GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16977 of the Sheridan School, pursuant to 11 DCMR § 3104.1, for a special exception under § 206 to add 1,200 square feet of gross floor area to an existing building, to reconfigure the parking area in front of the school along 36th Street in order to add four (4) additional parking spaces, to increase the number of students enrolled in the school from 215 to 226, and to authorize the number of students who may be enrolled in the CASA summer program in excess of one hundred (100) students; and pursuant to 11 DCMR § 3103.2, a variance from the requirement that parking spaces be accessible at all times directly from an improved street or alley under § 2117.4, a variance from § 2115.1, from the minimum size requirement for a parking space, and a variance from the off-street parking requirements for an elementary or junior high school under § 2101.1, to allow a private school in the R-2 District at premises 4400 36th Street, N.W. (Square 1968, Lot 10).

HEARING DATE: September 30, 2003
DECISION DATE: November 4, 2003

DECISION AND ORDER

This application was filed on December 4, 2002 by the owner of the property that is the subject of the application, Sheridan School ("Applicant"), an existing private school use in an R-2 zone at 4400 36th Street, N.W. (Square 1968, Lot 10). The application was amended July 31, 2003 to request a special exception under 11 DCMR § 206 to (i) add 1,200 square feet of gross floor area to an existing building, (ii) reconfigure the parking spaces in front of the school building along 36th Street to add four additional parking spaces and reconfigure the parking lot on Alton Place, N.W. to accommodate 29 parking spaces, (iii) increase the maximum number of students from 215 to 226, and (iv) authorize the number of students enrolled in a summer program in excess of 100 students. The Applicant also requested variance relief from 11 DCMR § 2117.4, concerning access to required parking spaces from improved streets or alleys; § 2115.1, concerning the minimum size of parking spaces; and § 2101.1, concerning the parking requirement for an elementary or junior high school. The requested zoning relief was self-certified pursuant to 11 DCMR § 3113.2.

Following a public hearing, the Board voted 4-0-1 on November 4, 2003 to approve the application subject to conditions.

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District of Columbia
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Preliminary Matters

Notice of Application and Notice of Hearing. By memoranda dated December 4, 2002, the Office of Zoning gave notice of the filing of the application to the Zoning Administrator; the Office of Planning ("OP"); the Department of Transportation ("DDOT"); Advisory Neighborhood Commission ("ANC") 3F, the ANC for the area within which the subject property is located; the ANC commissioner for the affected single-member district, ANC 3F01; and the Councilmember for Ward 3.

The Board scheduled a public hearing on the application for February 25, 2003. Pursuant to 11 DCMR § 3113.13, the Office of Zoning, on December 19, 2002, mailed notice of the hearing to the Applicant, the owners of all property within 200 feet of the subject property, and ANC 3F. Notice of Hearing was also published in the *D. C. Register* on August 22, 2003, at 50 DCR 6971. The Board twice granted requests by the Applicant, with the support of ANC 3F, to continue the hearing so that the Applicant could seek resolution of outstanding issues with the ANC and neighbors of the school, and could amend its application to reflect resolution of the issues and to address transportation and parking issues raised by DDOT. The public hearing was held September 30, 2003. The Applicant's affidavit of posting indicates that zoning posters were placed on the subject property in plain view of the public on September 15, 2003.

Requests for Party Status. ANC 3F was automatically a party to this proceeding. The Board granted party status to Scott A. Schachter, who resides at 3627 Alton Place, N.W., but denied seven requests for party status by persons who were not present at the hearing.

Applicant's Case. The Applicant presented testimony and evidence from Randall Plummer, Head of School, with respect to the need to modernize the existing facility and to address neighborhood issues concerning the Sheridan School; the Applicant's architect, Michael Hickok, AIA, a principal in Hickok Warner Cole Architects,[1] with respect to the parking and landscape plans (Exh. 42A, exhibits A and D); and the Applicant's traffic planner, Martin J. Wells, President, Wells & Associates, with respect to traffic and parking studies. After the public hearing, on October 14, 2003, the Applicant submitted revised proposed conditions of approval of the application (Exh. 56, exhibits 2-4).

