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BY FAX AND U.S. MAIL

Mr. Geoffrey H. Griffis, Chairman (recused)
Mr. Curtis Etherly, Jr., Vice Chair
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210 South
Washington D.C. 20001
(FAX) (202) 727-6072

Re: Sheridan School BZA Application No. 16,977 – Comments on Proposed Findings of Fact and Conclusions of Law.

Dear Mr. Etherly and Members of the Board:

In accordance with schedule set at the Public Hearing on September 30, 2003, please accept the following comments on the Sheridan School's ("School's") Proposed Findings of Fact and Conclusions of Law ("Proposed Findings"). The School's Proposed Findings contain a number of inaccuracies or misstatements. In addition, several statements are incomplete and therefore misleading, or contain material omissions, which are relevant. The Board of Zoning Adjustment ("Board") should correct these deficiencies in the School's Proposed Findings in the Board's Final Order. General and specific comments on the School's Proposed Findings are set forth below.

1. Compliance History: The evidence in the record of BZA Order No. 15,656 indicated that there was "concern about the school's compliance with the 1963 Order establishing the school at the site." BZA Order No. 15,656, page 6 (Dec. 23, 1992). Further, BZA Order No. 15,656 stated that the School's neighbors demanded that "[t]he 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." BZA Order No. 15,656, page 9 (point 41(j)). Opponents of BZA Order No. 15,656, unfortunately, accurately predicted that the School's prior "noncompliance predict[ed] future noncompliance" with the BZA Order No. 15,656.

The School's continued non-compliance with the orders of the BZA is

BZA
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Exhibit No. 60

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documented in: (1) the Application for Party Status of Scott A. Schachter (Feb. 10, 2003); and (2) Complaint of Non-Compliance with Conditions of a BZA/ZC Order (July 28, 2003) (withdrawn on Sept. 25, 2003, based upon agreed special conditions). The record of the School's alleged non-compliance with the Board's previous orders should be of great concern to the Board, since the measures incorporated into the School's prior zoning orders did not suffice to ensure the School's compliance. See BZA Order No. 15,656, page 14 (point 7). Therefore, the Board should take additional steps now, to encourage compliance by the School with the Board's order in the future. Accordingly, the Board should add the following language to the Order's conclusions of law:

> The Board is aware that numerous allegations of non-compliance with the Board's previous Orders to the School have been made. While it is beyond the scope of this proceeding to determine whether those allegations of non-compliance have merit, the Board is concerned about the School's future compliance with the terms and conditions of this Order. Accordingly, the Board admonishes the School to observe and strictly comply with the terms and conditions of this Order in the future, and reminds the School of possible serious consequences of future non-compliance.

2. Summer Camp: The School's Proposed Findings omit all reference to the fact that the School has been operating the CASA summer camp program for nine (9) years without any authorization from the Board. See Letter from Robert W. Kelly, Zoning Administrator, to Jacques B. DePuy, pages 1-2 (Dec. 30, 2002) (Exhibit C to July 31, 2003 Amended Application No. 16,977). The School implies that it is seeking approval only for an increase in the summer camp enrollment above 100, as opposed to authorization to run a summer camp in the first place. Therefore, the School's Proposed Finding No. 8 (and corresponding conclusion of law) should be amended to make clear that: (a) the School operated a summer camp program for nine (9) years without Board authorization; (b) the School currently lacks Board authorization for the summer camp program; and (c) the Board is authorizing the summer camp program as well as a cap on enrollment for that program.

On the same topic of summer camp, the School's Proposed Conclusion of Law, page 9, with respect to the summer camp states that the School uses the same traffic management plan as during the regular school year. This statement is contrary to the record of the Public Hearing. At the Public Hearing the School admitted that it did not utilize crossing guards during the summer camp program because of the School's assertion that more children walk to the School's summer camp than during the regular school year. Thus, it is not accurate to say that the School uses the same drop off and pick up plans during the summer camp and regular school years.

3. Enrollment Cap: The School's Proposed Findings omit the initial student enrollment cap set by the Board. Zoning Adjustment Appeal No. 7,282, page 5, item (c) (May

21, 1963), limited the maximum number of students at the School to 200. The School's omission of this fact from its Proposed Findings paints an incomplete and therefore misleading picture of the history of the growth and expansion of the School, and the School's ever growing impact on the neighborhood. Therefore, Proposed Finding of Fact No. 3, page 5, should be amended to include the complete history of the growing student enrollment cap at the School.

4. Stacked Parking: There is clear and undisputed evidence in the record that the School presently allows and condones "stacked" parking in its front and rear parking lots. Martin J. Wells testified at the public hearing on cross examination that several of the figures in his traffic and parking report depict such "stacked" parking. See Wells & Associates, The Sheridan School Transportation Study, page 1 (top photograph), page 3 (photograph) (July 30, 2003). In addition, the School itself proposes a finding of fact in which it admits that "the School has been employing a 'stacked' arrangement, in which cars are parked in the drive aisle, for many years." Proposed Findings, page 6, item 13.

It is demonstrably false that such "stacked" parking is done "without adverse impact on the surrounding neighborhood and with few complaints." Proposed Findings, page 6, item 13; and page 11 (conclusions of law). In point of fact, the School testified at the hearing that the D.C. Fire and Rescue Department informed the School that stacked parking and parking in the drive aisle is unsafe and presents health and safety risks to the children and adults in the School, emergency service personnel, and others in the neighborhood. Moreover, it is not true that the School's stacked parking drew only a "few complaints." This issue has been the subject of numerous, repeated complaints, over a period of years. See, e.g., Application for Party Status of Scott A. Schachter (Feb. 10, 2003); and (2) Complaint of Non-Compliance with Conditions of a BZA/ZC Order (July 28, 2003) (withdrawn on Sept. 25, 2003, based upon agreed special conditions). Finally, "stacked" parking and parking in the drive aisle violates the requirement that parking spaces shall be accessible at all times directly from improved streets or alleys pursuant to Section 2117.4, and the Board has never approved such "stacked" parking at the School.

