GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17149 of Sidwell Friends School, pursuant to 11 DCMR § 3104, for a special exception under § 206 to allow additions to an existing private school and to increase enrollment from 780 to 850 students, and for a special exception under § 411 for roof structures, in the R-1-B and C-2-A Districts at premises 3825 Wisconsin Avenue, N.W. (Square 1825, Lots 816).

HEARING DATES: June 15, 2004, June 22, 2004, and June 29, 2004
DECISION DATE: October 5, 2004

DECISION AND ORDER

This application was submitted February 13, 2004 by the Sidwell Friends School, the owner of the property that is the subject of the application. Following a public hearing, the Board voted 4-0-1 on October 5, 2004 to grant the application subject to conditions.

Procedural Matters

Application. The Sidwell Friends School ("Sidwell" or "Applicant") filed an application pursuant to 11 DCMR § 3104 for a special exception under 11 DCMR § 206 to construct additions and enhancements to an existing private school and to increase enrollment from 780 to 825 students in the R-1-B zone[1] at 3825 Wisconsin Avenue, N.W. The application was subsequently amended to request an increase in maximum enrollment to 850 students and to seek an additional special exception, under § 411.11, for a certain aspects of the roof structures on a proposed addition to the existing middle school building. The zoning relief requested in this application was self-certified pursuant to 11 DCMR § 3113.2.

Notice of Application and Notice of Public Hearing. By memoranda dated February 18, 2004, the Office of Zoning sent notice of the application to the Office of Planning; the Department of Transportation ("DDOT"); the Councilmember for Ward 3; Advisory Neighborhood Commission ("ANC") 3C, the ANC for the area within which the subject property is located; and the single-member district ANC 3C06.

The Board originally scheduled a public hearing on the application for May 11, 2004. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on February 26, 2004 mailed notice of the hearing to the Applicant, the owners of property within 200 feet of the subject property, and ANC 3C. Notice was also published in the D.C. Register (51 *D.C.R.* 2386). The hearing was postponed, at the request of the Applicant in conjunction with ANCs 3C and 3F, until June 15, 2004. Notice of the rescheduled hearing was published in the D.C. Register (51 *D.C.R.* 3425).

Requests for Party Status. ANC 3C was automatically a party in this proceeding. ANC 3F, whose boundaries abut the subject property, was also granted party status. The Board denied a

[1] A small portion of the subject property is zoned C-2-A.

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request for party status in opposition submitted by Milos Bajcetic, who did not attend the hearing. The Board also denied an untimely request for party status submitted by Thomas Hertz, who subsequently testified as a person in support of the application on issues relating to construction management.

Applicant's Case. The Applicant provided testimony and evidence from Lane Heard, a member of Sidwell's board of trustees; an architect, Stephen Kieran of Kieran Timberlake Associates; a traffic expert, Martin Wells of Wells & Associates; and Michael Saxenian, the Applicant's assistant head of school and chief financial officer.

According to the Applicant, an assessment of its facility needs demonstrated a need for updated and expanded facilities to support Sidwell's educational programs. Accordingly, the Applicant proposed to expand the existing private school use at the subject property through various enhancements to the site, including the construction of some new buildings as well as additions to and renovation of existing buildings ("the Project"). The Applicant also sought an increase in maximum enrollment from 780 to 850 students in grades 5 through 12, while maintaining the current cap on faculty and staff at 190 employees. Elements of the Project include:

(a) renovation and expansion of the existing Zavitz Middle School building;

(b) construction of a new below-grade parking garage, to be built under a playing field, to enhance vehicular circulation and increase the number of parking spaces available on the subject property;

(c) expansion of athletic facilities, including construction of a new gymnasium, to provide additional court and fitness space for physical education and athletics and to integrate locker rooms and bathrooms with gym spaces;

(d) construction of a new Quaker meeting house to provide an appropriate place for worship and a gathering place for academic functions;

(e) renovation of approximately 16,500 square feet of the lower level of the existing Kenworthy Gymnasium for conversion to arts teaching space;

(f) partial renovation of the existing Kogod Arts Center to improve instructional space;

(g) relocation of two tennis courts from the front of the subject property, along Wisconsin Avenue, to the northeast corner, and removal of three other tennis courts to allow access to the new parking structure;

(h) installation of new lighting, including fixtures designed to provide adequate light while minimizing emission of light in undesirable directions;

(i) improved landscaping on the subject property, particularly on the edges; and

(j) application of environmentally sensitive, sustainable "green" design to the subject property.