Public Agency Reports and Memoranda. By memorandum dated September 19, 2003, the Office of Planning recommended approval of the application as

[1] The architectural firm formerly known as Hickok Warner Fox became Hickok Warner Cole Architects on April 1, 2003.

submitted by the Applicant (Exh. 49). OP reviewed the application in terms of the subject property's zoning, the intensity of use, the character of the neighborhood, and the standards for special exception and variance relief. By memorandum dated September 26, 2003, DDOT recommended approval of the application without any conditions (Exh. 52).

ANC Report. By resolution dated September 15, 2003 (Exh. 48), ANC 3F noted a unanimous vote, at a duly noticed public meeting with a quorum present, to approve the application with a request that the Board adopt certain conditions attached to the ANC's report. At the public hearing on September 30, 2003, Carl Kessler, Commissioner for single-member district ANC 3F01, and Cathy Wiss, ANC 3F Chair, testified about the Applicant's efforts to address community concerns. By letter dated October 21, 2003, ANC 3F submitted a resolution, approved unanimously at a duly noticed public meeting on October 20, 2003 with a quorum present, indicating that the ANC had no objection to the Applicant's revised proposed conditions of approval of the application (Exh. 58).

Party in Opposition. Scott Schachter, who had requested party status in opposition to the application, testified that he was not opposed to approval of the application subject to the Board's adoption of the proposed conditions submitted by the Applicant.

Persons in Support or Opposition. The Board received two letters in support of the application, both from long-time residents of the 4300 or 4400 block of Reno Road, N.W. (Exs. 46 and 47). No persons submitted letters or testified in opposition to the application.

Findings of Fact
The subject property

1. The subject property is located at 4400 36th Street, N.W. (Square 1968, Lot 10) in the Van Ness neighborhood of Ward 3. The site is generally rectangular, with a frontage of approximately 225 feet along 36th Street, 307 feet along Alton Place, and 266 feet along Yuma Street, for a total lot area of approximately 70,647 square feet. The site slopes gently along Alton Place but suffers a substantial change of grade along the Yuma Street frontage.

2. The subject property is currently developed with a private school for 215 students. The school building was constructed circa 1964 for a maximum of 200 students pursuant to BZA Order No. 7282 (May 21, 1962). By Order No. 13089 (February 27, 1980), the Board approved construction of

an addition to the school to house two staff offices on the first floor and a science laboratory on the second floor. By Order No. 15656 (December 23, 1992), the Board approved an increase in enrollment to 215 students and the construction of an addition containing classrooms, a library, a gymnasium, and support facilities.

3. The Applicant currently uses the existing building on the subject property as a private school for kindergarten through eighth grades (i.e., lower school, middle school, and junior high school). The school now enrolls approximately 205 students, approximately 60 percent of whom live in the District of Columbia.

4. Fifty-five faculty and staff (including six outside contractors) currently work at the subject property either full- or part-time. The Applicant anticipates increasing its faculty and staff to 60 persons over the next 10 years (i.e. through 2013).

5. The subject property is zoned R-2.

6. A farmers market operates on school grounds during certain evening and weekend hours in spring and summer months. The Applicant indicated that its proposal to restrict evening and weekend activities at the subject property was not intended to apply to or prevent the continuation of the farmers market, which enjoys widespread support in the community. The representative of ANC 3F also testified in support of continuing the operation of the farmers market on the subject property.

7. The Applicant makes its playground on the Yuma Street (south) side of the school building available to the community during non-operational hours (i.e., after 6:00 p.m. to dusk Monday through Friday and during daylight hours on weekends and school holidays) except when a school event is scheduled.

<u>The Applicant's proposal</u>

8. The Applicant proposes to expand the existing private school use through:
   (a) an increase in the maximum enrollment from 215 to 226 students, phased in over three years;

   (b) approval of the number of students who may be enrolled in the school's summer educational program in excess of 100, to a maximum of 226 students;

(c) the construction of additions of 150 square feet to each of eight classrooms to increase their size and versatility;

(d) the reconfiguration of a small parking area in front of the school on 36th Street to accommodate eight vehicles; and

(e) the reconfiguration of a parking lot on Alton Place to accommodate 29 vehicles.

9. The Applicant stated that the requested increase in enrollment – from 215 to 226 students – would provide flexibility and assist the school in stabilizing its annual finances. According to the Applicant, the higher enrollment would not cause objectionable conditions or adversely affect neighboring property because the number of additional students would be small, and because the Applicant anticipated that the maximum number of students enrolled in any given year would not necessarily reach the cap of 226.

