MICHAEL & MELEVA LOVENDUSKY
4927 MacArthur Boulevard NW
Washington DC 20007

1 April 2002

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Board of Zoning Adjustment
C/o Jerrily R. Kress, FAIA, Director
Office of Zoning
Government of the District of Columbia
441 4th Street NW Suite 210-S
Washington DC 20001
zoning_info@dcoz.dcgov.org

RE: Board of Zoning Adjustment Case No. 16852 – St. Patrick's Episcopal Day School; Application for Party Status

Ladies and Gentlemen of the Board:

We respectfully apply for party status in the captioned proceeding. Pursuant to 11 DCMR s. 3106.2, we provide the following information:

a. Michael and Meleva Lovendusky (Lovendusky)
   4927 MacArthur Boulevard NW
   Washington DC 20007
b. We request to appear and participate as a party in the captioned proceeding.
c. Michael Lovendusky will oppose the application for special exception.
d. Michael Lovendusky will appear on behalf of himself and his wife, Meleva.
e. Lovendusky should be granted party status because:
   1. The property at 4927 MacArthur Boulevard (Lovendusky Home) will be affected should the Board grant the relief requested.
   2. The Lovendusky Home is owner occupied.
   3. The Lovendusky Home is less than 100' (one hundred feet) from the property that is the subject of the captioned case.
   4. The facts of St. Patrick's Episcopal Day School (Patrick's) application for special exception use of 4925 MacArthur Boulevard NW will have deleterious environmental and economic and social and other impact upon the Lovendusky Home. The facts include the 6,300 additional vehicular and 13,020 additional pedestrian visits per year to 4925 MacArthur, immediately next to the Lovendusky Home. Details of the deleterious impact on the Lovendusky Home are provided in the Lovendusky Opposition Response accompanying this application.
   5. Lovendusky is likely to be more significantly, distinctively, and uniquely affected in character and kind than those in the general public because the Lovendusky Home will be the physical buffer sparing the general public from the impositions of Patrick's variant use of its property. The distinctive

BZA
Case No. 16852
Exhibit No. 64

Board of Zoning Adjustment
District of Columbia
CASE NO.16852
EXHIBIT NO.64

impositions upon the Lovendusky Home are detailed in the Lovendusky Opposition Response accompanying this application for party status.

This submission, with the accompanying details of the Lovendusky Opposition Response, should satisfy zoning regulation requirements for granting party status. Please alert me immediately if there is anything more we must accomplish to achieve party status, or if the case schedule has changed. Thank you granting party status to the Lovendusky family. I look forward to participating fully in Adjustment Case No. 16852 on April 16 in the afternoon.

Sincerely,

MICHAEL LOVENDUSKY
Telephone: 202.624.2390

Attachment: Lovendusky Opposition Response

MICHAEL & MELEVA LOVENDUSKY
4927 MacArthur Boulevard NW
Washington DC 20007

1 April 2002

In the Matter of the District of Columbia
Board of Zoning Adjustment Case No. 16852,
St. Patrick's Episcopal Day School
Application for Special Exception for Square 1393 Lot 823
4925 MacArthur Boulevard NW

LOVENDUSKY OPPOSITION RESPONSE

This Response accompanies the application of Michael and Meleva Lovendusky (Lovendusky) to appear as a party in interest to the Board of Zoning's deliberations on the captioned application, in which St. Patrick's Episcopal Day School (Patrick's) proposes a special exception be granted for 4925 MacArthur Boulevard (Patrick's Property) to permanently change its zoning status from residential (R-1) to private school (School). Lovendusky owns and occupies the house at 4927 MacArthur Boulevard NW (Lovendusky Home), immediately across Ashby Street from Patrick's Property. Less than one hundred feet separates the Lovendusky Home from Patrick's Property. See attached Photograph 1.

Lovendusky opposes Patrick's application and urges the Board to reject it. This Response details the environmental, economic, social and other impacts that will deleteriously affect the Lovendusky Home if the Board approves Patrick's application, and explains how Lovendusky's interest in the matter transcends that of the other persons in the general public. See 11 DCMR s. 3106.2. In describing the deleterious impacts, Lovendusky details how the proposed School is objectionable because of traffic, noise, number of students, and other objectionable conditions. See 11 DCMR s. 206.2.