The Applicant indicated an intent to work on the Project without interruption until its completion, but requested approval of the application in two phases "as a fall back position if ... construction must be halted between the projects" due to fundraising, financing, or other extraordinary circumstances. The Applicant estimated that the first phase would be completed in less than two years after approval, and that the second phase – begun within five years after the completion of Phase I – would be completed within nine years of approval.

Government Reports. By reports dated May 8, 2004 and June 29, 2004 and through testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application subject to certain conditions. OP concluded that the requested special exceptions, allowing the proposed construction and an increase in enrollment, would not be objectionable due to noise, traffic, or other conditions.

With respect to enrollment, OP recommended an initial increase to a maximum of 800 students in conjunction with the Applicant's implementation of a traffic management plan ("TMP"), and subsequent increases to 825 students and then 850 depending on, among other things, completion of the new parking garage and compliance with any conditions of approval of the requested special exception. OP also recommended that the Applicant should be required to provide (i) documentary evidence annually to the Board, the Zoning Administrator, and DDOT demonstrating its enrollment figures and compliance with the terms and conditions of the Board's order, including the TMP, and (ii) an annual report to ANC 3C and ANC 3F indicating the current levels of enrollment and staffing, and certifying compliance with the Board's Order.

The District Department of Transportation submitted comments on the Applicant's proposal by reports dated June 1, 2004, July 12, 2004, and September 1, 2004. DDOT supported the construction of a parking garage on the subject property, because the additional parking spaces would reduce the school-related impact on the supply of parking on neighborhood streets in the vicinity of the subject property. Noting the close proximity of Metrobus and Metrorail access, DDOT strongly encouraged the Applicant to reduce vehicle travel to and from the subject property by increasing the use of mass transit by both students and employees and by achieving a higher vehicle occupancy rate.

ANC Reports. At a regularly scheduled public meeting, held May 17, 2004 with a quorum present, ANC 3C voted unanimously (8-0) to pass a resolution conceptually supporting the application, with a number of recommendations. The resolution stated, among other things, that a large proportion of Sidwell students drive to school and park on neighborhood streets, few students use public transportation, and "the current condition of 37th Street during drop-off and pick-up periods is congested and hazardous, even though Sidwell has altered its pick-up time so as to avoid coinciding with the pick-up of Hearst Elementary School children." Citing a construction management agreement reached with the Applicant, ANC 3C supported the

Applicant's proposed project while "strongly recommend[ing]" conditions of approval including that:

(i) student and staff parking should be restricted entirely to the subject property;

(ii) any significant changes to the site plan as presented to ANC 3C and the Historic Preservation Review Board should be subject to review by ANC 3C prior to consideration by the Board;

(iii) the middle school addition (facing 37th Street) should be indented to the west to give a visual break in the length of the building and to provide a greater chance of survival for the mature trees in public space;

(iv) the landscaping plan for 37th Street and along the north border of the subject property should include numerous tall evergreens to shield views of the proposed building from the street and immediate neighborhood;

(v) the proposed new below-grade parking garage should provide a minimum of 300 code-compliant parking spaces;

(vi) all buses used by Sidwell or visitors to the private school should be parked on the subject property;

(vii) the drop-off and pick-up of students on 37th Street should be restricted to 5th and 6th graders after the new parking garage is built;

(viii) the Applicant should provide an annual report to ANC 3C and ANC 3F indicating enrollment and number of staff, and certifying compliance with the Board's order approving the application;

(ix) the Applicant should hold quarterly meetings open to the neighborhood, with a copy of minutes of the meetings sent to ANC 3C and ANC 3F;

(x) the Applicant should not be permitted to increase enrollment over 800 students until the garage is built, all student and staff parking is contained on the subject property, and the traffic management plan is implemented, while ANC 3C would recommend approval of a new application requesting an enrollment increase to 825 if parking and traffic conditions improved; and

(xi) the Applicant should be required to seek separate approval of any increase in enrollment above 825 students or in the staff cap, and only after the traffic management plan had been implemented successfully for one year.

