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D.C. OFFICE OF ZONING
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March 12, 2002

By Hand Delivery

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 4th Street, NW
2nd Floor
Washington, DC 20001

Re: BZA Application No. 16855 - Rock Creek International School
Statement of the Applicant

Dear Mr. Griffis:

Enclosed please find 12 copies of the above-mentioned Statement of the Applicant. This case is scheduled for a public hearing on March 26, 2002.

If you have any questions or comments regarding the Statement or the requested waiver, please feel free to call the undersigned at (202) 663-8000.

Sincerely,

Phil T. Feola

John T. Epting

Enclosures
cc: Advisory Neighborhood Commission 2E
Pete Ross, Foxhall Community Citizens Association
Frank Staroba, Friends of Hardy, Inc.

BZA
Case No. 16855
Exhibit No. 37

Board of Zoning Adjustment
District of Columbia
CASE NO. 16855
EXHIBIT NO. 37

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Rock Creek International School	BZA Application No. 16855 Public Hearing: March 26, 2002 ANC 2E

STATEMENT OF THE APPLICANT

I.

Nature of Relief Sought

This is a special exception application of the Rock Creek International School[1] ("Rock Creek" or "School") to modify Condition No. 2 of BZA Application No. 16424. That section currently reads, "The number of students shall not exceed 200 pre-kindergarten through fifth grade." The requested modification is to change fifth grade to sixth grade. No other changes are requested. However, because of an April 1, 2002 deadline for students to commit to other schools, a bench decision and summary order is requested.

II.

Description of Site and Proposed Use

In BZA Application No. 16424, the Rock Creek International School received BZA approval to establish and operate a private school for 200 students and a staff of 35-40 people in

[1] Rock Creek International School is a long-term lessee of the Subject Property from the D.C. Public Schools.

an existing structure (the old Hardy School) in an R-1-B District, at premises 1550 Foxhall Road, NW (square 1363, lot 980) (the "Subject Property"). (See Exhibit A.) The Board granted this application on February 3, 1999 by a bench decision with issuance of a summary order. A copy of that Order is attached as Exhibit B. The Order contains seven conditions. The relevant condition for this special exception is Condition No. 2.

The Subject Application requests to modify Condition No. 2 of BZA Application No. 16424. That condition currently reads, "The number of students shall not exceed 200 pre-kindergarten through fifth grade." The requested modification is to change fifth grade to sixth grade. No other changes are requested.

In its original submission, the Applicant proposed that the school be pre-kindergarten through fifth grade. The Applicant's intent at that time (in 1999), and that intent remains, was to develop a middle school for grades six through eight at a different location. As the Board is aware, however, many other private schools have also been seeking to expand or develop schools. It is difficult, despite hard efforts by Rock Creek International, to find a new suitable location and have it approved for private school use. Because Rock Creek International School was unable to anticipate the difficulty and time frame involved in identifying and establishing a middle school, it is now faced with a situation where a number of its students who will be sixth graders will be forced to make a decision to move, by April 1, 2002, to a different school rather than stay at the existing Rock Creek International facility for the sixth grade.

In many ways, modifying the Order to allow the students to stay from pre-kindergarten to sixth grade makes Rock Creek International School more standardized with other schools,

particularly D.C. public schools, whose elementary schools go through the sixth grade. In this way, students who attend Rock Creek International School through the sixth grade can then be in a position to move on to other seventh grade schools, because there are more openings. Rock Creek International School's research has shown that it is much more difficult for children to get into a new school in the sixth grade than it is to enter another school in seventh grade, because that is the standard transition year to middle school for D.C. public schools and many other private schools.

Rock Creek International School did not request the sixth grade level at the time of application, because it reasonably planned to add a middle school at another location, which would resolve this problem. The difficulty that the Applicant is facing, and on an emergency basis, is that a number of fifth grade students will be graduating and need to move to sixth grade next year. There is no place available for them at Rock Creek International School without violating the conditions in the Order. Therefore, the students are faced with deciding on their commitments to other schools by April 1, 2002 unless this modification request is granted as a bench decision.

There are no other changes to the Order. It still continues until September 30, 2009. The number of students still does not exceed 200. The number of staff does not exceed 40. The hours of operation and parking spaces do not change. The Applicant is still required to have an ongoing liaison with the Foxhall Community Citizens Association, ANC 2E, and other interested community members. The landscaping is still required to be provided and maintained. Therefore, the whole essence of this request is to allow existing Rock Creek International School students,

who want to, to continue their education at Rock Creek for one more year. Finally, none of the physical parameters of the school, staff or the students change at all.