Facts of Patrick's Application

Patrick's is seeking a zoning special exception to locate it Grades 7 and 8 at 4925 MacArthur Boulevard. This site would be the third St. Patrick's campus in the Palisades.[i] The maximum enrollment will be 60 students. It estimates that the School will have eight full time and four part time faculty.[ii] School is in session from right after Labor Day to the first week in June. Faculty and staff prepare the School building for use weeks before Labor Day and close out the school year following graduation on or about June 5. There is a two-week break at the end of December and a ten-day break in March. The School also is closed four federal holidays during this period.[iii] Thus the School is in normal operation 175 days a year. Patrick's also operates a summer school that begins in the middle of June and runs until August 1, or seven weeks.[iv] Thus the School is in operation 42 weeks per year, or 210 days.

The School also fully renovated in 2001 a leased facility at 4880A MacArthur Boulevard NW (4880A MacArthur), which it equipped with a new science space. Patrick's intends to use 4880A for Grades 7 and 8 as long as they can lease the space, which under its current contract with the landlord is through the summer of 2004. Patrick's intends to use 4880A MacArthur for math and science classes and 4925 MacArthur for humanities classes, walking the students between the two campuses except for inclement weather days, when they will be bussed.[v]

Patrick's proposes to use existing parking at 4925 MacArthur for faculty, staff, and visitors, while bussing the students every day from its primary campus on Whitehaven Parkway to the School. This would involve three bus shuttles every morning and three bus shuttles every afternoon.[vi]

The School will generate an objectionable amount of vehicle and pedestrian traffic.

There are three aspects of Patrick's application objectionable for traffic reasons:

- Sheer volume of new traffic;
- Likelihood of traffic congestion;
- Incredibility of Patrick's traffic management plan.

Patrick's proposes to impose an additional 6,300 vehicular and 13,020 pedestrian visits per year upon Patrick's Property and the Lovendusky Home. These remarkable magnitudes are simple extrapolations of the facts presented in Patrick's public representations.[vii] These numbers do not include the daily visits of parents, janitors or groundskeeper, trash pick-up and removal, repair and service, or other visits that certainly will occur. The traffic impact numbers extrapolated from Patrick's own representations are thus conservative; the volume of traffic will actually be higher. Thousands of additional vehicular and pedestrian visits upon MacArthur Boulevard and Ashby Street are objectionable in themselves, for they will certainly upset the peace and quiet of the neighborhood, indubitably contributing to its environmental, economic and residential degradation.

Further, Patrick's application, if approved, will result in objectionable traffic congestion at MacArthur Boulevard and Ashby Street. Patrick's traffic management plan relies upon using the Washington Metropolitan Area Transit Authority's (WMATA) bus loading area at MacArthur and Ashby. WMATA has not granted approval to Patrick for such use. WMATA buses are scheduled to use their bus loading areas four times in the morning and three times in the afternoon during the times Patrick's proposes to use them as their own loading areas. It will take substantially more time to load and un-load the student buses than the WMATA busses. The result will be stacking of WMATA and Patrick's buses on MacArthur in those time periods, which will back traffic on MacArthur and create traffic hazards at the intersection.

Third, Patrick's traffic management plan is incredible. It presumes that 100% of the parents with students at 4925 MacArthur will cooperate daily in taking their children to

the Whitehaven Parkway campus to be bussed to 4925 MacArthur. But they will not do so, especially those for whom it will be shorter or more convenient to drop their children off at the site rather than go further to Whitehaven Parkway. Every extra vehicle will add that much more traffic, increasing the traffic congestion and noise. The family vehicles will more likely use Ashby Street from both directions, congesting that narrow street and exacerbating safety concerns discussed below. There is no credible way for Patrick's to police its own traffic management plan.[viii]

The School will generate an objectionable amount of noise.

Every additional vehicular visit and every additional pedestrian visit will naturally contribute to an increase in noise at Patrick's Property and Lovendusky's Home. The busses will be louder than the cars, and the cars will be louder than the pedestrians. But they will all contribute something, and the aggregated contribution will result in substantially more noise than is already endured.

The vehicular noise will be loudest in two periods relatively quiet at this time: the early morning beginning about 7:00 AM, and then again in the usually quiet afternoon, about 3:00 PM.[ix] How late the extra vehicular noise will continue is uncertain because Patrick's has never revealed its exact plans for its janitorial and trash removal services.

Additional personal noise will not merely accompany the pedestrian exchange between the three Patrick campuses, though at these times the noise can be expected to be especially boisterous. During the day, the student noise will naturally rise whenever they are outside. This will typically be during the lunch hour as well as any other break times.[x] Lovendusky appreciates that the students will always be civil in their remarks, attitudes, and audible volume; but 60 teenagers across narrow Ashby Street still represents an objectionable noise impact compared to both the historical use of Patrick's Property as well as it use if were developed residentially, as the site is appropriately zoned.

The School will have an objectionable number of students.

The contortions that Patrick's proposes to go through to provide suitable services to its students and accommodate the immediate neighbors of 4925 MacArthur testify to the fact that the site is too small for a junior high school. There are no athletic facilities. There is no food service facility. The external appearance of the house must change for fixture of unsightly mass fire escape. There is insufficient space to solve directly transportation problems. None of this is typical for an appropriate site of a junior high school. All of it evidences the fact that the site is too small for Patrick's proposed use.

Sixty teenagers visiting next door to one's house 210 days a year is a daunting prospect to any reasonable adult. No matter how civil their behavior, no matter how much good will might be extended by the most benevolent neighbor, the sheer coming and going is too much physical impact to not disturb the peace and quiet of the Lovendusky Home.

The School will generate other objectionable conditions.

The School will create both pedestrian and vehicular safety hazards. Students, teachers, parents, janitors, vendors, and service-people will arrive at 4925 MacArthur from both directions on MacArthur Boulevard and both directions on Ashby Street. But seventy-five percent (75%) of Ashby Street lacks sidewalks on either side. The result will be exposure of pedestrian traffic on Ashby to the hazards of heightened vehicular use, and the exposure of vehicular traffic to hazards of the congestion of a narrow street next to the Lovendusky Home. See attached Photograph 2.

There is zero buffer from Patrick's proposed use. The smallness of the site means there is no way for Patrick's to buffer the Lovendusky Home from the use of 4925 MacArthur as a school. There is not enough space to build berms or make special plantings; no room to build special parking or transportation facilities; no room for athletic or food service facilities. Whatever impact – however large or small – will be felt, heard, and seen by the Lovendusky family. Lovendusky objects to our home becoming Patrick's buffer. See attached Photographs 3 and 4.

Patrick's planning is unreliable. The historical record demonstrates that Patrick's planning is unreliable. It is not a matter of disingenuousness; it is a matter of Patrick's changing its mind often in zealous pursuit of its true belief that its educational mission transcends all other interests and that achievement of its goals justifies whatever means to accomplish them. Most famous is Patrick's declaration that it would not expand classes beyond the sixth grade; a promise conveniently forgotten when it expanded to seventh and eighth grades a few years later. More immediately, Patrick's declared it would keep the exterior of the Victorian house at 4925 MacArthur intact in all its charm; but within the past thirty days it revealed plans to forever mar the east side of the structure with a mass escape addition and to change the south side appearance with a substantial addition to the second floor. Lovendusky reasonably has no confidence in Patrick's planning or declarations. Further, there is no remedy to protect Lovendusky if the special exception is granted and Patrick's changes it mind again about its use of 4925 MacArthur.

Patrick's has not addressed issues of significant impact. Patrick's has not, for example, credibly explained how and when trash will be removed from 4925 MacArthur. Seventy-two humans generate a lot of trash on a daily basis, especially when they are bringing their own lunches and snacks. Lovendusky objects to the additional trash that will be generated and the absence of a reliable, non-objectionable plan to remove it.