At a special public meeting, held June 7, 2004 with a quorum present, ANC 3C voted unanimously (7-0) to pass a resolution indicating that the ANC's support for the application was conditioned on implementation of the Applicant's construction management plan.

By letter dated August 10, 2004, ANC 3C stated that the Zoning Regulations require that no order of the Board authorizing the construction of a building can be valid for more than two years unless the applicant files plans for the purposes of securing a building permit within that two-year period, and that construction approved in the permit granted pursuant to the Zoning Regulations must start within six month of its issuance or the permit will expire. Noting that the Board can waive those provisions for good cause shown, ANC 3C stated that a waiver in this case would prejudice the ANC and the community because the Applicant's proposed Phase II was presently "too conceptual to reliably determine that there will be no objectionable impacts to the adjoining and nearby property owners."

With respect to the Applicant's request for a special exception under § 411 for roof structures on its proposed middle school addition, ANC 3C contends that the Applicant has not addressed "what specific difficulties make compliance unreasonable or prohibitively expensive." ANC 3C did not take a position on the special exception related to roof structures, but questioned whether further explanation was needed before the Board could conclude that the Applicant should not be required to comply with setback requirements. ANC 3C further opined that the Applicant's proposed roof structure design should be redrafted to comply with the single-enclosure requirement of § 411.3.

At a public meeting on June 2, 2004 with a quorum present, ANC 3F unanimously voted (4-0-0) to approve a resolution stating that the ANC strongly supported construction of the Applicant's proposed new parking garage and had no objection to the requested special exception pertaining to rooftop structures on the middle school addition, the addition of arts teaching spaces in the lower level of the Kenworthy Gym, renovation of the Kogod Arts Center, green landscape and design, and an increase in the maximum enrollment from 780 to 800 students. ANC 3F recommended approval of the application subject to numerous conditions:

(i) the first phase of construction must include the two-level garage with 307 zoning-compliant parking spaces, and the Applicant must also maintain five spaces on the subject property for bus parking and 16 spaces near the Zartman House for visitor/guest parking;

(ii) all students, faculty, and staff must be required to park on the subject property;

(iii) all student, faculty, and staff cars must be registered with the school, with Sidwell providing stickers to the drivers, and no students would be permitted to park in restricted or unrestricted parking spaces on residential streets;

(iv) the Applicant must develop a traffic management plan that includes monitoring the neighborhood for violators of the requirements for parking on the subject property and sanctions for such violations;

(v) the Applicant must adopt a transportation management plan, including MetroChek, carpooling, and shuttle buses from its Bethesda campus and local Metro stops, and demonstrate that it can reduce vehicular traffic to the subject property by 15 percent;

(vi) enrollment must be capped at 800 students until completion of the garage, with no enrollment increase until the Applicant has demonstrated for one school year that all students, teachers, faculty, and visitors are parking on the subject property;

(vii) all student drop-offs and pick-ups, including 5th and 6th grade students, must be on the school grounds and not on 37th Street or any neighborhood residential street;

(viii) the Applicant must change the main entrance to the expanded middle school from 37th Street to the courtyard on the Wisconsin Avenue side of the building so that it faces the center of campus in order to discourage pick-ups and drop-offs from 37th Street and surrounding streets;

(ix) the lighted tennis courts to be used in the evenings must be located away from the Washington Home and placed on the Wisconsin Avenue side of the subject property;

(x) the Applicant must adopt a construction management plan in consultation with impacted institutions, residential neighbors, and ANC 3C and ANC 3F;

(xi) the Applicant must adopt a detailed landscaping plan showing type, size, and location of trees to be planted in order to screen the middle school, new gym, and new tennis courts from homes on Tilden, Upton, and 37th Streets and from residents of the Washington Home, and the plan must be accepted in writing by ANC 3C, ANC 3F, and the Washington Home;

(xii) the Applicant must adopt a strong tree protection plan for existing trees on the Washington Home property, including a tall hedge by the proposed tennis courts, with a commitment to replace in kind any tree damaged in construction;

(xiii) the Applicant must hold quarterly meetings open to all residents of the community, with a high-ranking Sidwell representative in attendance; post minutes of the meeting on the Sidwell website; and forward a copy of the minutes to ANC 3C and ANC 3F;

(xiv) the Applicant must provide a monthly written calendar of school events, indicating the anticipated number of attendees, to residents within a 400-foot radius of the subject property, on its website, and to ANC 3F by email; and

(xv) the Applicant must provide ANC 3F, on a yearly basis, a report certifying that it is in compliance with the Board's order.

By letter dated August 10, 2004, ANC 3F stated its view that the Applicant had not "shown any extraordinary condition or hardship that would justify multiple roof structures." ANC 3F objected to four roof structures visible to the nearby residential neighborhood. With regard to the Applicant's phasing plan, ANC 3F concurred with ANC 3C, and suggested that consideration of construction beyond Phase I should be postponed until the Applicant's plans were more definite.

Person in Support. Four persons testified in support of the application, stating generally that the resulting environmental and traffic improvements will benefit the surrounding neighborhoods.

Persons in Opposition. The Board received several letters and heard testimony from nine persons opposed to or having concerns about the application. They generally cited adverse traffic and parking impacts of the existing private school use, especially pertaining to student drop-offs on 37th Street and parking by students on residential streets in the vicinity of the school, and expressed concerns about Applicant's master plan for its campus; enrollment, including alleged noncompliance with previously adopted enrollment caps; the height of the middle school building and its visual impact on nearby single-family residences; landscaping of school grounds; and construction issues, including the Applicant's phasing plan.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. Sidwell Friends School, a private, coeducational Quaker school for students in pre-kindergarten through twelfth grade, was founded in 1883 and has been located at the subject property since 1937. The middle and upper school (grades 5 through 12) are located at the subject property; the lower school is located in Bethesda, Maryland.

2. The subject property, 3825 Wisconsin Avenue, N.W. (Square 1825, Lot 816), is a single lot with an area of approximately 15 acres. The subject property, an irregularly shaped parcel located in the Tenleytown neighborhood of Ward 3, is bounded by Wisconsin Avenue to the west, Quebec Street to the south, 37th Street to the east, and commercial and institutional buildings to the north. The subject property slopes rather steeply from west to east (*i.e.* from Wisconsin Avenue toward 37th Street). The Applicant testified that the front of the property is the side facing Wisconsin Avenue.

3. The subject property is zoned R-1-B, except for a small portion along Wisconsin Avenue, currently used as an athletic field, that is zoned C-2-A. The Application concerns primarily the portion of the subject property zoned R-1-B, although most of the below-grade parking garage will be located in the C-2-A zone.

4. The subject property currently contains several buildings and facilities devoted to the private school use, including the Earl G. Harrison Jr. Upper School Building, the Zavitz Middle School Building, Kogod Center for the Arts, Richard Walter Goldman Memorial Library, Zartman House (administrative building), Sensner Building (maintenance, security, information technology, and school store), Wannan and Kenworthy Gymnasiums, three athletic fields, eight tennis courts, and a six-lane track.

5. The Zartman House, also known as The Highlands, is a historic landmark listed both in the District of Columbia inventory and the National Register of Historic Places. On April 22, 2004, the Historic Preservation Review Board adopted a staff report recommending support for the Applicant's "Master Plan" for the subject property and encouraging consideration of "more compatible locations" for the proposed meeting house at a greater distance from the Zartman House.

6. Properties to the north of the subject property include the Federal National Mortgage Association ("Fannie Mae"), the Friendship Station Post Office Building, and the Washington Home. Phoebe Hearst Elementary School and the Hearst Recreation Center are located across 37th Street to the east. Three single-family residences and a building occupied by the American Academy of Child and Adolescent Psychiatry are located across Quebec Street south of the subject property. An office building housing the national headquarters of Fannie Mae and the McLean Gardens residential complex are located cross Wisconsin Avenue, west of the subject property.

The Proposed Private School Use

7. The Applicant presently employs 169 faculty and staff at the subject property, and proposed to retain the existing employee cap of 190. (*See* Application No. 16139; order dated August 16, 1996).

8. The additions and modifications to the subject property that comprise the Applicant's Project will utilize "green" architecture and sustainable design intended to create an environmentally friendly campus. The Applicant indicated an intent to seek a "Platinum" LEED certification – the highest environmental certification standard recognized by the U.S. Green Building Council – for the middle school building. The other new buildings and additions are expected to be certifiable at least to the level of "Silver" on the LEED scale. The Applicant's "green" strategies for the Project include the treatment, management, and reuse of storm water; the minimization of pavement and use of reflective roof surfaces to reduce the surface heat gain; the use of trees for shading and local plant species to minimize maintenance, water use, and chemical inputs; the optimization of building orientation to control heating and cooling loads; the efficient use of water; the use of natural and mechanically assisted ventilation, an efficient building envelope, and a central utility plant; the reuse of existing buildings; and the use of recycled, rapidly renewable, and locally manufactured materials.

9. Most of the perimeter of the subject property will be unaffected by the Project except for improvements to the landscaping. The Applicant proposes to plant vegetation that will unify the site and better define its edge with a green boundary, and indicated an intent to retain mature trees to the extent possible.

10. The Applicant entered into an agreement with the Washington Home that requires the Applicant to install and maintain landscaping in the area between the property line adjacent to the middle school building addition and the Washington Home's parking lot, and to install additional landscaping on the southern edge of the Washington Home property. The Applicant also agreed not to light two tennis courts at the northern edge of the subject property, or to allow their use after 9 p.m.

11. The proposed new parking structure will be constructed below the existing athletic field at the front of the subject property along Wisconsin Avenue. The structure will include reconstruction of the athletic field at approximately the same level and will provide 307 covered parking spaces in two below-grade levels, with approximately 6,300 square feet of building and grounds facilities below the athletic field at the northern end.

12. The existing middle school building is three stories and contains approximately 33,000 square feet of floor area. The Applicant's proposed addition will also have three stories and will add approximately 35,000 square feet to the building built around a new courtyard. The building, including the new addition, will conform to the maximum height of 40 feet permitted under the Zoning Regulations as measured from the middle elevation of the front of the building (on the courtyard side).

13. The proposed new gymnasium – a three-story building approximately 40 feet tall, with 33,000 square feet of floor area – will be located parallel to the Applicant's common property line with the Washington Home. The gymnasium, which will replace a surface parking lot, will be located approximately 25 feet from the Applicant's property line, and approximately 44 feet from the Washington Home's "back-of-the-house" facilities.

14. The proposed new Quaker meeting house will be a building of one and a half stories, and 10,000 square feet, located south of the Zartman House.

15. The new buildings proposed as part of the Applicant's Project will be accessory buildings devoted to the expanded private school use of the subject property.

16. The Applicant requested approval of the application in two phases. Phase I, which would begin immediately upon approval, would encompass construction of the new parking garage and the middle school addition, followed by renovation of the existing middle school building. Phase II, which would begin within five years of the completion of the first phase, would encompass construction of the Quaker meeting house and the new gymnasium, followed by renovation of the Kenworthy Gymnasium and Kogod Arts Center.

17. With the cooperation of the ANCs, the Applicant devised and agreed to implement a construction management plan intended to mitigate adverse impacts on the surrounding residential neighborhood during construction of the Project. Because the agreement does not pertain to the operations of the school, but to activities related to its construction, the agreement is not being incorporated into this order.

Noise Impacts

18. The Applicant stated that the noise generated by private school use of the subject property, while already low, would likely be reduced due to improvements made as part of the Project. Most academic and extracurricular activities will take place inside, and some physical education activities will occur inside the new gymnasium facilities.

19. The Board credits the testimony of the Office of Planning that external noise would be reduced by the Applicant's proposed Project, which will increase the indoor space available for academic and extracurricular activities. In addition, the interior courtyard formed by the modifications to the middle school will create an outdoor play area located away from the Washington Home and the closest residences on Tilden Street, with any noise impacts buffered by the expanded buildings on the subject property.

20. Based on the above findings, the Board concludes that the requested special exception will not create adverse noise impacts on neighboring property.

Traffic Impacts

21. Wisconsin Avenue is a six-lane principal arterial street. The peak traffic period on Wisconsin Avenue in the vicinity of the subject property is in the evening between 5:15 and 6:15. Quebec and 37th Streets are local streets.

22. Sidwell Friends School is located about a half-mile south of the Tenleytown-AU Metrorail station and is served by four Wisconsin Avenue Metrobus lines. Metrobus stops are located on both sides of Wisconsin Avenue directly in front of the subject property.