10. The Applicant also proposed an enrollment cap of 226 students for its summer educational program, known as CASA (Creative Arts Summer Adventure). The CASA program, which has been operating at the school for eight years, offers educational services in two sessions, each three and a half weeks long, between late June and early August. In 2002 approximately 192 students attended each session. The CASA program requires fewer teachers and staff than are provided from September through June.

11. The proposed additions, in the form of bays adding 150 square feet to each of eight classrooms, will increase the gross floor area of the building by four percent. The bays will be separated from nearby houses by at least 100 feet. Normal day-to-day activities in the eight enlarged classrooms, which are currently used by students in kindergarten through third grade, are unlikely to create any noise that would be heard by residents of nearby houses, particularly since the new construction would result in better soundproofing through the use of thicker glazing on the classroom windows.

12. The classroom additions, constituting a total of approximately 1,200 square feet of gross floor area, will be constructed as shown on the site plan prepared by Hickok Warner Cole dated July 29, 2003 (Exh. 42A) and the floor plans and elevations prepared by Hickock Warner Fox dated October 14, 2002 (Exh. 1).

13. Under Chapter 21 of the Zoning Regulations, a private school use is required to provide two parking spaces for every three employees. The Applicant is therefore required to provide 36 parking spaces for its 55 current employees. By increasing the number of employees to 60, the Applicant would be required to provide at least 40 parking spaces on the subject property pursuant to §§ 206 and 2101.1.

14. The Alton Place lot is presently striped to accommodate 22 parking spaces, including one handicapped space. The Applicant's proposal to employ tandem parking and parking for compact cars would make room for seven additional cars, for a total of 29 parking spaces in the lot on Alton Place. With the addition of eight parking spaces in the lot on 36th Street, the subject property will accommodate a total of 37 parking spaces on site, where there are currently 26 spaces.

15. The Applicant requested three variances related to parking:

    (a) a variance from the requirement under § 2117.4 that each parking space must be accessible at all times directly from an improved street or alley, so that the Applicant could provide tandem spaces in its main parking lot on Alton Place;

    (b) a variance from the requirement under § 2115.1 that each parking space must be at least nine feet in width and 19 feet in length, so that the Applicant could provide parking spaces for compact cars, thereby maximizing the total number of spaces provided on-site; and

    (c) a variance of three spaces from the requirement under § 2101.1 that an elementary or junior high school must provide two parking spaces for each three teachers and other employees, so that the Applicant could increase the number of faculty and staff from 55 to 60 over the next 10 years.

16. The Applicant stated that the tests for the requested area variances were satisfied:

    (a) The subject property is unique given the steep slope and dramatic change of grade that exists along the south side of the property. The slope and change of grade result in a hillside along Yuma Street that comprises approximately 15 percent of the lot area of the subject property and is unusable.

(b) The unique lot conditions cause practical difficulties in that the Applicant is not able to provide parking on the subject property other than in the parking lots currently provided along Alton Place and 36th Street. The area between the steep hillside along Yuma Street and the school building is occupied in part by outdoor play areas. The remainder of the site is occupied by the school building, by landscaped areas, and by the small parking lot on 36th Street and the main parking lot along Alton Place. There is no land on which to locate additional full-sized parking spaces or additional non-tandem spaces.

(c) The requested variances would not cause substantial detriment to the public good or substantially impair the intent, purpose, and integrity of the zoning plan. Tandem parking would keep the drive aisle unobstructed, where a "stacked" arrangement, in which cars are parked in the drive aisle, has been in place for many years without adverse impact on the surrounding neighborhood and with few complaints. By maximizing available parking on-site, the Applicant would relieve overflow parking pressure on nearby streets and eliminate or minimize the need for on-street parking by faculty and staff, even with modest growth in the number of employees over the next 10 years.

17. The Applicant submitted a transportation study prepared by Wells & Associates, LLC dated July 30, 2003 (Exh. 42A, exhibit 3), which concluded that no substantial detriment to the public good would result from the grant of the requested variances. The study's findings included that:

(a) 36th Street at Yuma Street and Alton Place currently operates at acceptable levels of service, at less than a third of capacity;

(b) with respect to traffic, the peak hours of the school and the street do not coincide, with the school peak occurring 15 minutes before the street peak in the morning and one and a half hours earlier than the street peak in the afternoon;

(c) the school presently generates approximately 325 to 335 vehicle-trips during school peak hours;

(d) the proposed increase in enrollment to 226 students would generate up to 34 additional school peak hour vehicle trips, which would have no significant adverse traffic impacts and would not be objectionable; and

(e) safe and efficient traffic and pedestrian flows were generally observed in the vicinity of the subject property on school days, with through traffic on neighborhood streets moving at appropriately slow speeds, unimpeded by Sheridan school traffic.

