3627 Alton Place, N.W.
Washington D.C. 20008
(202) 514-4632
scott.schachter@usdoj.gov

July 31, 2003

Mr. Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210 South
Washington D.C. 20001

Re: Sheridan School BZA Application No. 16,977.

Dear Mr. Griffis and Members of the Board:

In accordance with the suggestion of Mr. Rick Nero of the Office of Zoning, I am writing to inform you that on July 29, 2003, I filed the original and ten copies of my COMPLAINT OF NON-COMPLIANCE WITH CONDITION(S) OF A BZA/ZC ORDER (Form 300), regarding the Sheridan School's non-compliance with the terms and conditions in BZA Appeal No. 7,282 (July 2, 1963), and BZA Application No. 15,656 (Dec. 23, 1992). I have already served a copy of the Form 300 on (1) the Sheridan School; (2) the Sheridan School's attorney; and (3) the Zoning Administrator. I have attached a copy of the Form 300, including all of the attachments, to this letter.

Please be further advised that on February 10, 2003, I filed a PARTY STATUS APPLICATION (Form 140) in Sheridan School BZA Application No. 16,977.

Sincerely,

Scott A. Schachter

attachment

cc: Rick Nero (w/ attachment)

BZA
Case No. 16977
Exhibit No. 43

RECEIVED
D.C. OFFICE OF ZONING
2003 AUG -4 PM 2:34

Board of Zoning Adjustment
District of Columbia
CASE NO. 16977
EXHIBIT NO. 43

July 29, 2003

Form 300
(Revised 09/09/02)

Case No._____

Complaint No._____

DISTRICT OF COLUMBIA OFFICE OF ZONING

COMPLAINT OF NON-COMPLIANCE WITH CONDITION(S) OF A BZA/ZC ORDER

Notice: See other side of complaint of non-compliance with condition(s) of a BZA/ZC Order for instructions

IMPORTANT NOTE: This process is not intended as a substitute for the enforcement responsibility of the Department of Consumer and Regulatory Affairs (DCRA). Any person that believes immediate enforcement action is required should contact DCRA.

A complaint is hereby filed with the Office of Zoning for review and assessment of compliance; and if in non-compliance, assistance in working with the non-complying party to achieve compliance and/or referral for mediation; and/or if not resolved, referral to Department of Consumer and Regulatory Affairs (DCRA) for appropriate action pursuant to Titles 11 and 16 DCMR Chapters 32, such as revocation of building permits/Certificate(s) of Occupancy, or citation action - the details of which are as follows:

Address(s) of Affected Premises	Square (s)	Lot (s)	BZA Order No. and Date	ZC Order No. and Date	BZA/ZC Order Expiration Date	Condition No.
4400 36th Str., N.W.	1968	816	Appeal 7282	(7/2/63)		A,D
4400 36th Str., N.W.	1968	10	Order 15656	(12/23/92)		2,3,6,7, ~~8,10,11~~

Present use of Property:	Private School		
Owner of Property:	Sheridan School	Telephone No.:	(202) 362-7900
Address of Owner:	4400 36th St., N.W. Washington D.C. 20008		
Name, address and telephone number of lessee (if applicable):			

RECEIVED D.C. OFFICE OF ZONING 2003 JUL 29 PM 4:39

List specifically by condition number each and every alleged violation(s) of non-compliance with condition(s) of a BZA/ZC Order and the relevant sections of the Zoning Regulations (see reverse for more detailed explanation).

Please use a separate piece of 8½? x 11? to respond and attach it to the Form 300 (if needed).

See attachment.

The making of a false statement on this form, or any attachment thereto, or in response to any questions or request for information made by the Director or by Office of Zoning Staff, is punishable by the criminal penalties set forth in section 404(b) of the District of Columbia White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code 22-2514(')).

Date:	7/28/03	Signature:	Complainant

Contact Information of Complainant

Name:	Scott Schachter				
Address:	3627 Alton Place, N.W. Washington D.C. 20008				
Phone No.:	(202) 514-4632	Fax No.:	(202) 514-8865	E-Mail:	scott.schachter@usdoj.gov

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

Form 300
(Revised 09/09/02)

Case No._____

Complaint No._____

DISTRICT OF COLUMBIA OFFICE OF ZONING

COMPLAINT OF NON-COMPLIANCE WITH CONDITION(S) OF A BZA/ZC ORDER

Notice: See other side of complaint of non-compliance with condition(s) of a BZA/ZC Order for instructions

IMPORTANT NOTE: This process is not intended as a substitute for the enforcement responsibility of the Department of Consumer and Regulatory Affairs (DCRA). Any person that believes immediate enforcement action is required should contact DCRA.

A complaint is hereby filed with the Office of Zoning for review and assessment of compliance; and if in non-compliance, assistance in working with the non-complying party to achieve compliance and/or referral for mediation; and/or if not resolved, referral to Department of Consumer and Regulatory Affairs (DCRA) for appropriate action pursuant to Titles 11 and 16 DCMR Chapters 32, such as revocation of building permits/Certificate(s) of Occupancy, or citation action - the details of which are as follows:

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4400 36th Str., N.W.	1968	816	Appeal 7282	(7/2/63)		A,D
4400 36th Str., N.W.	1968	10	Order 15656	(12/23/92)		2,3,6,7, 8,10,11

Present use of Property:	Private School		
Owner of Property:	Sheridan School	Telephone No.:	(202) 362-7900
Address of Owner:	4400 36th St., N.W. Washington D.C. 20008		
Name, address and telephone number of lessee (if applicable):			

List specifically by condition number each and every alleged violation(s) of non-compliance with condition(s) of a BZA/ZC Order and the relevant sections of the Zoning Regulations (see reverse for more detailed explanation).

Please use a separate piece of 8 ½? x 11? to respond and attach it to the Form 300 (if needed).

See attachment.

The making of a false statement on this form, or any attachment thereto, or in response to any questions or request for information made by the Director or by Office of Zoning Staff, is punishable by the criminal penalties set forth in section 404(b) of the District of Columbia White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code 22-2514(')).

Date:	7/28/03	Signature:	Complainant

Contact Information of Complainant

Name:	Scott Schachter				
Address:	3627 Alton Place, N.W. Washington D.C. 20008				
Phone No.:	(202) 514-4632	Fax No.:	(202) 514-8865	E-Mail:	scott.schachter@usdoj.gov

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

INSTRUCTIONS

Any complaint of non-compliance with condition(s) of a BZA/ZC Order for action as provided by the District of Columbia Zoning Regulations (11 DCMR Zoning) that is not completed in accordance with the following instructions shall not be accepted. *Do not mail this form to the Office of Zoning.*

1. All complaints of non-compliance of a condition(s) of a BZA/ZC Order shall be made on Form 300. All forms must be completely filled out and be typewritten or printed. All information shall be furnished by the complainant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form (drawings and plans may be no larger than 11"x 17").

2. Present this form and supporting documents, in person, to the Office of Zoning at 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

3. ***REQUIRED information to be submitted when making a complaint of non-compliance with condition(s) of a BZA/ZC condition submission, includes one (1) original and ten (10) copies of the following:***

   A. All Complainants are required to submit in specific detail each and every alleged violation of non-compliance with condition(s) of a BZA/ZC order they have found. Details should state the allegations of violation for non-compliance with the condition per §3205 Title 11 DCMR Zoning Regulations – "how was the condition not complied with " and reference the relevant condition(s) of the Order. It shall be typewritten or printed and attached to Form 300 Complaint of Non-Compliance with Condition(s) of a BZA/ZC Order.