III.

Board's Jurisdiction

This Board has jurisdiction pursuant to Section 3108.1 of the Zoning Regulations to grant the request for special exception relief.

IV.

Exhibits in Support of the Application

The Applicant submits the following exhibits in support of the Application:

Exhibit A Portion of the Baist Atlas and Sanborn Map showing the Subject Property outlined in red.

Exhibit B A copy of the D.C. Zoning Map showing the subject property outlined in red and the surrounding area.

Exhibit C Board of Zoning Adjustment Order No. 16424.

Exhibit D Photographs of the subject site.

Exhibit E Certificate of Occupancy No. 184623 issued to Rock Creek International School for Private School - 200 Students (3-15 years old, 40 staff).

Exhibit F Testimony of representative of The Rock Creek International School.

V.

The Applicant is Entitled to Special Exception Relief Under the Zoning Regulations

As the Board is aware, uses that are allowed by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. In reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites of the Regulations are satisfied, the Board ordinarily must grant the application. See, e.g., Bakers' Local Union No. 118 v. D.C. Board of Zoning Adjustment, 437 A.2d 176, 178 (D.C. 1981). Granting special exception relief in this case is in harmony with the general purpose and intent of the Zoning Regulations and Map and will not adversely affect the use of nearby properties.

VI.

A. Section 206 - The Applicant Meets the Standards for Use as a Private School.

Section 206 of the Zoning Regulations provides that a private school shall be permitted in an R-1 zone, if approved by the BZA, subject to meeting the following standards:

1. Section 206.2 - The private school shall be located so that it is not likely to become objectionable to nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

The Rock Creek International School is proposing no changes to the number of students or staff. Thus, there will be no additional impacts on neighborhood property due to noise, traffic, number of students or other objectionable conditions. The school grade level is being changed

from fifth to sixth grade to better coordinate with other area schools, and to allow the existing 5th grade students the opportunity to remain. No other changes are requested.

Rock Creek International has been in operation since 1988 and since 1999 at 1550 Foxhall Road. Prior to that time, the facility operated as a DC public school for over 60 years. No changes to the school facilities are requested as part of this application.

2. Section 206.3 - Ample parking spaces shall be provided to accommodate students, teachers and visitors.

The Rock Creek International School as approved, and as indicated by the certificate of occupancy (attached as Exhibit E), currently complies with this standard. No changes to the number of students or staff are requested, so that this standard will continue to be met should the modification be granted.

VII.

Conclusion

A. Section 3108.1 - The Relief Sought is in Harmony with the General Purpose and Intent of the Regulations and Will Not Tend to Affect Adversely the Use of Neighboring Property.

As fully demonstrated above, this Application meets the criteria set forth in Section 206 for special exception approval and is, therefore, in harmony with the general purpose and intent of the Zoning Regulations. In light of the above, the requirements of Section 3108.1 are met in this case, and the Board should accordingly grant the requested modification relief. In addition, the Applicant is amenable to a BZA condition which states that there will be no grades above the sixth grade in the existing building.

The Application has received the support of Advisory Neighborhood Commission (ANC) 2E. In addition, both the Board of and the Foxhall Community Citizens Association voted to support the request.

VIII.

Witnesses

A. J. Daniel Hollinger, Head of School

Respectfully submitted,

SHAW PITTMAN LLP

By: _____
Phil T. Feola

_____
John T. Epting

Date: March 12, 2002

Certificate of Service

I hereby certify that a copy of the foregoing Statement of the Applicant and attachments were hand delivered this 12th day of March, 2002 to the following:

Advisory Neighborhood Commission (ANC) 2E
3265 S Street, N.W.
Washington, D.C. 20007

Pete Ross
Foxhall Community Citizens Association
1712 Surrey Lane
Washington, D.C. 20007

Frank Staroba
Chair of Steering Committee
Friends of Hardy, Inc.
4503 MacArthur Blvd., N.W.
Washington, D.C. 20007