Consequently, the Board should make appropriate changes to the School's Proposed Findings of Fact and Conclusions of Law, at a minimum adding a finding of fact that the School's current parking practices are unsafe, and deleting references to lack of adverse impact and complaints. In addition, the Board should also add the following conclusion of law regarding parking:

> The Applicant admits that it currently utilizes "stacked" parking in its parking lots, and that it has been informed by the D.C. Fire and Rescue Department that this practice is unsafe. The proposed modification of the parking layout will reduce these safety concerns.

5. Unique Property Conditions: The School's Proposed Findings omit the fact that the portion of its property that "suffers a substantial change of grade along the Yuma Street

frontage," see Proposed Findings, page 5, item 2, is not more than 20 feet wide. This leaves approximately 110 feet of the property that is flat between the change in grade and the school building, which flat area is currently used as a playground. In order to make the description of the unuseable property accurate and in context, Proposed Finding of Fact No. 2, page 5, should indicate that the sloped portion of the property is less than 20 feet wide, along the Yuma Street frontage. Any finding of fact or conclusion of law regarding this unique property condition should be limited to only the hillside sloped area, and not include any flat area such as the 110 foot wide playground area. The record does not support a finding that the flat playground area is unuseable.

6. Practical Difficulties Encountered by the Owner: The School proposes a conclusion of law that "no land exists on which to locate additional full sized parking spaces or non-tandem spaces." Proposed Findings, page 11. See also Proposed Finding of Fact No. 10, page 6. There is no evidence in the record that the School assessed the feasibility of either enlarging the current front parking lot along the frontage of 36th Street, or creating new parking spaces in a portion of the flat area of the lot between the sloped hillside and the School building. Thus, there is no basis in the record to conclude that the sloped hillside makes it impossible or even infeasible to use all or some of the flat area as a parking lot with access from 36th Street, N.W. Indeed, the slope, where it is most severe, did not stop the School from building its most recent gymnasium addition right up to and onto the sloped hillside. Moreover, there is no evidence in the record why the sloped hillside could not be placed behind a retaining wall, freeing up thousands of square feet in area to either enlarge the existing front parking lot along 36th Street, or create a new parking lot in some or all of the playground area with access from 36th Street (as opposed to access from Yuma Street). While creating a new parking lot on this flat area on the south side of the School might be more expensive, and might also entail moving some or all of the playground area to the site of the Alton Street parking lot, there is nothing about the land on the south side of the School that makes it unsuitable for additional parking lot space. Thus, the conclusion in Proposed Finding of Fact No. 10 and the proposed conclusion of law referenced above are in accurate because the record demonstrates no practical difficulty in expanding the small front parking lot laterally along 36th Street frontage of the property, or into the flat playground area.

7. No Substantial Detriment or Impairment: For the reasons discussed above at point 4, the School's proposed conclusion of law with respect to adverse impacts and complaints regarding stacked parking, Proposed Findings, page 11, is false and should be revised. The School also maintains that the new parking layout – with 37 parking spaces – "will relieve overflow parking pressure on nearby streets." Proposed Findings, page 11. See also Proposed Finding of Fact No. 12, page 6. The record demonstrates that the School currently parks up to 37 vehicles in its two parking lots utilizing stacked parking. See Complaint of Non-Compliance with Conditions of a BZA/ZC Order, Attachment, page 1, point 3 (July 28, 2003). Even when the School parks 37 vehicles on site, however, additional cars from the School park on the residential streets surrounding the School. Since there is no "net gain" in the number of vehicles parked off-street under the new parking proposal, compared to the School's current stacked

parking of 37 vehicles, it is simply not accurate to say that the new parking proposal will relieve overflow parking pressures. The School's Proposed Finding No. 12, page 6, and Proposed Conclusions of Law, page 11, should be revised accordingly.

8. Miscellaneous:

a. I have been unable to find any evidence in the record to support the School's Proposed Finding of Fact No. 4, page 5, that sixty percent (60%) of the School's students live in the District of Columbia.

b. In describing the Applicant's case for this expansion of the School, Proposed Finding, page 2, the School states that "other issues surfaced" that are "unrelated to the proposal for the building." This later clause should be deleted. The expansion of the School has several components, including expanding the building's floor area, as well as expanding enrollment (year round), parking, and other changes. Expanding enrollment brings more traffic, more garbage, more noise, less on-street parking, and other impacts. It is therefore not accurate to state that these other issues are "unrelated to the proposal for the building."

c. Proposed Finding of Fact No. 15, page 7, discusses the Transportation Study. This Proposed Finding is incomplete. The finding should be amended, or an additional finding should be made that recites that all neighbors along the 3600 block of Alton Place object to the volume and speed of the vehicular traffic associated with school drop off in the morning and pickup in the afternoon, and the School previously signed a petition joining these neighbors in petitioning the City to install traffic calming measures on the 3600 block of Alton Place.

Thank you for your consideration of these comments.

Sincerely,

Scott A. Schachter

cc: Zoning Administrator (by U.S. mail)
Rick Nero (by U.S. mail)
ANC 3F (Carl Kessler and Cathy J. Wiss by email only)
Jacques B. DePuy, Esq. (by U.S. mail and fax)
Sheridan School c/o James Heath (by U.S. mail only)