   B. In the case of an alleged area variance infraction, a plat is required drawn to scale and certified by a DC licensed survey engineer or D.C. Surveyor's Office showing boundaries and dimensions of the primary building(s) and accessory building(s). Also required are, if any, architectural plans and elevations in sufficient detail to clearly illustrate any building, landscaping/screens and building materials as they relate to the specifics of the violation of non-compliance of the condition. Submittal of plat and plans shall not exceed 11? x 17? in size.

   C. All Complainants are required to submit, stapled to this form, a copy of the full BZA/ZC Order or a copy of each condition allegedly violated.

Note: All Complainants are required at the time of filing to serve the Zoning Administrator and all parties; including, as appropriate, the Lessee.

Click Here to Return to Form

BZA Order Violations by Sheridan School

1. BZA Appeal No. 7,282 (July 2, 1963), Condition A: Students do not reside within a ten (10) block radius of the school.

Based upon my personal observations of vehicular and pedestrian traffic, and the School's own traffic study, the School has violated section 3101.41(c) of the Zoning Regulations for a period of several years. Based upon information and belief, a small percentage of Sheridan students live within a 10 block radius of the School.

2. BZA Appeal No. 7,282 (July 2, 1963), Condition D: School bus housed on-site without approval of the BZA.

Based upon my personal observations, the School housed a school bus on-site beginning on or about October 1, 2001, without approval of the BZA, and continued to do so over my objections every day for approximately sixteen (16) months.

3. BZA Application No. 15,656 (Dec. 23, 1992), Condition 2: Parking in violation of parking layout.

Based upon my personal observations, over a period of more than 4 years, the School regularly parks up to 28 vehicles in the 22-space rear parking lot, and regularly parks up to 9 vehicles in the 4-space front parking lot. This has created unsafe conditions for ingress to and egress from the School, ingress to and egress from both parking lots, and Alton Place and 36th Street, as well as unsafe conditions and risks for both police and fire and rescue personnel and apparatus, and nearby residents.

The School also condones its employees, agents and contractors parking their vehicles on Alton Place in violation of local parking restrictions when its parking lots are full and when they are not full.

4. BZA Application No. 15,656 (Dec. 23, 1992), Condition 3: Failure to maintain landscaping in a healthy growing condition.

Based upon my personal observation, over a period of no less than 4 years, the School has failed to maintain landscaping in a healthy growing condition.

5. BZA Application No. 15,656 (Dec. 23, 1992), Condition 8: Deliveries and trash collection before 7 a.m.

The Sheridan School regularly violates this special condition. The consequence of these

violations is that I have been woken up as early as 4:42 a.m. by trucks making deliveries or pick ups at the School.

The following is a partial list of violations of this special condition, limited to only some of those violations which occurred ***AFTER*** the Sheridan School stated in its March 13, 2002, annual report to the BZA that "if there are any more deliveries before 7 a.m., it will change vendors:"

1. 6:45 a.m., September 10, 2002 (Cloverland truck)
2. 6:45 a.m., September 11, 2002 (unidentified truck)
3. 5:05 a.m., September 17, 2002 (bakery delivery truck)
4. 6:45 a.m., September 26, 2002 (Cloverland truck)
5. 6:30 a.m., September 30, 2002 ("Ideal Lease" truck, (301) 772-5111)
6. 4:42 a.m., October 1, 2002 (bakery delivery truck)
7. 6:45 a.m., November 26, 2002 ("Ideal Lease" truck)
8. 6:30 a.m., April 4, 2003 (lumber delivery)
9. 6:00 a.m., May 30, 2003 (SYSCO truck)

In its March 6, 2003, annual report to the BZA, the School stated that it believes "that the [early delivery] situation has improved during 2002." If the School is correct and these violations constitute an improvement, the School is in effect admitting to numerous additional violations earlier in 2002 and/or in previous years.

After initially denying that such deliveries were taking place (allegedly because no School employees were present at the time of the deliveries), the School has repeatedly promised over the last four years to end the pattern and practice of accepting early deliveries. Since such violations of the BZA order have occurred within the last two months (as recently as May 2003), the School has clearly failed to terminate its pattern and practice of early deliveries, and the School has failed to comply with its promise to the BZA to change vendors.

6. BZA Application No. 15,656 (Dec. 23, 1992), Condition 10: Failure to give notice of meetings.

The Sheridan School failed to give notice of 4 meetings in 1992.

The Sheridan School failed to give notice of 4 meetings in 1993.

The Sheridan School failed to give notice of 4 meetings in 1994.

The Sheridan School failed to give notice of 4 meetings in 1995.

The Sheridan School failed to give notice of 4 meetings in 1996.

The Sheridan School failed to give notice of 4 meetings in 1997.

The Sheridan School failed to give notice of 4 meetings in 1998.

The Sheridan School failed to give notice of 4 meetings in 1999.

Moreover, even when the School has given notice of meetings, it has failed to give notice to all residences within 200 feet of the School's property, in violation of Condition 10.

7. BZA Application No. 15,656 (Dec. 23, 1992), Condition 10: Failure to conduct meetings.

The Sheridan School failed to conduct 4 meetings in 1992.

The Sheridan School failed to conduct 4 meetings in 1993.

The Sheridan School failed to conduct 4 meetings in 1994.

The Sheridan School failed to conduct 4 meetings in 1995.

The Sheridan School failed to conduct 4 meetings in 1996.

The Sheridan School failed to conduct 4 meetings in 1997.

The Sheridan School failed to conduct 4 meetings in 1998.

The Sheridan School failed to conduct 4 meetings in 1999.

8. BZA Application No. 15,656 (Dec. 23, 1992), Condition 11: Failure to submit annual reports to Zoning Administrator.

The Sheridan School submitted no annual report for 1992 to the Zoning Administrator.

The Sheridan School submitted no annual report for 1993 to the Zoning Administrator.

The Sheridan School submitted no annual report for 1994 to the Zoning Administrator.

The Sheridan School submitted no annual report for 1995 to the Zoning Administrator.

The Sheridan School submitted no annual report for 1996 to the Zoning Administrator.

The Sheridan School submitted no annual report for 1997 to the Zoning Administrator.

The Sheridan School submitted no annual report for 1998 to the Zoning Administrator.

The Sheridan School submitted no annual report for 1999 to the Zoning Administrator.

The Sheridan School submitted a one sentence letter, dated November 10, 2000 (Attachment A). This is the School's 2000 Annual Report. The School's 2000 Annual Report is facially inadequate, misleading, and false, and therefore amounts to a failure to file an annual report.

The Sheridan School submitted a letter dated March 13, 2002 (Attachment B). This is the School's 2001 Annual Report. The School's 2001 Annual report is inadequate, misleading, and false, and therefore amounts to a failure to file an annual report.

The Sheridan School submitted a letter dated March 6, 2003 (Attachment C). This is the School's 2002 Annual Report. The School's 2002 Annual Report is inadequate, misleading, and false, and therefore amounts to a failure to file an annual report.

9. BZA Application No. 15,656 (Dec. 23, 1992), Condition 11: Failure to submit annual reports to community liaison group.

The Sheridan School submitted no annual report for 1992 to the community liaison group.

The Sheridan School submitted no annual report for 1993 to the community liaison group.

The Sheridan School submitted no annual report for 1994 to the community liaison group.

The Sheridan School submitted no annual report for 1995 to the community liaison group.

The Sheridan School submitted no annual report for 1996 to the community liaison group.