John T. Epting

Document #: 988205 v.3

A

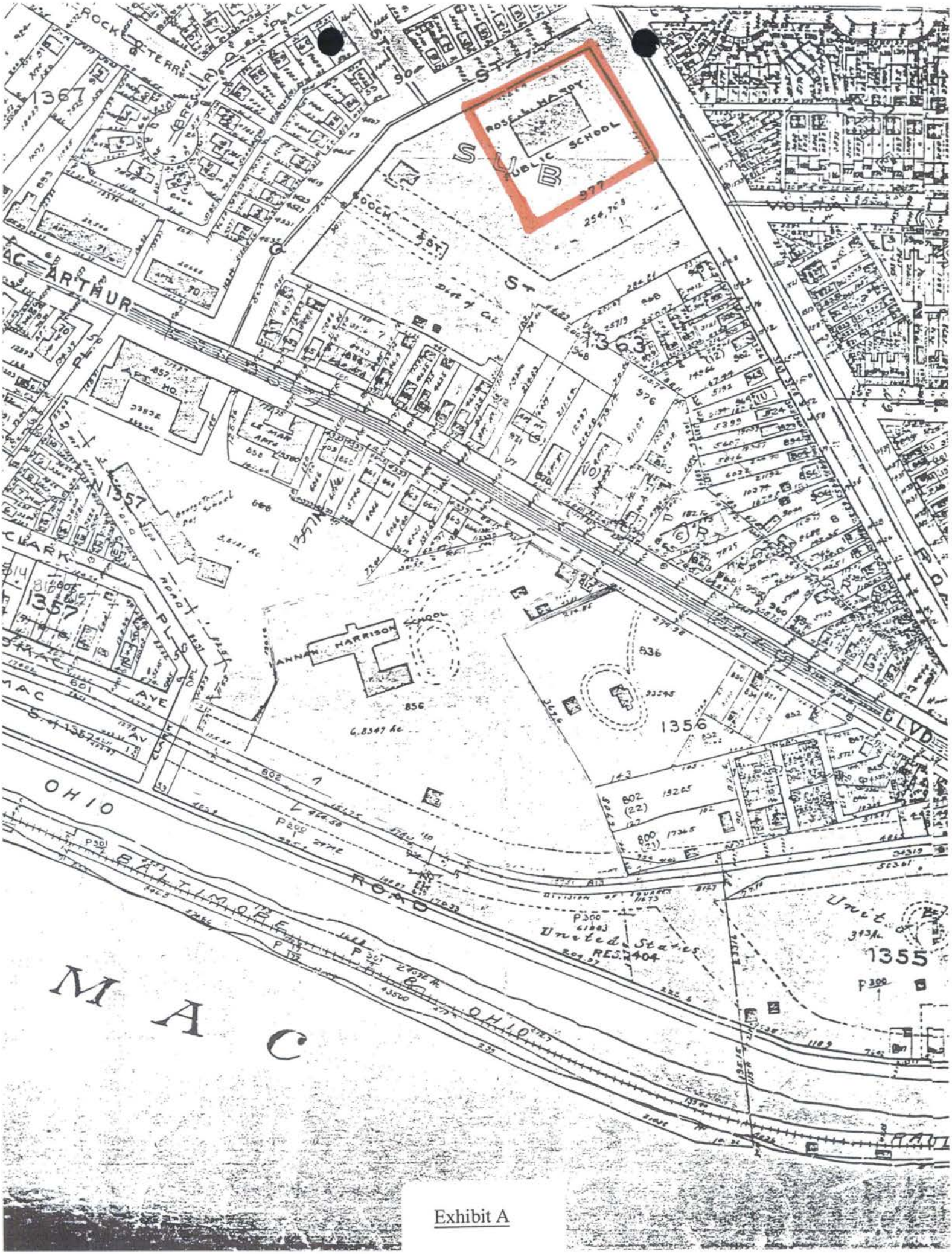
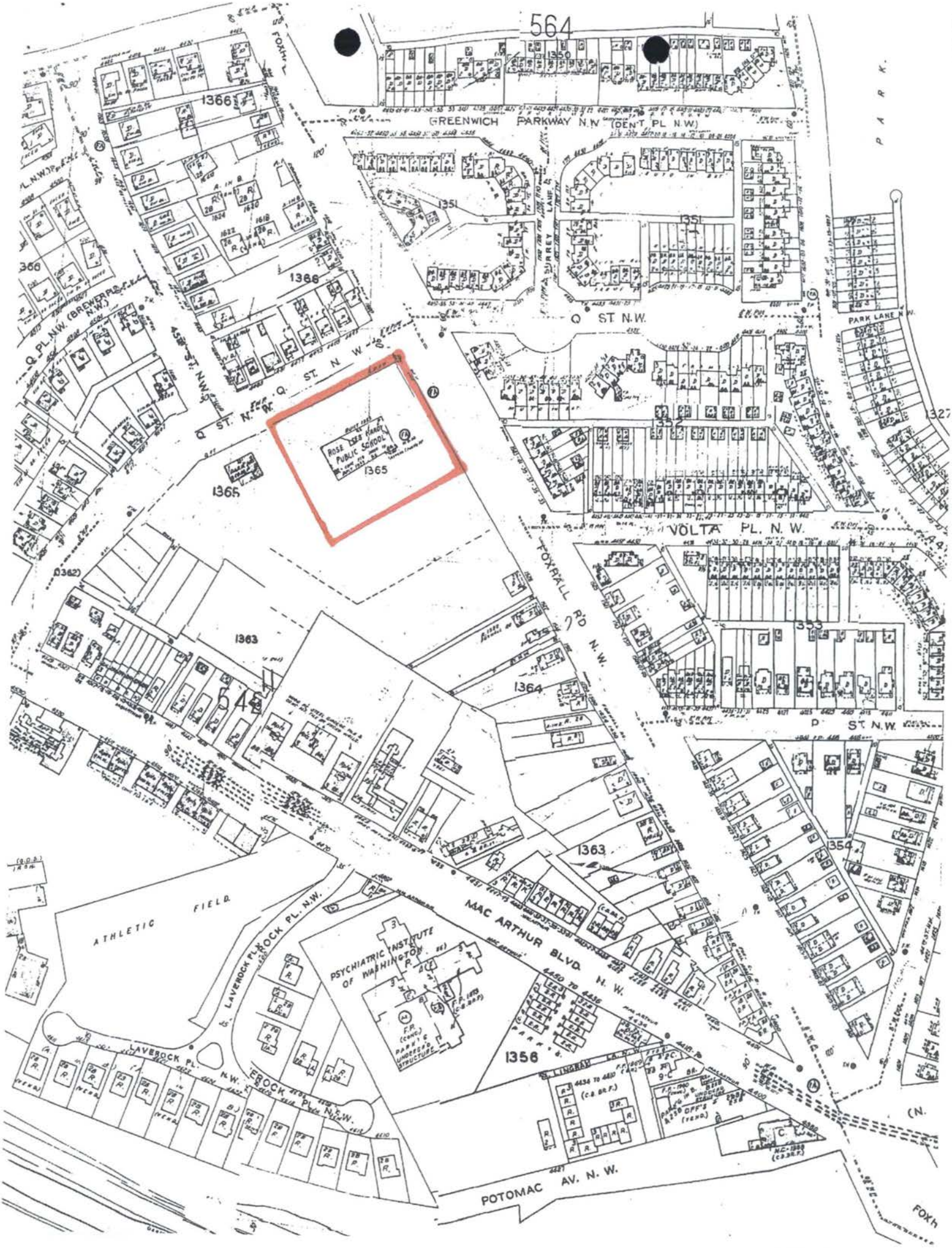

ROSELLE HOOT
PUBLIC SCHOOL
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DOCH ST
Dept of Cal
ST
MAC ARTHUR
PL
APT. HQ.
LE MAR APTS
ANNAH HARRISON
SCHOOL
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6.8347 Ac.
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1357
1355
CLARK
ROAD
OHIO
BALTIMORE
& OHIO
R.R.
United States
RES.
MAC

Exhibit A


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GREENWICH PARKWAY N.W. (DENT PL. N.W.)
PARK
PARK LANE N.W.
Q ST. N.W.
Q PL. N.W. (BREWER PL. N.W.)
45th ST. N.W.
Q ST. N.W.
ROSE LEE HAGNER PUBLIC SCHOOL
1365
VOLTA PL. N.W.
FOXHALL RD. N.W.
D ST. N.W.
ATHLETIC FIELD
LAVEROCK PL. N.W.
PSYCHIATRIC INSTITUTE OF WASHINGTON D.C.
MAC ARTHUR BLVD. N.W.
4450 TO 4436
LAVEROCK PL. N.W.
FROCK PL. N.W.
ST. LUKE'S LA. N.W.
4434 TO 4410
POTOMAC AV. N.W.
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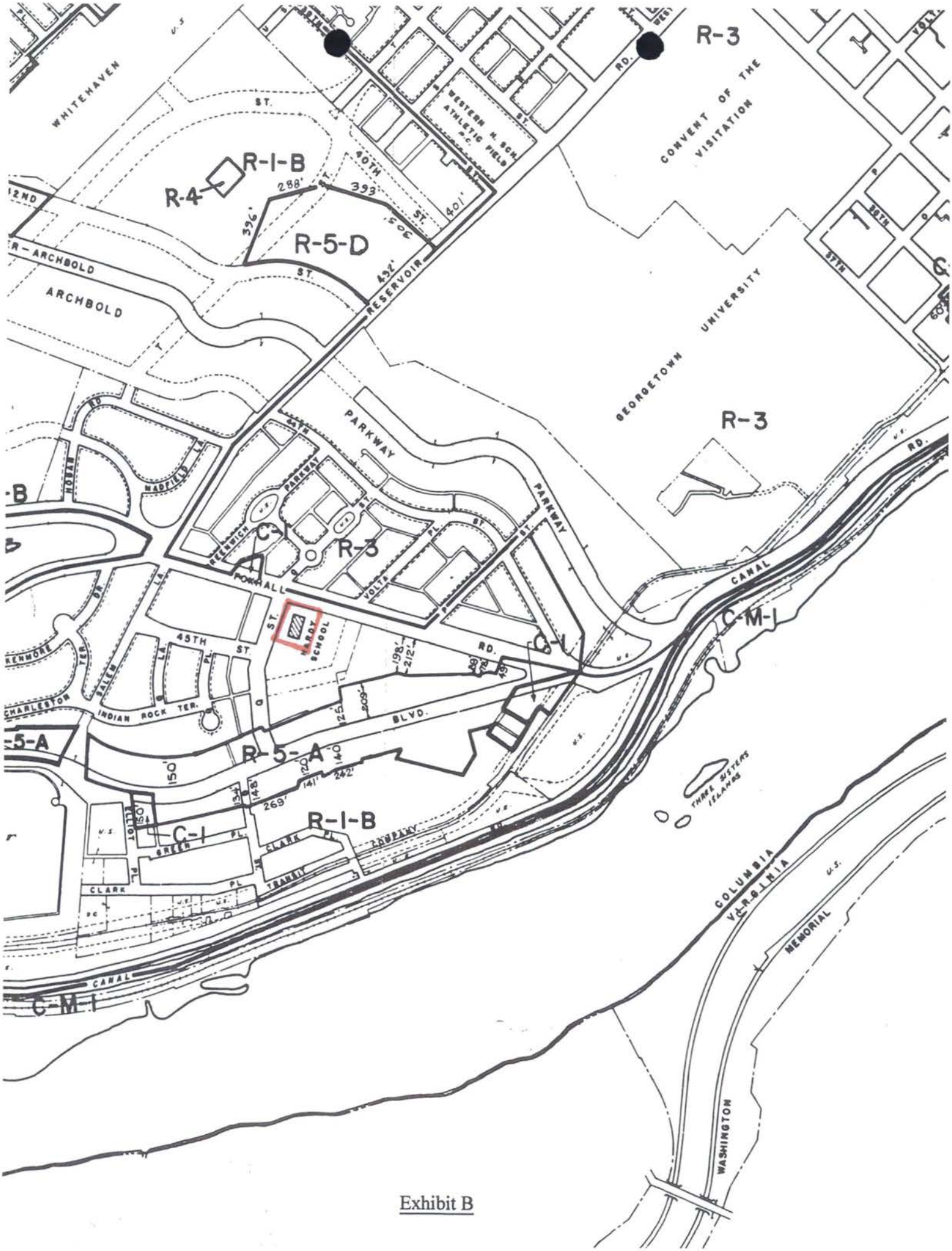

R-3
WHITEHAVEN
ST.
R-1-B
R-4
288'
393'
40TH
ST.
401'
336'
305'
R-5-D
ST.
432'
RESERVOIR
ARCHBOLD
CONVENT OF THE VISITATION
GEORGETOWN UNIVERSITY
R-3
PARKWAY
C-1
R-3
PARKWAY
POTOMAC
VOLTA
PL.
ST.
CANAL
C-M-1
45TH
ST.
HARDY SCHOOL
RD.
C-1
198'
212'
89'
178'
43'
INDIAN ROCK TER.
BLVD.
R-5-A
R-5-A
150'
120'
140'
242'
269'
141'
148'
134'
150'
R-1-B
C-1
GREEN
PL.
CLARK
PL.
CLARK
TERR.
PARKWAY
THREE SISTERS ISLANDS
COLUMBIA
VIRGINIA
MEMORIAL
WASHINGTON
C-M-1
CANAL

Exhibit B

C

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16424 of the D.C. Public Schools (The Hardy School), pursuant to 3108.1, for a special exception under Sections 205 and 206 to establish and operate a private school for 200 pre-kindergarten to fifth grade students and staff of 35-40 persons in an existing structure in an R-1-B District at premises 4470 Q Street, N.W. (Square 1363, Lot 980).