18. The Applicant submitted a landscaping plan (Exhibit No. 42, Tab D) designed to screen and landscape the parking lot on Alton Place to decrease its visibility to neighbors and to improve the landscaping of the subject property generally, especially around the perimeter of the site.

19. The Applicant proposes to implement and enforce a traffic management plan whose elements include school policies governing the morning drop-off and afternoon pickup procedures for students who are driven to school. Requirements of the transportation management plan include that:

(a) vehicles used in dropping off or picking up students along the west side of 36th Street between Alton Place and Yuma Street may not park or leave their vehicles unattended;

(b) students may not cross in the middle of the block on 36th Street between Alton Place and Yuma Street;

(c) U-turns are not permitted on 36th Street between Alton Place and Yuma Street;

(d) vehicles may not be parked in front of the driveways or on the lawns of any nearby residential properties, and

(e) vehicles may not be double-parked on any neighborhood streets.

20. The Applicant proposes to continue a community liaison group, in cooperation with ANC 3F, to report on the Applicant's compliance with the conditions of approval of its application, to provide a forum for neighborhood residents to express their concerns about the operations and activities of the Applicant, and to notify residents of upcoming special events at the subject property. Pursuant to the Applicant's proposal:

(a) The community liaison group will meet at least four times per year. The Applicant will send notice of each meeting at least two weeks in advance, by mail or electronic mail, to all property owners or occupants located in the 3500 and 3600 blocks of Yuma Street, N.W., the 3500 and 3600 blocks of Alton Place, N.W. and the 4300-4500 blocks of 36th Street, N.W. ("List of Neighbors"), unless an affected property owner or occupant has notified the Applicant in writing of a desire not to receive further notices. The Applicant will also transmit, every September, an annual schedule of the meetings of the community liaison group to ANC 3F and the List of Neighbors.

(b) The community liaison group will discuss and attempt to resolve issues such as concerns about the conduct of the school's activities and operations; implementation of the drop-off and pick-up program; use of public transportation and carpooling by faculty and staff; implementation of the landscaping plan and ongoing maintenance and replacement of plant material; compliance with conditions adopted by the Board; traffic reduction and traffic safety; and other issues of interest pertaining to the school. The Applicant will also use the meetings to notify the community of upcoming special or other events at the subject property.

(c) To ensure accurate information is made available to residents of the neighborhood, the Applicant will take detailed minutes of all meetings of the community liaison group and transmit them by mail or electronic mail to the List of Neighbors. The minutes will be maintained for a minimum of two years by the Applicant and will be made available for public inspection.

21. The Office of Planning concluded that the application was consistent with the requirements of § 206 because approval of the requested special exception would not create adverse impacts on neighboring property with respect to noise, number of students, traffic, or parking.

22. OP stated that the subject property is unique due to its exceptional slope and topography, and that a practical difficulty would result to the Applicant if required to provide parking as specified in the Zoning Regulations. With respect to the Applicant's proposal to provide stacked parking, OP noted that all of the off-street parking spaces were intended for long-term parking by employees of the school, which would provide a low turnover rate suitable to the use of smaller parking spaces. OP concluded that the

requested variances could be granted without substantially impairing the intent and purpose of the zone district, noting that the impact of the variances would be contained within the subject property with no adverse impact on the adjoining neighborhood.

23. The Department of Transportation recommended approval of the application, and did not identify any objectionable conditions or adverse impacts associated with the requested special exception or variances.

24. ANC 3F recommended approval of the application subject to the proposed conditions devised jointly by the Applicant and representatives of the surrounding neighborhood, along with the Applicant's proposed construction management plan and landscape management plan. The ANC subsequently indicated its support for the revised proposed conditions submitted by the Applicant on October 14, 2003.