The Sheridan School submitted no annual report for 1997 to the community liaison group.

The Sheridan School submitted no annual report for 1998 to the community liaison group.

The Sheridan School submitted no annual report for 1999 to the community liaison group.

The Sheridan School submitted a one sentence letter, dated November 10, 2000 (Attachment A). This is the School's 2000 Annual Report. The School's 2000 Annual Report is facially inadequate, misleading, and false, and therefore amounts to a failure to submit an annual report to the community liaison group.

The Sheridan School submitted a letter dated March 13, 2002 (Attachment B). This is the School's 2001 Annual Report. The School's 2001 Annual report is inadequate, misleading, and false, and therefore amounts to a failure to submit an annual report to the community liaison

group.

The Sheridan School submitted a letter dated March 6, 2003 (Attachment C). This is the School's 2002 Annual Report. The School's 2002 Annual Report is inadequate, misleading, and false, and therefore amounts to a failure to submit an annual report to the community liaison group.

10. BZA Application No. 15,656 (Dec. 23, 1992), Condition 11: Submission of false, misleading, and inadequate reports to Zoning Administrator.

In light of the foregoing facts, the School's annual report for 2000 (dated Nov. 10, 2000) is false, misleading and inadequate.

In light of the foregoing facts, the School's annual report for 2001 is false, misleading and inadequate.

In light of the foregoing facts, the School's annual report for 2002 is false, misleading and inadequate.

11. Operation of summer camp "CASA" program without BZA approval.

The Sheridan School has run a summer camp program for the past 8 years, without BZA authorization. According to the School's web site, this program is summer camp, not summer school. This commercial enterprise either is in violation of the prohibition against commercial functions at the School in Condition 7 in BZA Application No. 15,656 (Dec. 23, 1992), or otherwise requires approval from the BZA, as set forth in the letter from Robert W. Kelly, Zoning Administrator, to Sheridan School (Dec. 30, 2002).

Attachments:

A – November 10, 2000 letter from Kay Tatum to Zoning Administrator
B – March 13, 2002 letter from Phil Feola to Acting Zoning Administrator
C – March 6, 2003 letter from Jacques DePuy to Zoning Administrator
D – BZA Appeal No. 7,282 (July 2, 1963)
E – BZA Application No. 15,656 (Dec. 23, 1992)

CERTIFICATE OF SERVICE

I, Scott A. Schachter, hereby certify that on July 29, 2003, I served a copy of the foregoing COMPLAINT OF NON-COMPLIANCE WITH CONDITION(S) OF A BZA/ZC ORDER, by placing a copy in the U.S. mail, 1st class, postage prepaid, upon the following persons and/or entities:

Sheridan School
c/o Head Master Randi Plummer
4400 36th Street, N.W.
Washington D.C. 20008

Jacques B. DePuy, Esq.
Greenstein, DeLorme & Luchs, P.C.
1620 L. Street, N.W., Suite 900
Washington D.C. 20036-5605



Scott A. Schachter

ATTACHMENT A

Wiley, Rein & Fielding

1776 K Street, N.W.
Washington, D.C. 20006
(202) 719-7000

Fax: (202) 719-7049
www.wrf.com

Kay Tatum
(202) 719-7368
ktatum@wrf.com

November 10, 2000

Zoning Administrator
Board of Zoning Adjustment
Government of the District of Columbia
941 N. Capitol Street, N.E.
2nd Floor
Washington, D.C. 20002

Re: Sheridan School, BZA Application No. 15656
Order Date: December 23, 1992 (the "Order")

Gentlemen:

Pursuant to Paragraph 16 of the Order, please be advised that Sheridan School has taken the necessary steps to be in compliance with the Order for the current year.

Very truly yours,

Kay Tatum

Kay Tatum

cc: Advisory Neighborhood Commission
Randy Plummer
Bill Krumenacker ✓
Claire Livingston
Brian Barlia
Rick Gersten

938814

ATTACHMENT B

ShawPittman LLP
A Limited Liability Partnership Including Professional Corporations

March 13, 2002

Mr. Olutoye Bello
Acting Zoning Administrator
Government of the District of Columbia
941 N. Capitol Street, N.E.
2nd Floor
Washington, D.C. 20002

Re: Annual Report of the Sheridan School, Pursuant to BZA Order No. 15656, December 23, 1992 (the "Order")

Dear Mr. Bello:

Introduction

This letter represents the Sheridan School's ("**School**") annual report to your office as required by Condition No. 11 of the Order (a copy of which is attached for your convenience) and sets forth the status of the School's efforts during the previous 12 months to remain in compliance with the Order:

1. **Conditions No. 1 through No. 7; No. 9.**

We are unaware of any issues raised in connection, and believe Sheridan School is in compliance, with Conditions No. 1 through No. 7 and No. 9 of the Order.

2. **Condition No. 8.**

Condition No. 8 prohibits deliveries and/or trash collection before 7:00 am daily.

(a) Deliveries. In spite of the School's agreement with its milk vendor that there would be no deliveries before 7:00 a.m., our neighbors have reported such deliveries. The School has contacted a high ranking executive of the vendor and have insisted upon 100% compliance with this requirement. The School has also told the vendor that if there are any more deliveries before 7:00 a.m., it will change vendors. The School has been assured there will be full compliance with this condition.

(b) Trash. The neighbors brought to our attention that, while the trash removal is occurring within the hours specified in the Order, its trash facilities were inadequate for sanitary trash collection. In response to this concern, the School has replaced its old arrangement with a new one that encloses all trash in an attractive wooden structure and has implemented new procedures regarding trash disposal including educating all appropriate staff of these new procedures.

3. **Condition No. 10**

Condition No. 10 requires the School to establish quarterly meetings with a community liaison group. The School has given notice of, and held, quarterly meetings with the neighbors as required. At the present, the School is receiving many individual emails and messages from the neighbors concerning various aspects of the School's operations. Since it is not practical to continue to communicate with dozens of neighbors concerning many of the same the same issues, consistent with the Order, the School plans to ask these neighbors to channel their communications through a community liaison group and the mechanisms set up by the Order.

With regard to the issues raised during the meetings in calendar year 2001, the School is working to improve its drop-off and pick-up procedures and other traffic related issues. It has publicized required procedures in its weekly report to all School families; assigned faculty and staff to oversee the pick-up of students; and continue to encourage use of public transportation and carpooling by staff and students. Further, the School's neighbors have expressed concerns over speeding in the streets around the School. Based on the School's observations, the speeding does not appear to be primarily a problem of Sheridan parents. The School and parents, however, are as concerned over the speeding as the neighbors. It is working actively with the neighbors to reduce speeding on the streets around Sheridan.

Conclusion

The School believes it has satisfied the letter and intent of the Order and will continue to encourage the on-going, productive dialogue with its neighbors so as to ensure compatibility of the School's operations within the neighborhood. If you have any questions or concerns, please contact me.

Sincerely,

Phil Feola

cc. Advisory Neighborhood Commission 3F
Community Liaison Committee
Office of Planning
Randy Plummer
James Heath
Rick Gersten
Brian Barlia

ATTACHMENT C

LAW OFFICES

GREENSTEIN DELORME & LUCHS, P.C.

