where compliance would serve no useful purpose.

214.6 It shall be economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:

(a) Strip zoning or shallow zoning depth;
(b) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;
(c) Unusual topography grades, shape, size, or dimensions of the lot;
(d) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or
(e) Traffic hazards caused by unusual street grades or other conditions.

214.7 Accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.

214.8 Before taking final action on an application for use as an accessory parking space, the Board shall submit the application to the D.C. Department of Public Works for review and report.

Although they recognized that the grandfathering rules of the zoning regulations would not apply to them because the property has not been subject to local zoning since 1960, the Edmonds claimed that the regulation governing accessory parking does not apply to them and, therefore, they would not have to obtain another special exception, because a small part of the Studio House, a stairwell, encroaches on Lot 5, the Carriage House lot. In the first place, the stairwell referred to is

not a part of the Studio House but are brick steps leading to a sunken garden. Thus, the Studio House, as a building or structure, is not located on Lot 5. Furthermore, the "main use" referred to in § 214 is not "permitted" on Lot 5 as a matter of right, as that provision requires but, as this proceeding reflects, requires a separate special exception for its authorization.[2] The zoning regulations do not permit accessory parking for non-single family uses, such as a private school, on an adjacent record lot without obtaining another special exception or a subdivision to assemble the lots.

Based upon the record before the Board, the Board finds that the applicants have not met their burden of proof, pursuant to 11 DCMR 3108, and the requested relief cannot be granted since it is not in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further finds that granting the requested relief will tend to affect adversely the use of neighboring property. It is therefore ORDERED that the application is DENIED.

[If, notwithstanding the foregoing, the Board should vote to grant the relief requested, we recommend the following conditions:

1. *Enrollment at the school shall be limited to 4 music students in the Studio House and 8 art students in the Carriage House during the 3:00 pm to 9:00 pm instruction period] and, at any one time, 5 faculty/staff with only one music student scheduled to begin instruction at each 15 minute period during the hour.*

2. *The number of student recitals during the three month Spring and three month fall semesters shall be limited to twice a month and shall be completed by 7:00 pm.*

3. *Guest recitals shall not be allowed.*

4. *The number of individuals permitted at each recital shall not exceed 30 persons.*

5. *Noise levels in the neighboring house from instruction and recitals shall not exceed 60 db.*

6. *The Studio House shall not be rented, leased, or made available to persons or organizations for any purpose.*

7. *Alcoholic beverages shall not be sold or served at any Studio House event.*

---

[2] If the two lots were commercial lots they would be treated differently under the zoning regulations. For example, 11 D.C.M.R. § 3202.3 provides that any combination of commercial occupancies maintained in a single ownership shall be considered as one structure, and § 2517 allows for matter of right theoretical lots.

8. *Prior to obtaining a certificate of occupancy for the requested uses, the applicants shall file with the Office of Zoning a lease that unconditionally provides for 15 parking spaces at a commercial parking lot in the neighborhood for the use of the applicants for the recitals held at the premises*

9. *The term of the special exception shall not exceed two years.*

10. *Certificates of occupancy for the private school shall not be issued until the applicants obtain approval for a special exception that authorizes the use of Lot 5 for accessory parking for Lot 4 or, in the alternative, obtain a final order authorizing the assembly of the two lots into one record lot.]*

VOTE:

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
FINAL DATE OF ORDER: