GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: September 30, 2003

SUBJECT: BZA Application 17016

APPLICATION
Safe Shores (D.C. Children's Advocacy Center) and the National Children's Alliance, the Applicant, originally requested a variance from Section 770.6, and special exceptions under Sections 777.1 and 774.2 to allow construction of an addition to a former school building on located at 65 Massachusetts Avenue, N.W. (Square 625 Lot 806), pursuant to Sections 3103.2 and 3104.1 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning. The application has subsequently been revised to seek special exception relief under Sections 774 and 777.1, per Section 411.11.

SUMMARY RECOMMENDATION
The Office of Planning recommends the following:

1) Approval of the special exception to waive the required rear yard setback, subject to conditions that the Applicant:
   a. obtain a covenant from the adjoining property owner, in a form satisfactory to the Office of Corporation Counsel, assuring a minimum of twenty (20) feet distance between buildings on the subject and adjoining lots; and
   b. recordation of said covenant prior to the issuance of demolition or construction permits;
2) Approval of the special exception to locate a roof structure along the eastern boundary of the subject property, subject to conditions that the Applicant:
   a. satisfying Historic Preservation Review Board conditions for conceptual plan approval; and
   b. Board of Zoning Adjustment approval of the above-referenced waiver of the rear yard setback.

SITE AND AREA DESCRIPTION
The subject property is a 0.29-acre (12,764 square foot) corner lot at the western corner of the square bounded by the rights-of-ways of G Street, Massachusetts Avenue, and First Street, N.W.

BZA
Case No. 17016
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17016
EXHIBIT NO. 26

A three-story masonry building known as the Gales School occupies most of the property. Paved parking areas to the west and southwest, and landscaped areas to the east and southeast of this building occupy the balance of the site. The circa 1881 building and site were added to the District of Columbia Inventory of Historic Places in 2002.

Development in the vicinity consists of an eight-story masonry building occupied by the General Printing Office (GPO), associated parking lots, and loading facilities to the north across G Street; a nine-story office building and commercial parking lot to the south across Massachusetts Avenue; commercial parking lots to the east on a future development parcel controlled by the National Capital Revitalization Corporation (NCRC); and public open spaces to the west across First Street (refer to Exhibit 1).

The subject property and properties to the northwest, south, east and west are zoned Major Business and Employment Centers (C-3-C), and Hotel-Residential Incentive (HR) Overlay Districts. Property to the north is just zoned C-3-C.

APPLICANT'S PROPOSAL

The applicant proposes to renovate and expand the existing building for office use. Specifically, the Safe Shores - D.C. Child Advocacy Center (CAC) and National Children's Alliance (NAC) would relocate from offices at 300 E. South Street, N.W.

As described in the Applicant's undated Pre-Hearing Statement, CAC is a multiple-disciplinary taskforce comprised of representatives from the U.S. Attorney's Office for the District of Columbia (Domestic Violence and Sex Abuse Unit and the Victim/Witness Unit), Office of Corporation Counsel (Abuse and Neglect Section, and Juvenile Section), Child and Family Services Agency (Intake Unit), and the Children's National Medical Center (the Freddie Mac Child and Adolescent Protection Center). Safe Shores staff serve on the taskforce in a coordinating capacity to provide a "... child-friendly approach to the investigation and prosecution of civil and criminal child abuse cases in the District." Safe Shores "also provides victim services to serve the immediate emergency needs of children and adolescents in crisis."

The National Children's Alliance "is a non-profit organization whose mission is to provide training, technical assistance and networking opportunities to communities seeking to plan, establish and improve children's advocacy centers." Accommodating the space demands of the CAC and NCA requires excavation of two cellars and one basement under the historic structure, and construction a four-level addition with a penthouse (roof structure). The overall proposal would more than double the gross building floor area from approximately 18,900 square feet (according the District Land Records) to 38,300 square feet.

The Statement notes "Of particular importance to the District's decision to use the Property for its Children's Advocacy Center is the Property's close proximity to the District of Columbia courthouses." CAC representatives explained that the property is within proximity of the D.C. Superior Court Family Division at 500 Indiana Avenue (approximately 2,420 linear feet). It also has direct vehicular access via North Capitol Street to D.C. Children's Hospital where client lab test are performed.

The Statement continues "Because of the historic nature of the Property and, more specifically, the restrictions imposed by the DC Historic Preservation Review Board ('HPRB'), as well as the location of the Gales School on the property, the only feasible location for this addition ... is in the rear yard, thus necessitating a special exception from the rear yard requirement of the zoning regulations." It indicates that HPRB required that the new penthouse structure be as far toward the rear addition as possible. As a result, the proposed expansion requires relief from Zoning Regulation provisions requiring a rear yard set back, that roof structure enclosures to be of the same height, and that the new roof structures have a 1:1 set back from the eastern property line.

EXISTING ZONING AND RELIEF REQUESTED

The site is zoned C-3-C/HR. Section 741.1 of the Zoning Regulations (per Sections 721.1 and 701.6 [c]) allows office uses in this zoning district as a matter of right, while provisions of the HR Overlay district do not affect the proposed use. The regulations also include the following parking provisions pertaining to historic properties:

> "2100.5 No additional parking spaces shall be required for a historic landmark or a building or structure ..."
>
> 2100.10 In the case of a building or structure for which the Zoning Regulations now require more parking spaces than were required when the building or structure was built, the following shall be required:
>
> (a) If the number of parking spaces now provided is less or equal to the minimum number of parking spaces now required by this chapter, the number of parking spaces cannot be reduced; ..."

The property is also subject to the following provisions:

Standard	C-3-C/HR Requirement	Existing	Proposed	Required Relief
Lot Area	3,000 s.f.	12,764 s.f.[1]	Same	N/A
Lot Width	N/A	47 feet	Same	N/A
Floor Area	N/A	18,849 s.f.[1]	38,294 s.f.[2]	N/A
Floor Area Ratio	6.5	1.48	3.00	N/A
Height	90 feet/ unlimited stories	54 feet[1]	63 feet[2]	N/A
Lot Occupancy (max.)	100 %	50 %[2]	61 %[2]	N/A
Open Court	3 inches/vertical ft. (not less than 12 feet)	31 feet) (13.5 feet)	31 feet (15.75 feet)	N/A
Rear Yard	2.5 inches/vertical ft.	11.25 feet	13.13 feet	Variance/

[1] District of Columbia land records
[2] Calculations based on land records and plans submitted by the applicant
[3] Not required for an historic property, however assumes that existing parking spaces will be maintained

	(not less than 12 feet)			SE
Standard	**C-3-C/HR Requirement**	**Existing**	**Proposed**	**Required Relief**
Side Yard	N/A	0-30 feet	0-30 feet	N/A
Penthouse	Single enclosure, Same wall height, 1:1 set back	--	Multiple enclosures Wall height varies Less than 1:1 set back	SE
Residential Recreation Space	N/A	--	--	N/A
Parking (on-site)	1 space/1,800 s.f. over 2,000 s.f.	6 spaces [3]	6 space [3] (19 spaces)	N/A

This review indicates the proposal generally meets zoning requirements, and confirms that relief is required from the rear yard set back requirement from the eastern property, and provisions pertaining to roof structures.

On July 8, 2003, Board of Zoning Adjustment (BZA) determined that relief from Section 770.6 regarding penthouse setbacks is a special exception and not an area variance. Staff reviewed the requested relief under the special exception provisions of the Zoning Regulations based in this BZA determination.

ANALYSIS

Section 3104.1 grants the Board of Zoning Appeals (BZA) the authority "to grant special exceptions where in the judgment of the Board, those special exceptions 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."

Special exceptions to vary the height of roof structure enclosures, and to reduce the rear yard set back in a commercial zoning district are also subject to standards under Sections 774 and 777.1 (per Section 411.11), respectively.

Compliance with Section 774

Requirements for encroaching into the required rear yard include the following:

774.3 *Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air and to protect the privacy of building occupants.*

774.4 *In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.* The Applicant's Pre-Hearing Statement notes "... a PUD has been approved for Lot 841 ... The current plans ... depict a twenty foot (20') alley separating the Republic Square (building) from the Gales School." However, upon further review, staff determined that no PUD has been approved for the adjacent

property. NCRC indicated in response to a staff inquiry that Republic Square developers plan to proceed with a mixed-use project allowed as a matter of right.

Further, page 12 of the Applicant's Pre-Hearing Statement indicates that NCRC (incorrectly referred to as NCPC) agreed to "grant an easement for the maintenance of the twenty (20) foot alley." OP notes that there is no alley within the referred 20 feet.

Staff also observes that most Downtown developments attempt to make maximum use of the site. Since the distance of development from the subject property is apparently not guaranteed (as under a PUD), staff asked whether planned construction to the rear of the Gales School site raises concerns on the part of NCRC or the current developers about the provision of adequate air and light to future development. To date no response has been received, however establishment of a covenant that restricts construction next to the subject property would eliminate concerns that approving this request could shift the "set back" burden to unsuspecting parties.

774.5 *The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.* While the Pre-Hearing Statement does not address this standard, staff notes that:

(a) additional parking spaces are not required for historic properties, however existing on-site parking spaces must be maintained;
(b) several existing driveways provide immediate vehicular access into the property from adjacent rights-of-way; and
(b) staff anticipates that smaller "step van" vehicles instead of larger trucks would predominantly serve proposed office uses.

The parking area appears sufficient to accommodate infrequent deliveries, however additional information is needed about how trash pick-up would function. The Metropolitan Police Department also expressed concern that adequate parking is provided on-site for the proposed use (refer to Exhibit 3).

774.6 *In receiving an application for an approval under §§ 774.2 through 774.5, the Board shall submit the application to the Director of Office of Planning for coordination review, report, and impact assessment, along with reviews in writing of all relevant District departments and agencies including the D.C. Department of Public Works, the Department of Housing and Community Development, and, if a historic district or historic landmark is involved, the State Historic Preservation Officer.* This application was referred to the Fire and Police Departments, and SHPO for comment. NCRC and the Department of Transportation were also notified. The Department of Housing and Community Development was not notified because the proposal does not include a residential

component. Comments received are summarized in the Agency Comments section below.

Compliance with Section 411.11

The BZA may grant special exception relief in situations where Zoning Regulations pertaining to "the location, design, number and all other aspects of such structure" are "... impracticable because of operating difficulties, size of the building lot, or the conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable ...". The Pre-Hearing Statement of the Applicant explains "Because of the historic preservation requirements, the Applicant is required to place the penthouse surrounding the elevator as far back (east) toward the rear addition as possible. Additionally, the portion of the penthouse surrounding the elevator core is required to be lower than the portion enclosing the mechanical equipment ..." The statement concludes "The penthouse structure walls cannot be of equal height because of restrictions resulting from the historic nature of the property."

A memorandum from State Historic Preservation Office (SHPO) staff explaining the Historic Preservation Review Board (HPRB) action is attached (refer to Exhibit 2). To date, a revised architectural design that resolves this issue has not been presented to SHPO staff. Thus, there has been no HPRB approval that "mandates" the proposed changes. Applicant representatives indicate that this issue (and HPRB's denial of a permit application for partial demolition of the Gales School building) is in the process of being appealed to the Mayor's Agent. No hearing date has been scheduled.

Based on this information, OP cannot conclude that this application meets the standards under Section 411.11 because the Applicant has not adequately explained why the existing regulations are "impracticable".

Compliance with Section 3104.1:

The impact of locating the new roof structure next to the eastern property line also depends on development plans for the adjacent property. Therefore, in light of findings under Sections 774 and 411.11, staff cannot determine whether the proposed changes would be in harmony with the general purpose and intent of the Zoning Regulations, and Zoning Map.

COMPREHENSIVE PLAN

The Comprehensive Plan Generalized Land Use Map designates this area for High Density commercial development characterized by the businesses and retail heart of the District and the Metropolitan area, including a mix of employment, retail, office, cultural and entertainment centers.

Chapter 10 of the Human Services Element in the Comprehensive Plan states "It is the human services delivery system's objective to maintain and improve the human services delivery system in the District which has been established to facilitate the maintenance and improvement of health and well-being."

Policies established in support of this goal under Section 1002.2 include:

"(k) Coordinate the design and implementation of all District human service programs with human service providers; and
(l) Link District government human service programs more effectively with federally mandated and funded human service programs to obtain additional federal funding."

Based on this information, this proposal is not inconsistent with the Comprehensive Plan.

COMMUNITY COMMENTS
The Land Use and Zoning Subcommittee of Advisory Neighborhood Commission (ANC) 6C will consider this application on October 1, 2003. It is unclear when it will be considered by the full ANC.

AGENCY COMMENTS
The Historic Preservation Review Board considered this application during its regular meeting on March 27, 2003. Exhibit 3 is a copy of the SHPO report to the Board.

Copies of the application were referred to the Fire and Police Departments for comment. NCRC and DDOT were also notified. The Fire Department did not express any concern (refer to Exhibit 4). The First District of the Metropolitan Police Department expressed no objection except that "sufficient off-street park(ing) must be provided for all employees and clients, to preclude traffic congestion/stoppages in the immediate vicinity."

RECOMMENDATION
The core issue before the Board is the special exception to waive the required rear yard setback for the proposed rear addition. The special exception request for the roof structure on the proposed rear addition, and any related historic preservation issues, depend on the BZA decision regarding the rear yard waiver.

In order to ensure future light, air and the protection of privacy issues required by Section 774.3 and 774.4, are satisfied, the Office of Planning recommends:

1) Approval of the special exception to waive the required rear yard setback conditioned on the Applicant:

    a. obtaining a covenant from the adjoining property owner, in a form satisfactory to the Office of Corporation Counsel, assuring a minimum of twenty (20) feet between buildings on the subject and adjoining lots;
    b. recordation of said covenant prior to issuance of demolition or building permits; and

2) Approval of the special exception for locating the roof structure adjacent to the eastern property line conditioned on the Applicant:

   a. satisfying HBRB conditions for concept approval of the addition; and
   b. BZA approval of the above-referenced waiver of the rear yard setback.

AA/afj

Attachments:

Exhibit 1 Aerial Including Zoning
Exhibit 2 Memorandum from Tim Denneé, Architectural Historian to Arthur Jackson, Development Review Specialist dated September 26, 2003
Exhibit 3 Historic Preservation Review Board Staff Report on Joseph Gales, Jr. School, 65 Massachusetts Avenue, N.W., dated March 27, 2003
Exhibit 4 Memorandum from Assistant Chief, Regional Operations Command – Central to Executive Assistant Chief of Police – Operational Services dated April 28, 2003
Exhibit 5 Memorandum from Richard D. Fleming, Acting Battalion Fire Chief to Andrew Altman, Director, Office of Planning dated April 29, 2003

Exhibit 1


North Capitol St
G St NW
C-3-C
HR/C-3-C
Massachusetts Ave NW
F St NW
New Jersey Ave NW

Exhibit 2

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

MEMORANDUM

TO: **Arthur Jackson, Development Review Specialist**

FROM: **Tim Dennée, Architectural Historian**

DATE: **September 26, 2003**

SUBJECT: **Gales School project review by the Historic Preservation Review Board**

In answer to your inquiry about the status of the HPRB review of the proposed Gales School rear addition, I am pleased to report that the Board was supportive of the concept, in that the addition was found to be appropriately located and scaled. The Board did condition its support on the fulfillment of the following conditions:

1. That the penthouse(s) be located atop the new addition, neither encroaching upon the historic roof nor rising above its height, and
2. That the cast iron cresting once on the building's roof be replicated and replaced.

The proposal does not have final conceptual approval yet, however, pending plan revisions to meet these conditions and review of those revisions plus any refinements of the overall design.

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Landmark/District:	**Joseph Gales School, Jr.**	(x) Agenda
Address:	**65 Massachusetts Avenue, NW**	( ) Consent
Meeting Date:	**March 27, 2003**	(x) Addition
H.P.A. Number:	**03-190**	(x) Alteration
Date Received:	**January 23, 2003**	(x) Demolition
Staff Reviewer:	**Tim Dennée**	(x) Concept

The applicant, lessee District of Columbia Children's Advocacy Center (pending a development agreement with owner District of Columbia Office of Property Management), requests the Board's conceptual review of a proposal to rehabilitate and add to the landmark school building to serve as office and work space for the D.C. Children's Advocacy Center and the National Childrens' Alliance.

The groups work with physically and sexually abused children and are hoping to unite all of the functions of their work, including casework with the children (and thus a Metropolitan Police unit or substation), administration and government relations into one building and yet keep certain functions separate from each other. The present program calls for about 70,000 square feet of space, and the existing building has a floor area of approximately 24,000 square feet.

The Board received a staff report and a packet of graphics in February, but the case was continued to this month without discussion, at the request of the applicant. The applicant has revised the plans since then.

Demolition and alterations

The wedge-shaped lot is quite constrained in that it has small rear and side yards. On the other hand, the primary elevation is set back from the front property line, but to avoid building in front of the school, the proposal includes both a rear addition and an underground addition. The exterior walls would be held up while two basement levels—with a footprint greater than the present building—are excavated beneath the current basement. It is further proposed that the roof and the two larger, central chimneys be removed and the roof rebuilt to include a roof deck atop the addition, large skylights on the flat part of the roof, and a new mechanical and elevator/stair penthouse. The windows are all to be replaced, with many of the rear windows and some of the rear wall lost in order to allow passage between the main block and the proposed addition. The building's floors, stairs, interior bearing walls and partitions are to be removed and replaced as well. The applicant has included some interior photographs on Sheet A5 of the attached graphics in order to demonstrate the condition of the building. While those photographs are accurate depictions of their subjects, the staff has toured the school and can report that the

pictures do not represent the overall appearance and condition of the building; the physical integrity, particularly on the lower floors, is generally much better.

Addition

The rear addition is to stand four stories above grade. In concept, it is clearly a very contemporary structure, expressed and enclosed mainly in steel and glass, particularly on the rear elevation, but with a masonry base and masonry connections to the historic school. The elevations have been revised somewhat, eliminating on the side elevations attempts to echo the punched openings and cornice of the school (at the suggestion of staff, who felt that the addition was shallow enough to require no such transition). The addition's fourth story is continuous in massing and vocabulary with the proposed penthouse. The applicant is exploring the use of an elevator with less of an overrun, so the mass of the penthouse has been reduced and its center of gravity shifted rearward toward the addition.

Evaluation

With regard to historic landmarks—in addition to promoting their use for the welfare of people of the District of Columbia and as an economic stimulus—the Historic Landmark and Historic District Protection Act of 1978 sets forth the following purposes, in part: to "[e]ffect and accomplish the *protection, enhancement* and *perpetuation of improvements* and landscape features of landmarks...; to "*retain* and *enhance* [them]...and to encourage their adaptation for current use; and to "encourage [their] *restoration...*" [emphasis added]. The proposed extent of demolition and alteration is incompatible with the protection, retention, enhancement or restoration of the landmark. It suggests the loss of most of the historic building fabric and, essentially, a façade project, without even retaining the roof. While the existing rear is presently proposed to be retained, it will be concealed by the proposed addition and further altered by the demolition of parts of the wall for pedestrian passage between the new and old portions of the building. In short, the proposed changes to the building itself do not represent a preservation-oriented approach to the rehabilitation and reuse of the building and, in fact, suggest that the building and site are being asked to accommodate too much program.

The rear addition is generally reasonably scaled, except for the disruption to the historic roofline created by both the penthouse. As stated above, the penthouse has been improved since the first submission, and visible skylights and a roof deck on the principal roof have been eliminated. Nonetheless, the proposed penthouse will inevitably be visible over the rear of the school roof, particularly when viewed from the Massachusetts Avenue and G Street sides (it will be very conspicuous from H Street, across the Government Printing Office parking lot). The *District of Columbia Historic Preservation Design Guidelines* state that "any alterations [to a roof] must be undertaken with extreme care to ensure that the character of the roof is retained.... Rarely is it appropriate to change the shape of an existing roof. To do so almost always drastically alters the character of a historic building. If, for compelling functional or economic reasons, the shape of the roof must be changed, it should be done in such a manner as to retain the historic character of the building...."

Elements of the plan, such as window replacements, are proposals that we would typically approve, if they are sufficiently in accord with the preservation standards and guidelines. It is likely that, *in isolation,* and in the interest of getting this historic building back into service with

an appropriate reuse, that the staff would support the addition with its rooftop penthouse. Similarly, and for the same end, the staff would more likely support some substantial demolition of floors, walls and stairs if the exterior appearance were to be completely preserved. However, the cumulative effect of the loss of the original roof, floors, interior bearing walls, windows, portions of the rear wall, and of views of the rear wall, plus the addition of the penthouse on the roofline makes this project too damaging to the integrity of the landmark to be consistent with the purposes of the preservation law.

The staff recommends that the Board request further revision of the plans, or deny the concept as presently proposed as inappropriate treatment of a landmark inconsistent with the purposes of the preservation act, for the reasons stated above.

METROPOLITAN POLICE DEPARTMENT
Regional Operations Command - Central
First District

2003 MAY -2 PM 2:30

April 28, 2003

MEMORANDUM

TO: Executive Assistant Chief of Police
Operational Services

THRU: Assistant Chief
Regional Operations Command - Central

SUBJECT: Bureau of Zoning Appeals Case Number 17106

Pursuant to the attached correspondence from the District of Columbia Office of Planning, the undersigned has evaluated the Zoning Appeals Application regarding the renovation and expansion of the Gates School Building. Located at 65 Massachusetts Avenue, N.W.

The First District has no objection to the renovation/expansion EXCEPT for the following issue:

- Sufficient off-street park must be provided for all employees and clients, to preclude traffic congestion/stoppages in the immediate vicinity.

Thank you for the opportunity to comment on this proposal.

Thomas E. McGuire
Commander

GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D.C. 20001

MEMORANDUM

TO: Andrew Altman
Director
Office of Planning

FROM: Richard D. Fleming
Acting Battalion Fire Chief

DATE: April 29, 2003

SUBJECT: BZA Application No. 17016

The D.C. Fire and EMS Department has reviewed the above zoning case.

We have no objection to this request, provided the building addition meets all current building and fire code requirements.

If you have any questions concerning this review, please contact my office at 727-3659.