1620 L STREET, N.W., SUITE 900

WASHINGTON, D.C. 20036-5605

TELEPHONE (202) 452-1400

FACSIMILE (202) 452-1410

www.gdlaw.com

WILLIAM H. HARRIS, JR.
RICHARD G. WISE
ABRAHAM J. GREENSTEIN
GILBERT E. DeLORME
VINCENT MARK J. POLICY
RICHARD W. LUCHS
JUDITH R. GOLDMAN
JACQUES B. DePUY
JEFFREY H. GELMAN
ALAN S. WEITZ
WILLIAM C. CASANO
STEPHEN H. ABRAHAM
LEWIS F. MORSE
JOHN PATRICK BROWN, JR.
STEPHANIE A. BALDWIN
LYLE M. BLANCHARD
JOHN M. CATALANO
GREGORY T. DuMONT
ALFRED M. GOLDBERG
MONIC Y. HALSEY#
DONALD F. HOLMES, JR.
M. RYAN JENNESS
MIRIAM HELLEN JONES
ISABEL P. RUIZ DE GAMBOA*
JAMES D. SADOWSKI

*ADMITTED IN VA ONLY
#ADMITTED IN TX ONLY

OF COUNSEL
MARK J. ZWEIFLER

ADMITTED IN NEW YORK AND NEW JERSEY ONLY

March 6, 2003

Mr. Robert W. Kelly
Zoning Administrator
Government of the District of Columbia
941 N. Capitol Street, N.E.
2nd Floor
Washington, D.C. 20002

Re: Annual Report of the Sheridan School for calendar year 2002 pursuant to BZA Order No. 15656 dated December 23, 1992 ("BZA Order")

Dear Mr. Kelly:

This firm represents the Sheridan School with respect to this matter.

This letter constitutes Sheridan School's annual report to you as required by Condition No. 11 of the BZA Order (a copy of which is enclosed for your convenience). This letter specifically sets forth the status of the School's efforts during calendar year 2002 to remain in compliance with the Order.

Introduction. As set forth below in detail, Sheridan School believes it is in compliance with the terms of the Order. In addition, with respect to several specific items discussed below, it has initiated appropriate action to address any potential issues and ensure continued compliance.

A. General Discussion of Compliance with Terms of BZA Order. Sheridan School believes it is in compliance with all conditions set forth in the BZA Order.

B. Discussion of Compliance with Specific Terms of BZA Order.

Condition No. 2. This condition states that the "parking layout shall be as shown on the plat marked as Exhibit No. 107A (Scheme A) of the record." The layout of the main parking lot, which accommodates twenty-two (22) parking spaces and is located on Alton Place, is as depicted on Exhibit No. 107A. Thus, there is full compliance with Condition No. 2 with respect to the principal parking lot on the site. The layout of the small lot located in front of the main entrance to the School on 36th Street is depicted as being stripped differently on Exhibit No. 107A than the manner in which Sheridan actually uses this parking area. Sheridan staff and visitors currently use this small lot by parking perpendicular to 36th Street, N.W., whereas Exhibit No. 107A depicts parallel parking spaces. Sheridan's BZA Application No. 16977, which is currently pending, proposes to resolve this inconsistency.

Condition No. 3. This condition states as follows: "Landscaping shall be provided as shown on Exhibit No. 24 of the record. Additional landscaping shall be provided in the 15-foot strip of land directly abutting the gymnasium addition between the addition and the parking area along Alton Place, N.W.....There shall be flexibility in the final placement and types of trees to permit the applicant to address any specific concerns raised by the neighbors." (Emphasis added.) Sheridan has reviewed Exhibit No. 24 of the record and the current landscaping provided on the site and determined that the School is in substantial compliance with Exhibit No. 24. In addition, Sheridan intends to work closely with all nearby neighbors in an attempt to resolve any issues associated with landscaping in conjunction with BZA Application No. 16977 (currently pending).

Condition No. 8. This condition states that "(n)o deliveries or trash collection shall occur before 7:00am daily." During neighborhood meetings held during calendar year 2002, neighbors notified the School that certain vendors have occasionally made deliveries prior to 7:00am. Upon such notification, the School has notified vendors and demanded that they refrain from any delivery of goods or services prior to 7:00am. The School believes that the situation has improved during 2002 and that, as a result, it is in substantial compliance with this condition.

For the reasons set forth above, Sheridan respectfully submits that it is in compliance with the conditions of BZA Order No.15656. Nevertheless, the School is committed to continuing to address concerns raised by its neighbors through quarterly and other meetings and through BZA Application No. 16977 (pending).

If you have any questions regarding matters discussed above, please contact me.

Sincerely,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____
Jacques B. DePuy

JBD:myl201558
Enclosure
Ms. Cathy Wiss, Chairman ANC 3F
Mr. Carl Kessler, Commissioner ANC 3F-01
All owners of property within 200 feet of School property
Office of Planning
Lyle M. Blanchard, Esquire
(All copies w/o encls.)

ATTACHMENT D

Before the Board of Zoning Adjustment, D. C.

PUBLIC HEARING - May 15, 1963

Appeal #7282 Mrs. Katherine Gunion, appellant for the Sheridan School contract purchaser,

The Zoning Administrator, District of Columbia, appellee.

On motion duly made, seconded and carried with Mr. McIntosh abstaining the following Order was entered on May 21, 1963: (released July 2, 1963)

ORDERED:

That the appeal to establish a private school for pre-school, kindergarten and grades 1 though 8 for Sheridan School on eastern half of square 1968, bounded by Yuma, Alton and 36th Streets, N. W., lot 816, square 1968, is granted.

As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) Appellant's lot located in an R-2 District, has frontages of 295 feet on Yuma Street, 235 feet on 36th Street and 306.72 feet on Alton Place. It contains an area of about 70,000 square feet. The property adjoins a sixteen foot wide public alley and one dwelling on its west boundary. The remainder of square 1968 is improved with dwellings, a use which predominates in the area.

(2) The Sheridan School, Inc. the contract purchaser, plans to build an elementary school including pre-school and kindergarten through grade 8. Ages of the children will range from 4 to 14 years. Plans are to eventuall enroll 200 students with approximately 50 in the kindergarten or of pre-school age. The school now operates in temporary quarters elsewhere in Northwest Washington with an enrollment of 125 students.

(3) Teachers are prepared to receive children between 8:30 and 9:00 a. The academic teaching day is from 9:00 a.m. until 3:00 p.m. There will be an athletic program between 3:00 and 4:00 p.m. for children from the 2nd through the upper grades. All children will leave the school at 4:00 p.m.

Play periods are supervised. Children will be brought to the premises by supervised transportation, which in the 1964 school year will be by hired bus service on a permanent basis.

(4) The curriculum is similar to public and parochial schools of this general class.

(5) The plans provide at least 100 square feet of play area for each child.

(6) The development plan for the property includes a two-story school building at the northeast corner of the tract with principal entrance from 36th Street. A one-story gymnasium to about the same height adjoins the main building on the west. Plans also provide a basketball court and a parking area for 12 (meeting requirements of Article 72) automobiles at the rear of the gymnasium. Two volleyball courts, a tennis court and a playground of 7,200 square feet for the pre-school groups are located to the south along the Yuma Street side of the property.

(7) Normal development of the subject site would result in the construction of about twenty one-family, semi-detached dwellings except that there is substantial testimony contending, but not specifically proving by direct evidence, that one-family development is uneconomical and hence impracticable due to a material amount of fill on a large portion of the site. Both the fact and the contention are conceded by witnesses in opposition.

(8) This appeal was filed under the provisions of paragraph 3101.41 and 3101.42 of Section 3101 of the Zoning Regulations. Subparagraphs (c) and (d) are the only portions of paragraph 3101.41 which are applicable; but all provisions of paragraph 3101.42 must be considered.