Patrick's exceptional use will change the zoning forever. Every preceding exceptional use granted for 4925 MacArthur has been temporary, expiring upon the sale of the property. The residential heart of the property and the neighborhood next to the Lovendusky Home has been maintained. But Patrick's proposes a permanent special exception that will forever change the nature of three lots next to the Lovendusky Home. Such change will forever change the nature Lovendusky's neighborhood, eroding its residential nature to the detriment of the Lovendusky Home and entire community.

Granting a special exception will have a negative impact on real estate values of the immediately neighboring properties. At first, the impact of locating a junior high school in a residential neighborhood will likely decelerate the appreciation of realty values in today's go-go real estate market. But as thousands of additional vehicles and pedestrians visits 4925 MacArthur with all the attendant consequences of traffic congestion and noise, immediately adjoining properties including the Lovendusky Home will depreciate unfairly.

The Board should consider the impact of all Patrick's campuses in evaluating its application. Patrick's proposes transportation, athletic, chapel and other curricular and extracurricular connections among its campuses that in aggregate will have a tremendous and objectionable traffic, congestion, noise and safety impact on the entire community. The Board should not evaluate any Patrick's application merely on the four corners of 4925 MacArthur but appreciate the relationship among all of Patrick's properties and their combined impact upon the Palisades and the Lovendusky Home.

Attachment: Four Photographs

~ENDNOTES~

[i] The primary campus is located at 4700 Whitehaven Parkway NW. A second campus is at 4880A MacArthur Boulevard NW. The third campus is proposed for 4925 MacArthur Boulevard NW. No other private school has more than two campuses in the District of Columbia.
[ii] "Defining Our Program for Grades 7 and 8 at 4925 MacArthur Boulevard", St. Patrick's Episcopal Day School Questions and Answers, 1/22/02, p.2. (Hereafter, "Patrick's Q&A").
[iii] Ibid., p. 6.
[iv] Id.
[v] Id., p. 4. It is unclear whether Patrick's will attempt to extend its lease at 4880A MacArthur beyond 2004.
[vi] Wells & Associates, "St. Patrick's Episcopal Day School: 4700 Whitehaven Parkway, MacArthur Campus: 4925 MacArthur Boulevard, Traffic Analysis, Washington, D.C." 2/21/02, p. 48 ("Conclusions"). Hereafter referred to as the "Traffic Analysis".
[vii] Indeed, these numbers are low estimates, because they simply multiply the number of School days (210) times the number of bus trips per day (6) plus the number of faculty trips per day (24) for the vehicular impact. For the pedestrian impact, the total is derived from simply multiplying the School days (210) times the number of students plus attendants (62).
[viii] Patrick's plan presumes that neither the community nor the Board of Zoning Adjustment will object to the increased traffic generated at its Whitehaven Parkway campus. The permissions granted to Patrick's to use that campus did not contemplate it becoming a bus staging area with traffic congestion implications for Foxhall Avenue, Whitehaven Parkway, and the 4700-4800 blocks of MacArthur Boulevard. The Board should reject Patrick's immediate application because of its misuse of its Whitehaven Parkway campus and the approvals granted for its special, non-residential development.
[ix] Students arrive at 7:30 AM and depart at 3:00 PM. Teachers arrive earlier and stay later. See Patrick's Q&A, supra, at pp. 3 and 5.
[x] Id., p. 4.

PHOTOGRAPH 1

LOVENDUSKY HOME
4927 MacArthur

PATRICK'S PROPERTY
4925 MacArthur

Ashby Street



PHOTOGRAPH 2

ASHBY STREET
Narrow and no sidewalks



PHOTOGRAPH 3

THE VIEW OF PATRICK'S PROPERTY (4925 MacArthur)
FROM LOVENDUSKY'S HOME (4927 MacArthur)



PHOTOGRAPH 4

THE VIEW OF LOVENDUSKY'S HOME (4927 MacArthur)
FROM PATRICK'S PROPERTY (4925 MacArthur)