HEARING DATE: February 3, 1999
DECISION DATE: February 3, 1999 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2E and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2E. ANC 2E, which is automatically a party to this application, submitted a written statement, with conditions, in support of the application. Most of the ANC's conditions have been incorporated into this order. The Board gave the written report of the ANC the "great weight" to which it is entitled.

As directed by 11 DCMR 3324.2, the Board required the applicant to satisfy the burden of proving the elements, which are necessary to establish the case for a special exception pursuant to 11 DCMR Sections 205 and 206 of the Zoning Regulations. No party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for a period of 10 years, expiring on September 30, 2009.

2. The number of students shall not exceed 200, pre-kindergarten through fifth grade.

3. The number of staff shall not exceed 40.

4. The hours and days of operation (for academic purposes) shall be 8:00 a.m. to 6:00 p.m., Monday through Friday.

5. Twenty-six (26) on-site parking spaces shall be provided.

6. The applicant shall maintain an on-going liaison committee with the Foxhall Community Citizen's Association, Advisory Neighborhood Commission 2E and other interested community members. The liaison committee shall meet at least four times a year to discuss and resolve community and school related issues.

7. Landscaping, to consist of evergreen trees, shall be provided and maintained on the north parking lot (Q Street side of site).

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4 – 0 (John G. Parsons, Betty King, Sheila Cross Reid and Jerry H. Gilreath to grant.)

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

ATTESTED BY: Sheri M. Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Interim Director

FINAL DATE OF ORDER: MAR 5 1999

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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 TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

Ord16424/BAB/2.4.99

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16424

As Interim Director of the Office of Zoning, I hereby certify and attest that on MAR 5 1999 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

John Patrick Brown, Esq.
Jeannine Rustad, Esq.
Greenstein DeLorme & Luchs, P.C.
1620 L Street, N.W., Suite 900
Washington, DC 20036

Danny Hollinger
Head Master, Rock Creek International School
2451 Tunlaw Road, N.W.
Washington, DC 20007

Arlene Ackerman
Superintendent
District of Columbia Public Schools
825 North Capitol Street, N.E.
Ninth Floor
Washington, DC 20002

Jonda McFarlane, Chairperson
Advisory Neighborhood Commission 2E
3265 S Street, N.W.
Washington, DC 20007

ATTESTED BY: Sheri M. Pruitt-Williams /kgs
SHERI M. PRUITT-WILLIAMS
Interim Director



Exhibit D


1550







★ ★ ★

BLRA-17
(Rev 12/96)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

184623

CERTIFICATE OF OCCUPANCY

8/30/99
(date)

Permission is hereby granted to ROCK CREEK INTERNATIONAL SCHOOL
to use suite(s) _____ on the 1ST, 2ND floor(s)
of the building located on lot(s) 980 square 1363
known as premises 1550 FOXHALL ROAD, N.W. for the following
purpose(s) PRIVATE SCHOOL- 200 STUDENTS (3 - 15 YRS OLD)/ 40 STAFF
NOT SEXUALLY ORIENTED [ ]

BZA # 16424-3/5/99 EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE R1B FEE $ 84.00

By _____ Director L. JORDAN
Designee

98-080ZPM6

Exhibit E

F

OUTLINE OF TESTIMONY OF REPRESENTATIVE OF THE ROCK CREEK INTERNATIONAL SCHOOL

I. Introduction

A. Representative, The Rock Creek International School

B. Responsibilities at The Rock Creek International School

II. Rock Creek International School

A. History of Rock Creek International School

B. Present Operation of the School

C. Need for the Addition of a Sixth Grade at the Existing School

III. Relationship with the Community

A. Ongoing Liason between Rock Creek International School and the Foxhall Community Citizens Association (FCCA) and the Community

B. Support of FCCA and Advisory Neighborhood Commission 2E

IV. Conclusion

Exhibit F