These provisions read:-

"3101.41 (c) The use will be reasonably necessary or convenient to the neighborhood which it is proposed to serve. The enrollment at such school will be limited primarily to children residing in that neighborhood; and

3101.41 (d) There shall be provided on the same lot with such use not less than 100 square feet of play area for each child.

3101.42 Other private school, but not including a trade school, and residences for teachers and staff of a private school, provided that:

(a) It is so located that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions;

(b) Ample parking space, but not less than that required in Article 72 of these regulations, is provided to accommodate the students, teachers, and visitors likely to come to the site by automobile. (As amended to June 14, 1960.)"

(UNDERSCORED WORDS ARE DEFINED)

(9) There was considerable organized opposition to the granting of this appeal registered at the public hearing, including two neighborhood Citizens' Associations. Opposition is based essentially upon contentions of incompatibility, objectionable traffic, and the desire of most that the property should be acquired for public use as a neighborhood playground.

OPINION:

We hold that this school, limited on this land to a maximum of 200 pupils, not more than 50 of whom may be a part of the kindergarten or pre-school groups is an appropriate use of this property. We believe and so hold that its size, type, plan of building and ground treatment together with natural and other screening which will be made a condition of this order, will result in the neighborhood compatibility envisioned by Section 3101.1 of the Zoning Regulations. Continuing with the general question of compatibility we note that traffic which will be generated by this school will be no more than that generated by any public or private school having the same number of [illegible]

the record to show that such schools have been found to be objectionable, to an extent which would prohibit their locations in a residential area in this and other sections of the city. It is possible of course that the operation of a school on this site will be more objectionable to adjoining and nearby property owners than single-family residences would be. However, public, private and parochial schools are found in every part, area and section of this city and are a public necessity.

It has been contended by objecting property owners that the location of this school on this site will result in objectionable traffic conditions. While we take judicial notice that both Albemarle Street and Reno Road are heavily traveled thoroughfares through this general area it is our opinion that the small number of automobiles and the hired bus service contemplated by the proposed school will not add materially to the present traffic flow on either of the streets referred to nor on other streets bounding or near the property. The supervision proposed should provide adequately for the safety of the children.

We agree with the contention of objectors that a site area of at least five acres for schools of this general character is a desirable standard but rarely attainable in the District of Columbia even when the use of eminent domain is possible. The site in question with its 70 odd thousand square feet of land area and limited number of students is considerably larger in extent than are most public and parochial schools new and old in the District of Columbia.

We are not unmindful that at one time the site was earmarked for public neighborhood playground usage, but we are now reliably informed that such use is no longer probable. This Board has also given some consideration to subsoil conditions existing on this site and to the

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reason of excessive foundation costs which would make such construction unlikely even with a materially reduced cost of ground acquisition. A single purpose operation where buildings are minimal provides one solution for a difficult problem of land use.

This order shall be subject to the following conditions:

(a) In compliance with the provisions of subparagraph (c) of paragraph 3101.41 of the Zoning Regulations pre-school and kindergarten students shall reside within a ten block radius of this school. Further, the number of such students shall not exceed 50.

(b) Appellant shall provide a landscaping and screening plan which shall stress permanent year-round planting particularly along the west side of the property. Screening materials and type of planting shall be designated on such plan. Approval thereof shall be required by this Board prior to permit issuance.

(c) The maximum number of students shall be 200.

(d) In the event the school abandons hired bus transportation service and substitutes therefor buses of its own, such buses shall be housed in a garage, the design and location of which shall require approval of this Board.

ATTACHMENT E

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15656 of the Sheridan School pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to allow an increase in the number of students of a private school from 200 to 215, and an addition containing classrooms, library, gymnasium and support facilities for a private school in an R-2 District at premises 4400 36th Street, N.W. (Square 1968, Lot 10).

HEARING DATE: May 20, 1992
DECISION DATE: June 17, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The site is located in the eastern portion of Square 1968 and is bounded by Yuma Street, N.W. to the south, 36th Street, N.W. to the east and Alton Place, N.W. to the north. The site is located between Reno Road and Connecticut Avenue, N.W. and is known as premises 4400 36th Street, N.W. It is zoned R-2.

2. The site is generally rectangular in shape with a frontage of 235 feet along 36th Street, 306.72 feet along Alton Place, and 265.95 feet along Yuma Street for a total lot area of approximately 70,647 square feet. The site slopes gently along Alton Place with a substantial change of grade to the Yuma Street frontage.

3. The site is currently developed with a private school for 200 students which was constructed circa 1964 pursuant to BZA Order No. 7282. By Order No. 13089 dated February 27, 1980, the Board approved the construction of an addition to the school to house two offices on the first floor and a science room on the second floor.

4. The area surrounding the subject site is primarily developed with single-family detached and semi-detached dwellings in the R-2 and R-1-B Districts. Two blocks west of the site, along Connecticut Avenue, are C-3-A and R-5-C zone districts. The Diplomatic Overlay zone is located one block southeast of the site. The University of the District of Columbia and the Van Ness-UDC Metro Station are approximately two blocks from the site.

5. The applicant is seeking a special exception to expand its current physical plant and to increase its enrollment from 200 to 215 students. No variances or other zoning relief are needed.

6. The R-2 District primarily permits single-family detached and semi-detached dwellings. It also permits certain institutional uses, including churches and schools. Private schools are allowed as a special exception with Board approval, subject to the following provisions:

a. 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.

b. Ample parking space, but not less than that required in Chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

7. The Sheridan School is a small independent school with approximately 200 students of diverse backgrounds. The school includes kindergarten through eighth grade -- a lower school, middle school and junior high school. It is a not-for-profit institution, governed by a Board of Trustees and administered by a headmaster. The school's philosophy places priority on preparing students to meet academic and personal challenges in a supportive and stimulating environment emphasizing individual growth and community responsibility. Mathematics, science, reading, writing, foreign language, computer education, physical education and athletics, art and music are integral parts of the school's curriculum. Extra curricular activities include a newspaper, computer club, year book, photography club, orchestra, sports and a mountain campus.

8. The school exists in a highly competitive academic community and seeks to maintain its reputation for offering quality education. The school is the only kindergarten though eigth grade independent school located in northwest Washington. The school has one section per grade. Class sizes average 22 to 24 students. Seventy-five percent of its families live in the District of Columbia. Approximately 37 percent of the students live within a ten- block radius of the site.

9. There are currently the equivalent of 39 full-time teachers and staff. The academic hours of operation are currently 8:30 a.m. to 3:30 p.m. Daycare programs for the students begin at 7:30 a.m. After-school daycare activities and evening programs run from 3:30 to 6:00 p.m.

10. The applicant proposes to construct an addition to the existing building to modernize the facility to meet current and future requirements. The existing building has many obsolete features and is too small to meet the school's physical needs.

11. The proposed modernization plan includes larger classrooms for fourth to eighth grades; room for computer technology throughout the school; a separate gymnasium that will still be smaller than the recommended size for a junior high school; a larger library; math room and science room; a music room insulated from outside noise and large enough for instruments and movement activities; a foreign language classroom; four small tutoring rooms; and improved storage space. The proposed modernization will also bring the building into compliance with the Americans with Disabilities Act.

12. The existing classrooms are smaller than the average square footage per student for D.C. public schools (33 square feet), Montgomery County public schools (38.08 square feet) and several independent schools with which Sheridan competes (36 to 37 square feet). The existing building contains 30 square feet of space per student for kindergarten through third grade, 21 square feet of space per student for fourth through sixth grades, and 25 square feet of space per student for seventh and eighth grades. The proposed modernization would increase the average classroom size from 26 square feet to 32 square feet.