Conclusions of Law

Special exception. The Applicant seeks a special exception to expand its existing private school use by (a) increasing maximum enrollment from 215 to 226 students; (b) allowing up to 226 students to enroll in the summer educational program; (c) enlarging the school building through construction of small additions (each 150 square feet) to eight classrooms; and (d) modifying two parking areas at the subject property to increase parking on-site. The Board is authorized to grant a special exception where, in its judgment, the special exception will "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps...." 11 DCMR § 3104.1. The Application must also satisfy § 206 of the Zoning Regulations, which requires that a private school use must be located "so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions" and that "ample parking space" is provided to "accommodate the students, teachers, and visitors likely to come to the site by automobile." 11 DCMR § 206.

The Board concurs with the Applicant and the Office of Planning that the requested increases in student enrollment and in authorized participation in the summer educational program are not likely to cause objectionable conditions or adversely affect neighboring property. The higher enrollment cap represents an increase of only 11 students (or five percent) over the current maximum permitted enrollment, and will be phased in gradually with a maximum of 215 students during the 2004-2005 school year and a maximum of 220 during the 2005-2006 school year. Similarly, the summer educational program has been in operation for

at least eight years, and, by complying with the same cap in effect for student enrollment, is not likely to cause objectionable conditions or adversely affect neighboring property, particularly since fewer faculty and staff are required for the summer program than during the regular school year. The Board credits the findings of the Applicant's transportation study in concluding that the proposed increase in enrollment will not create objectionable traffic impacts.

The Board also concurs with the Applicant and the Office of Planning that the proposed additions to the school building and the reconfiguration of the parking areas are not likely to cause objectionable conditions or adversely affect neighboring property. The proposed additions will increase the gross floor area of the building by only four percent, will be at least 100 feet from any neighboring residence, and will likely lessen any noise impacts associated with the private school use due to the type of windows to be installed in the additions. Reconfiguration of the parking areas will not create adverse impacts on neighboring property but will further reduce the likelihood of spillover parking on neighborhood streets by increasing the number of parking spaces available on the subject property from 26 to 37.

The Board concludes that, pursuant to §§ 206 and 3104.1, the special exception relief requested for the private school can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and that as conditioned by this order, the special exception will not tend to affect adversely the use of neighboring properties in accordance with the Zoning Regulations and Map.

Variances. The Applicant also seeks variances from requirements concerning access to parking spaces on the subject property, the minimum size of the parking spaces, and the number of parking spaces required for private school use under chapter 21 of the Zoning Regulations. A private school use is required to provide "[a]mple parking space, but not less than that required in chapter 21 ... to accommodate the students, teachers, and visitors likely to come to the site by automobile." 11 DCMR § 206.3.

The Board is authorized to grant a variance from the strict application of the zoning regulations where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of the property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent,

purpose, and integrity of the zone plan as embodied in the zoning regulations and map. D.C. Official Code § 6-641.07(g)(3) (2001); 11 DCMR § 3103.2.

The Board concurs with the Applicant and OP that the subject property is unique in light of the steep slope and dramatic change of grade along its south side. The topography results in a hillside comprising approximately 15 percent of the lot area that is unusable for building, parking, or driveway purposes. The strict application of the Zoning Regulations would result in practical difficulties to the Applicant because the exceptional topographical conditions of the site render a significant portion of the subject property unusable and diminish the Applicant's ability to provide parking spaces on-site other than in the two existing lots.

The Board also concludes that the requested variances would not cause substantial detriment to the public good or substantially impair the intent, purpose, and integrity of the zoning plan. By requesting variances from §§ 2117.4 and 2115.1 so as to permit tandem spaces and parking for compact cars, the Applicant will be able to maximize the number of vehicles that can be parked on the subject property without obstructing the drive aisle, thereby diminishing the likelihood of any spillover parking on neighborhood streets. Neither the Applicant's traffic expert nor DDOT identified any adverse impacts associated with the requested variances. Any negative visual impacts on neighboring property associated with the parking lots will be mitigated by the landscaping that the Applicant will plant and maintain on the school grounds, and by the Applicant's obligation to arrange to park school buses or vans at an off-site parking area.

By requesting a variance from § 2101.1, the Applicant seeks permission to increase the number of employees of the private school use at the subject property without providing additional parking spaces. After reconfiguration of the parking lots, the subject property will contain 37 parking spaces, while the Applicant currently has 55 faculty and staff and projects an increase to 60 employees by 2013. The strict application of the Zoning Regulations would require the Applicant to provide at least 40 parking spaces for 60 employees. The Board concludes that an increase in the number of employees at the subject property from the current 55 to 60 over the next 10 years is not likely to become objectionable to adjoining or nearly property because of traffic or parking or otherwise objectionable conditions, and that the 37 parking spaces provided on the subject property in the reconfigured parking lots will provide ample parking to accommodate the students, teachers, and visitors likely to come to the site by automobile. With the increase in the number of parking spaces provided on site, effective implementation of the transportation management plan, and provision of incentives to encourage faculty and staff to take public transportation or carpool, a

modest increase in the number of faculty and staff over the next 10 years is not likely to create objectionable impacts.

Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and to the issues and concerns of ANC 3F, the Board concludes that the Applicant has met its burden of proof. The Board has imposed numerous conditions in this order in response to the Applicant's proposal and the recommendations of the ANC. In addition, the Board concludes that a 10-year term is appropriate for the requested special exception.

It is hereby **ORDERED** that the application is **GRANTED**, subject to the following conditions:

1. The special exception approved by this Order shall remain in effect for **TEN (10)** years from the effective date of this Order.

2. The parking layout of the small parking area in front of the school building on 36th Street, N.W. and the main parking area on Alton Place, N.W. shall be as shown on Exhibit 42A of the record. The Applicant shall ensure that the parking areas are used in the manner depicted on Exhibit 42A, and specifically that the drive aisle in the lot on Alton Place is not used for the parking of motor vehicles and that there is no stacked parking in the parking area in front of the school building on 36th Street.

3. The parking area on Alton Place shall be used during school hours only by faculty and staff. During after-school hours, the parking area may be used by school visitors, parents, and members of the board of trustees.

4. The Applicant shall provide landscaping as shown on the landscaping plan prepared by Hickok Warner Cole dated July 16, 2003 (Exh. 42A), and shall maintain all landscaping in a healthy growing condition, replacing it when necessary in accordance with the landscaping conditions marked as Exhibit 45 (Tab B) of the record.

5. The number of students (including students enrolled during the customary school term from September to June and during the CASA or similar summer program between June and August) shall not at any time exceed 226, no more than 50 of which shall be kindergarten students; provided that:

    a) the number of students shall not exceed 215 during the 2004-2005 school year and 220 during the 2005-2006 school year;

    b) the Applicant shall complete the landscaping plan (Ex. 42A) and the revisions to the parking lots on Alton Place, N.W. and 36th Street,

N.W. (Exhibit 42A) prior to any increase in enrollment above 215 students; and

c) "students" is defined as those children who are enrolled in the school or participate in summer school or summer camp activities (including children who pay tuition or receive scholarships).

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

7. No trash collection shall occur before 9:00 a.m. or after 6:00 p.m., Monday through Friday.

8. The Applicant shall schedule deliveries at the subject property so that:

a) No pickups or deliveries shall occur at any entrance located on the north side of the building (i.e., facing Alton Place) before 9:00 a.m. or after 6:00 p.m., Monday through Friday. The Applicant shall post a sign adjacent to the door located nearest to the parking lot on Alton Place indicating that no deliveries shall be accepted at that location except during the designated hours.

b) Deliveries of produce, perishable goods, or similar items that are time-sensitive may be accepted at the building's main entrance on 36th Street between 7:00 a.m. and 9:00 a.m. on an occasional "as-needed" basis.

c) No deliveries shall be made during the weekend or on school holidays.

9. The Applicant shall maintain and continue a community liaison group in cooperation with Advisory Neighborhood Commission 3F, as described in Finding of Fact No. 16.

10. The Applicant shall not park a school bus or van (a) on any residential streets within the boundaries of ANC 3F or (b) on the subject property after school hours unless arrangements for off-site parking are terminated by the owner of the off-site parking area (or other third party who controls the parking area) and the Applicant is unsuccessful in making arrangements for alternative off-site parking. In the event the arrangements for off-site parking are terminated, the Applicant shall use good-faith efforts to make alternative arrangements for off-site parking promptly, and shall not park a

school bus or van on the subject property after school hours for any period longer than 60 days. In the event a school bus or van is parked on the subject property, the Applicant shall report to the community liaison group with respect to its good-faith efforts to make alternative off-site parking arrangements within 14 days of the parking of a bus or van on the subject property and thereafter on a biweekly basis until the bus or van is relocated to an off-site property.