13. The school had an enrollment of 204 students for the 1991-92 school year. The headmaster testified that the school accepts more than 200 applications per year to ensure that 200 students are actually enrolled in order to satisfy its budget needs for tuition income. The applicant requests flexibility to allow up to 215 students. The applicant testified that the school does not intend to increase its 200 student base, but desires flexibility to accommodate an increase when actual enrollment exceeds the 200 students cap by a small percentage.

14. The school sponsors approximately ten activites per year which attract 100 or more people. These events include such school-related activities as the Fall Fair, School Play, Spring Musical, etc. The school has previously leased its facility for non-school related activities such as a Jazzercize class but has discontinued such activities because of neighborhood concerns regarding noise and traffic. The school will not rent its facility for commercial activities in the future.

15. The applicant's representative testified that the school enhances the neighborhood in which it is located in that it provides an educational alternative for families in the District; its playground is open for use by nearby residents and their children; and the site provides visual open space. In addition, the school participates in community outreach, including making space available to the neighbors for a Saturday morning produce market, picking up litter in the neighborhood, visiting nearby senior citizens, providing food and clothing for needy residents

and making available, at no charge, its outdoor education center in the Shenandoah Mountains for children from the Allen Outreach Center in Anacostia.

16. The school proposes to establish a Sheridan Neighbors' Advisory Council to give the neighbors an ongoing forum to express their ideas and to hold the school accountable for compliance with the Board's order. The Advisory Council would meet on a quarterly basis, or more often, as requested by the neighborhood. The school is willing to submit to the Zoning Administrator an annual report on its compliance with the Board's order with copies to the Office of Planning and Advisory Neighborhood Commission 3F.

17. The proposed two-story addition will contain approximately 15,500 square feet to be located primarily west of the existing building. The existing school, with the proposed addition, would contain a total of approximately 37,300 square feet of gross floor area.

18. The existing height of the structure is approximately 23 feet. The proposed height of the building addition would be approximately 32 feet measured from the finished grade level at the middle of the front of the building to the ceiling of the top story. The building height measured at the new westernmost point will be 21.6 feet. The R-2 Zone District permits a height of 40 feet.

19. The R-2 Zone District has a minimum side yard requirement of eight feet. The applicant is proposing a 19-foot wide side yard along the addition's western boundary on the Alton Place side.

20. The allowable lot occupancy for a church or a public school in the R-2 District is 60 percent. The allowable lot occupancy for all other uses is 40 percent. The proposed lot occupancy of the school, with the addition, would be approximately 30 percent. The allowable floor area ratio (FAR) in an R-2 zone district is 0.9. The FAR of the proposed project is 0.53.

21. The proposed addition will be set back approximately 60 feet from Alton Place and about 53 feet from Yuma Street. It would be sited 10 to 20 feet lower than Yuma Street.

22. The applicant's architect testified that the location and design of the proposed addition was selected over several alternative schemes as having the least impact on the neighborhood and providing for the school's optimal program requirements. The location of the proposed addition to the west of the existing structure will reduce its visual impacts on the houses located to the south and east along Yuma Street.

23. The proposed addition will be constructed of brick and concrete block building materials to complement the architecture of the existing structure.

24. The height of the proposed addition will be less than 40 feet as permitted in the R-2 District. In addition, the proposed addition will have a mansard roof to reduce the visual perception of the apparent height of the building.

25. The applicant proposes to retain as much of the existing landscaping as possible. The applicant also proposes additional landscaping along the western and southern portions of the site to further screen the school from nearby residences. On the western edge, there will be a combination of evergreen shrubs and plants, a trellis with a twining vine and approximately four other trees such as pine or willow oaks. Along Yuma Street, the southern portion of the site, there will be a mixture of canopy and flowering trees with evergreen shrubs.

26. In response to the concerns expressed by neighborhood residents regarding the inadequacy of the existing landscaping, the applicant has invited neighborhood participation in the final detailing of the landscape plan for the site. In addition, the applicant began implementation of the landscaping plan with the planting of five canopy trees along Yuma Street.

27. The nearest residential structure to the proposed addition is located at 3634 Alton Place. There is a six-foot "overlap" between the proposed addition and the residential structure at 3634 Alton Street. The gym is set back 19 feet from the property line or 27 feet from the adjacent structure. The height of the residential structure at 3634 Alton Street is higher than the roof line of the proposed gym. The applicant proposes to soften the visual impact of the western walls by screening them with landscaping to resolve any visual impacts of height and bulk. The applicant submitted shadow studies indicating that shadows created by the proposed addition will have a negligible impact on the adjacent properties due to the change in topography and the shadows from the existing building.

28. The applicant's representative testified that a unified playground is an important part of the proposed plan. The proposed play area will measure approximately 38,000 square feet and will contain a paved play area, a grass play area, and playground equipment. The play area is located on the southern portion of the lot.

29. The applicant's representative testified that all deliveries and trash pick-up shall occur after 7:00 a.m. The applicant has designated a representative to be contacted in case there are any problems with the delivery and/or trash pick-up schedule.

30. The mechanical equipment associated with the proposed central heating and cooling systems will be located in the basement of the building. The applicant's expert acoustical engineer testified that it will not be audible at the northwest property line which is nearest the proposed addition.

31. There was further expert testimony that the gymnasium, which will not have windows along the western edge, will not have any adverse noise impact or create objectionable conditions on adjoining properties. Doors on the south side of the addition will be for emergency exiting only. Persons attending events will be directed to use the front entrance of the school along 36th Street.

32. The applicant's expert aeronautical engineer and aerodynamics expert testified that there will be no wind tunnel effect resulting from the relationship between the school's proposed gymnasium and the adjacent property at 3634 Alton Place. Considering the existing and proposed building geometries, the features of the surrounding terrain and the substantial number of adjoining buildings and trees surrounding the site of the addition, the expert witness concluded that no wind tunnel effect would occur.

33. The applicant's representative testified that during construction there will be no adverse impact from vibrations on neighboring property because either caissons or auger cast pile foundations will be used.

34. In December 1991, five months before the public hearing and prior to the filing of the BZA application, the applicant invited the community to review the revised plan at a number of neighborhood meetings. In early 1992, a neighborhood negotiating team was established. Negotiations were taking place up until the time of the public hearing. The major concerns expressed on behalf of the neighbors related primarily to size and scale, setback, noise from the air conditioning equipment and the gym, and landscaping. There was also concern about the school's compliance with the 1963 Order establishing the school at the site.

35. Between December 1991 and the time of the public hearing, the applicant revised its plans in an effort to respond to the issues raised by the neighbors which included increasing the setback of the building from eight to 19 feet on the side closest to the adjacent western residence; placing the HVAC in the basement of the building to eliminate noise; eliminating all windows in the

gym; eliminating all doors on the western side of the gym and one set of exit doors on the south side to reduce potential noise; placing panic bars on the on the emergency exit doors to the gym; hiring an expert landscape architect to develop a comprehensive landscaping plan; and beginning implementation of the landscape plan prior to any BZA action on the application.

36. The school's expert traffic consultant testified that there would be no objectionable conditions created by the addition of 15 students to the Sheridan enrollment. The levels of service at the intersections of 36th Street and Alton Place and 36th and Yuma Streets will remain at levels of service A during morning and evening peak hours. He testified that under the proposed plan, there will be 26 parking spaces at the site. This meets the D.C. Code requirement of two parking spaces for every three employees. Twenty-two spaces will be located on the northern portion of the site with two curb cuts along Alton Place. There will be four spaces in the circular driveway at the front of the building along 36th Street N.W.

37. The traffic consultant testified that the existing drop-off and pick-up of students is organized and efficient. A staff person meets each child and helps the child out of the car. Children are taught to cross only at the crosswalk. The school places cones by nearby driveways to ensure that parents picking up their children do not block access to neighboring properties.

38. The Office of Planning, by memorandum dated May 13, 1992, recommended conditional approval of the application. The OP was of the opinion that the proposed increase in enrollment is minimal and would not impact the surrounding area adversely. Additionally, OP was of the opinion that the proposed addition would not adversely impact the surrounding area in terms of noise, traffic or other objectionable conditions. OP noted that the applicant has agreed to meet with community representatives on a regular basis to ensure that the school's functions do not impact the area adversely. The OP recommended that approval of the application should be conditioned as follows:

a. The number of students shall not exceed 215. Of this total, the number of kindergarten students shall not exceed 50.

b. Landscaping shall be provided and maintained, particularly along the west side of the property and along Yuma Street, to effectively screen the addition from adjacent neighbors.

c. The hours of operation shall be from 8:00 a.m. to 6:00 p.m.

d. The after-hour activities on the subject site shall be restricted to those that are customary to an elementary school. Large functions shall be restricted to a maximum of 12 per year. Entrance and exit by the participants to such events shall be restricted to the existing main entrance at 36th Street N.W.

e. No moneymaking programs, such as dances, concerts or other events, shall be conducted at the school.

f. Delivery of supplies and trash pick-up shall not occur before 7:00 a.m.

g. The applicant shall maintain a continued liaison with the Advisory Neighborhood Commission to discuss and resolve community concerns regarding the conduct of the school's activities and compliance with the Board's order.

h. The school shall explore with the community the need to establish and implement a drop-off and pick-up program to alleviate traffic impacts on the area.

39. Advisory Neighborhood Commission (ANC) 3F, by letter dated May 7, 1992, and by testimony presented at the public hearing, recommended that the application be denied. The ANC was of the opinion that the granting of the application would adversely affect surrounding residences in a variety of ways including noise, traffic, appearance, inadequate setback, and casting of shadows on neighboring property. The ANC representative testified at the public hearing that the ANC's opposition to the application does not represent opposition to the School. The ANC representative urged the applicant to attempt to reach a compromise with the neighbors such as entertaining revisions to the plans for the proposed addition, to reduce the mass of the structure, and to condition its right to a certificate of occupancy to compliance with the conditions of the Board's orders.

40. The record in the case contains a petition and several letters in support of the application. Four persons testified at the public hearing in support of the application. The support was generally based on the school's positive impact on the neighborhood in terms of providing an educational alternative; its aesthetically pleasing architectural presence; and its availability to the community in terms of the use of its playground facilities and weekend farmers' market. In addition, persons in support testified that the existing facility does not have an adverse impact on the area in terms of its architecture or bulk, noise or traffic.

41. The record contains petitions and letters in opposition to the application. Ten persons testified at the public hearing in opposition to the application. The opposition is generally summarized as follows:

a. The massing and scale of the proposed addition is too large and would damage the residential character of the neighborhood;

b. The proposed addition is too close to the western property line. Because the address of the school is 36th Street, the western portion of the site should be required to meet the 20-foot minimum rear yard requirement for the R-2 District;

c. The proposed addition will create objectionable shadows on the neighboring Alton Place property;

d. The proposed addition will create an objectionable wind tunnel effect between the addition and the residence at 3634 Alton Place;

e. The gymnasium/auditorium would generate objectionable noise levels. Soundproofing the interior of the building would not alleviate the noise impact of people arriving at or leaving the gymnasium after events;

f. The industrial-size air conditioning system would be too noisy for a residential neighborhood;

g. Parking of school buses on or near school property and the pre-7:30 a.m. delivery of supplies and trash pick-up are too noisy for a residential area and should be discontinued;

h. The school creates adverse traffic conditions based, in part, on its failure to limit enrollment to neighborhood children as set forth in the 1963 Board order;

i. The school should be required to protect neighborhood residences from noise, filth, debris, and danger during the construction period. In addition, the school should be required to provide a surety bond to adequately protect the area against property damage or failure to complete the project;

j. The school must rectify any noncompliance with previous Board orders and provide a guarantee of strict compliance with any conditions imposed in any future Board orders.

42. At the conclusion of the public hearing, the Board left the record open to afford the applicant an opportunity to submit revised plans and/or a narrative explanation addressing concerns regarding massing as it relates to the residential character of the area, shadows, noise, and compliance with the conditions of the Board's previous orders; a north/south elevation of the site including landscaping; and any possible agreement or compromise between the application and the opposition to address the issues raised by the opposition.

43. By submission dated June 3, 1992, the applicant submitted materials to address the issues identified by the Board at the public hearing. The submission included a copy of the proposed site plan showing alternative locations for the proposed addition, with a written description of each plan and its impacts on shadows, massing and noise, as well as the pros and cons associated with each plan both programmatically and with respect to impacts on the site and neighborhood.

44. The applicant argued that Scheme A, as presented at the public hearing, is the best plan in terms of addressing the potential impact of an addition on the neighborhood and the programmatic needs of the school. Scheme A does not create any objectionable conditions with respect to shadow, massing or noise and is designed to best meet the needs of the school. The addition is set back 19 feet from the adjacent Alton Place property and takes advantage of the favorable topographic conditions on the western part of the site without losing canopy trees.

45. With respect to the alternative schemes, the applicant argued that Schemes B through G are unacceptable because of one or more of the following: programmatic problems with respect to the school's operations; potential adverse impacts on nearby residential properties due to massing; loss of existing trees and open green space; loss of windows to existing classrooms; and the prohibitive cost of providing underground parking.

46. Of all the alternatives proffered, the applicant argued that Alternative B represents the least objectionable plan. Alternative B would not be as efficient programmatically as Scheme A. However, Alternative B results in a setback from Alton Place 15 feet further south than Scheme A and therefore would lessen any potential impact from shadows cast by the addition on the adjacent residential structure on Alton Place or any potential "wind tunnel" effect.

47. The applicant described matter-of-right alternatives for the site which would result in major topographic disruption and up to 20 duplexes on the site. Such development could result in

additional curb cuts, less setbacks, 40 percent lot occupancy, 0.9 FAR, greater shadow impact, loss of canopy trees and open space, loss of locally available playground space and loss of on-street parking.

48. The record contains one response from a party in support of Alternative A. The support was based on the following:

a. The plan is well-conceived.

b. The addition is well-sited.

c. The proposal minimizes impacts on neighbors and the surrounding community; and,

d. The proposal is not objectionable based on the applicable standards.

49. Advisory Neighborhood Commission (ANC) 3F, by submission received on June 10, 1992, responded to the applicant's post-hearing submission, as follows:

a. The applicant has not changed its position on agreeing to condition the issuance of the certificate of occupancy on compliance with the conditions imposed in the Board's orders.

b. The alternative schemes presented by the applicant would result in very little change in terms of the impact of the proposed building mass on the immediate residential neighborhood. In addition, the proposed alternatives only depict a re-configuration of the addition on the site and do not reduce the architectural mass of the addition.

c. The applicant failed to prove that the noise from the proposed HVAC system would be within legal limits or that the noise generated from such system would not be objectionable to neighboring property owners.

d. The applicant offered no new evidence establishing that the neighbor's concerns regarding the casting of unwanted shadows on adjoining property has been addressed.

50. By submission dated June 10, 1992, several parties in opposition to the application filed a joint response to the applicant's post-hearing submission. In addition to the concerns expressed by the ANC, the parties in opposition noted the following:

a. None of the applicant's proposed alternatives reduce the mass, height, scale, noise and traffic generated by the proposed addition.

b. Neither Scheme "A" nor "B" meet the criteria set forth in the Zoning Regulations and would equally impact neighboring property in terms of noise, traffic, number of students and other objectionable conditions including mass, loss of ample parking, and destruction of trees and open space. In fact, Scheme "B" differs from Scheme "A" only with respect to siting, requires the loss of more trees, and does not reduce the mass, footprint, or impact on the neighborhood.

c. The applicant has violated the conditions imposed by the Board's previous order and the findings of fact upon which the Board based its initial decision are no longer applicable. The opposition is of the opinion that non-compliance predicts future noncompliance.

d. The applicant's enforcement proposals of providing for a neighborhood advisory council and an annual letter of compliance to the Zoning Administrator are inadequate in that they do not provide any provisions for penalties for noncompliance.

e. All of the submitted alternative schemes are objectionable to the neighbors. If the applicant would eliminate the proposed enlargement of the gymnasium, the "townhouse" plan submitted by the adjoining property owner would satisfy the educational needs of the school and would integrate the addition into the existing low-scale residential neighborhood without the adverse impacts associated with the proposed large scale development.

f. The proposed addition will exacerbate the existing adverse traffic impacts associated with the drop-off and pick-up of students to the site.

g. The applicant's proposed landscaping does not ensure adequate screening of the building nor does it guarantee proper maintenance of the landscaping once it has been provided. In addition, the applicant did not propose to extend the fencing type existing on the eastern property line to the southern property line as a supplement to the natural screening proposed.

h. The applicant has not conducted an Environmental Impact Study to ensure that the proposal will not create environmental problems such as drainage impact, erosion or flooding.

i. The applicant's proposal does not include conditions related to maintaining the HVAC system, providing adequate insurance to protect neighboring property owners during the construction period, limiting construction hours and providing parking for construction workers, and commiting to completion assurances at the financing stage of the project.

FINDINGS OF FACT:

1. The applicant has met the requisite burden of proof set forth in 11 DCMR 206 and 3108.1.

2. The layout of the building, as hereinafter conditioned, has been modified to specifically address the concerns expressed regarding the physical "overlap" between the proposed addition and the adjoining residence and the related impacts with respect to shadows and wind tunnel effect on the adjacent property. The siting and bulk of the project do not violate any area requirements of the Zoning Regulations.

3. The proposed landscaping will provide visual screening of the proposed addition and the final placement and types of trees are subject to flexibility in order to afford an opportunity to address any specific concerns expressed by the neighbors of the site.

4. The increase in the maximum number of students from 200 to 215 is minimal and is not likely to impact on the existing operation of the school in terms of noise or traffic generated by students. The proposed twenty-six on-site parking spaces comply with the requirements of the Zoning Regulations.

5. The applicant has made substantial efforts to minimize external noise impacts by placing the HVAC equipment within the basement of the building; eliminating all windows in the gym; eliminating doors on the western and southern sides of the gym; placing panic bars on the emergency exit doors to the gym; and limiting visitor access to the gym through the main entrance to the school on 36th Street.

6. After-hours functions for 100 or more persons would be limited to a maximum of 12 per year. Access to the facility during those functions would be limited to the 36th Street entrance to

minimize impacts on the neighborhood. The facility will not be available for activities such as the previous exercise class or other commercial, non-school related events.

7. The applicant is subject to all of the applicable enforcement mechanisms available to ensure compliance with this or any other order of the Board. In addition, the applicant will be further influenced by the community liaison group to be established as a condition of this approval.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires that the proposal meets the requirements set forth in 11 DCMR 206 and 3108.1, that the relief requested can be granted as in harmony with the general purpose and intent of the Zoning Regulations, and that the relief will not tend to affect adversely the use of neighboring property.

The Board concludes that the applicant has met the requisite burden of proof. As hereinafter conditioned, the project will be so located that it is not likely to become objectionable to adjoining property because of noise, traffic, number of students, or other objectionable conditions.

Based on the testimony and evidence of record, the Board also concludes that ample parking space will be provided to accommodate students, teachers, and other visitors likely to come to the Fsite by automobile.

The Board concludes that the special exception will be in harmony with the general intent and purpose of the Zoning Regulations and Map and, as hereinafter conditioned, will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map. The Board further concludes that it has accorded the Advisory Neighborhood Commission the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. The layout of the addition shall be as shown on the plat marked as Exhibit No. 107C (Scheme B) of the record.

2. The parking layout shall be as shown on the plat marked as Exhibit No. 107A (Scheme A) of the record.

3. Landscaping shall be provided as shown on Exhibit No. 24 of the record. Additional landscaping shall be provided in the 15-foot strip of land directly abutting the

gymnasium addition between the addition and the parking area along Alton Place, N.W. All landscaping shall be maintained in a healthy growing condition. There shall be flexibility in the final placement and types of trees to permit the applicant to address any specific concerns raised by the neighbors.

4. The number of students shall not exceed 215, no more than 50 of which shall be kindergarten students.

5. The hours of operation shall be between 7:30 a.m. and 6:00 p.m., Monday through Friday.

6. Extracurricular activities shall be restricted to those customary to a kindergarten through eighth grade school. After-hours functions which would attract 100 persons or more shall be restricted to a maximum of 12 per year. During the course of such functions, entrance and exist shall be restricted to the main entrance located on 36th Street, N.W.

7. The applicant shall not make the school available for commercial functions such as dances, concerts, or other events.

8. No deliveries or trash collection shall occur before 7:00 a.m.; daily.

9. All mechanical equipment associated with the central heating and cooling systems shall be located in the basement of the school.

10. The applicant, in cooperation with the Advisory Neighborhood Commission, shall establish a community liaison group, and shall meet no fewer than four times per year. Notice of the meetings of the community liaison group shall be sent to all property owners within 200 feet of the site. The community liaison group shall be established for the purpose of discussion and resolution of any community concerns including, but not limited to the following: the conduct of the school's activities and operations; implementation of the drop-off and pick-up program; encouraging use of public transportation and carpooling by staff and students; and, compliance with the conditions of the Board's order.

11. The applicant shall submit an annual report to the Zoning Administrator setting forth its ongoing compliance with the terms of this order. The applicant shall provide copies of such annual report to the Office of Planning, ANC 3F, and all members of the community liaison group.

VOTE: 3-1 (William L. Ensign, Paula L. Jewell and Carrie L. Thornhill to grant; Angel F. Clarens opposed to the motion; Sheri M. Pruitt abstaining by proxy).

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

ATTESTED BY: _____
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: DEC 23 1992

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

15656Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15656

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on DEC 23 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Nancy H. Leiberman
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Washington, D.C. 20008

Morgan A. Gale
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Washington, D.C. 20008

Chuck Braun, Chairperson
Advisory Neighborhood Commission 3F
4401 Connecticut Avenue, N.W., #205
Washington, D.C. 20008

MADELIENE H. ROBINSON
Acting Director

DATE: DEC 23 1992

15656Att/bhs