11. All mechanical equipment associated with the central heating and cooling ("HVAC") systems shall be located in the basement of the school building or in other interior areas of the building, except that new or replacement HVAC equipment may be installed and operated on the exterior of the building (including its roof) so long as the new or replacement HVAC equipment (a) generates operating noise no greater than the noise generated by the HVAC equipment it replaces, (b) is screened from neighboring property, and (c) is no larger in size, shape, or profile than the HVAC equipment it replaces. Any HVAC equipment not permitted by this paragraph shall require Board of Zoning Adjustment approval as a modification of the special exception approved in this Order.

12. Evening and weekend activities or events at the subject property shall be restricted to those activities and events that are customary to an elementary school (kindergarten through eighth grade).

    (a) During activities or events at the school, ingress and egress shall be restricted to the building's main entrance on 36th Street, N.W.

    (b) The Applicant shall notify all persons on the List of Neighbors (described in Finding No. 16(a)) of all planned activities or events at least one week in advance by mail or electronic mail.

    (c) Activities or events attracting 50 or more persons or 25 or more vehicles shall be restricted to a maximum of 12 per year.

    (d) This condition shall not to apply to the farmers market operating at the subject property.

13. The Applicant shall not rent or make the school or its facilities available for commercial or profit-making functions or activities such as dances, concerts, exercise classes, or other events. This condition shall not apply to the CASA or similar summer educational program or summer camp

traditional to an elementary school offered by the Applicant or to the farmers market operating at the subject property.

14. The Applicant shall use its best efforts to ensure that:

    a) students enter and exit the school building by means of either the 36th Street entrance or the playground doors closest to 36th Street that face Yuma Street;

    b) faculty and staff enter and exit the school building through (i) the doors located on 36th Street, (ii) the doors adjacent to the Yuma Street playground, or (iii) the doors adjacent to the parking area on Alton Place for faculty and staff who park their vehicles in that parking area; and

    c) students, parents, visitors, faculty, and staff enter and exit the school building on the Alton Place (north) side of the building when coming to the subject property by bicycle and using a bicycle rack located on the Alton Place side.

15. The Applicant shall provide faculty and staff with incentives, including the MetroChek program, to encourage the use of public transportation or to carpool to and from the subject property. The Applicant shall post signs adjacent to the Alton Place parking lot reserving at least three parking spaces for, or giving priority to, persons who carpool.

16. The Applicant shall comply with, implement, and enforce the traffic management plan described in Finding of Fact No. 15, as may be amended after consultation with the community liaison group.

17. No later than March 1st of each year, the Applicant shall submit an annual report to the Zoning Administrator setting forth its ongoing compliance with Conditions 2 through 16 of this Order during the prior calendar year, and shall transmit copies of the annual report, by mail or electronic mail, to the Office of Planning, ANC 3F, and the List of Neighbors. The annual report shall include, at minimum:

    a) detailed information on the number of students enrolled (by range and average number enrolled);

b) a breakdown of faculty and staff by full-time, part-time, and contract basis for those contract personnel who work more than 10 hours per week on average; and

c) the number of written complaints or allegations of non-compliance received by the Applicant during the prior year, with a description of the nature of the complaints or allegations and a copy of each complaint.

18. The Applicant shall comply with, implement, and enforce the construction management plan dated September 16, 2003 (Exh. 45 (Tab C) during the period of construction of the interior and exterior work described in the plans and drawings submitted in conjunction with the subject application.

19. The Applicant shall have flexibility to make minor revisions to any plans submitted in the record for renovations, rehabilitation, or replacements located in the interior of the school building so long as the revisions are not visible from adjacent or nearby property, do not require any new or additional zoning relief, and do not violate any condition set forth in this Order.

VOTE: **4-0-1** (Ruthanne G. Miller, David A. Zaidain, Carol J. Mitten, and Curtis L Etherly, Jr. (by absentee vote) voting to approve the application; Geoffrey H. Griffis not voting, having recused himself)

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: FEB 0 4 2004
~~FEB 0 4 2004~~

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring member has approved the issuance of this Order.

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE

UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. MN/RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16977

As Director of the Office of Zoning, I hereby certify and attest that on FEB 0 4 2004 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

rsn