23. The existing vehicular circulation on the subject property has an entrance from and exit onto Wisconsin Avenue, with a circular driveway in front of the Zartman House. A second driveway, located at the northwest corner of the subject property south of the office building occupied by Fannie Mae, exits north of the office building near the post office building. Most of the parking available on the subject property is located on the north side of the site.

24. Student pick-ups and drop-offs currently take place in the parking area at the northern end of the subject property, on the driveway in front of the Zartman Building, and on the west side of 37th Street.

25. Student drop-offs at the subject property peak in the morning at approximately 7:15, when approximately 1,041 trips occur. Approximately 453 trips are made during the afternoon peak of 3:15 to 4:15. (Each student drop-off or pick-up constitutes two trips – one trip to and one trip from the subject property.)

26. The Board credits the testimony of the Applicant's traffic expert that an increase in enrollment from 800 to 850 students could be expected to increase the number of trips during peak period by approximately six percent, or 64 additional trips during the morning peak period and 27 additional trips during the afternoon peak period.

27. Currently, traffic to the subject property constitutes approximately nine percent of traffic on Wisconsin Avenue in the vicinity of the subject property during both the morning and afternoon peak periods. The Board credits the testimony of the Applicant's traffic expert that the requested increase in enrollment would cause school-related traffic on Wisconsin Avenue to increase to 15 percent during the morning peak and 11 percent during the afternoon peak period.

28. Currently, traffic related to Sidwell constitutes approximately half of traffic on 37th Street in the vicinity of the subject property during the morning peak period and approximately 35 percent during the afternoon peak period. The Board credits the testimony of the Applicant's traffic expert that school-related traffic on 37th Street would decrease to approximately 25 percent during the morning peak and 12 percent during the afternoon peak period due to the changes in traffic circulation proposed by the Applicant.

29. The Project calls for a new one-way vehicular circulation that will enter the subject property from the signalized intersection of Wisconsin Avenue and Rodman Street, with a 22-foot-wide access road to the exit back onto Wisconsin Avenue at a signalized intersection.

30. Construction of the new parking garage and the reconfiguration of the driveway on the subject property will almost double the space available for queues of vehicles for student drop-offs and pick-ups. The Project will provide 60 on-site queuing spaces for student drop-offs and pick-ups in two lanes on the ground level of the parking structure beneath the athletic field. Currently approximately 17 queuing spaces are available on the subject property. The additional queuing space on the subject property will lessen school-related traffic congestion on Wisconsin Avenue

31. Sidwell recently moved its afternoon dismissal time to 3:30, and prohibited student pick-ups before 3:30, to lessen school-related traffic congestion on 37th Street by avoiding the need for student pickups at the same time as Hearst Elementary School. In addition, the Applicant recently limited student drop-offs and pick-ups on 37th Street to vehicles containing a 5th or 6th grader.

32. The Board credits the testimony of the Applicant's traffic expert that Wisconsin Avenue and the drop-off lane integral to the new parking garage would not have sufficient

capacity to accommodate all student drop-offs at the subject property, but that some of the traffic burden should be shared by 37th Street. The Board also notes that DDOT did not oppose the limited drop-off and pick-up of 5th and 6th graders on 37th Street, N.W. due to the location of the middle school directly adjacent to the 37th Street curb. The Board credits DDOT's conclusion that limiting drop-off and pick-up to 5th and 6th graders would reduce current school-related traffic on 37th Street even with the increase in maximum enrollment to 850.

33. The Applicant has recently implemented a traffic management plan ("TMP") to mitigate the impact of school-related traffic in the vicinity of the subject property. Pursuant to the TMP:

(a) Eligibility for Metrochek and school transit subsidy programs was expanded to students living in Maryland and Virginia as well as the District of Columbia to encourage use of public transportation.

(b) The shuttle-bus service operating to the subject property from the lower-school location in Bethesda was modified to include a stop at the Tenleytown-AU Metrorail station to pick up students.

(c) A traffic control officer is stationed on 37th Street to assist with school-related traffic.

(d) Visitor buses are parked on the subject property.

(e) Compliance with Sidwell's traffic policies was made a requirement included in each student's enrollment contract.

34. Currently, approximately 124 students (27 percent) drive to school. Under the Applicant's proposed enrollment increase, the junior and senior classes would be increased by approximately 14 students, of whom four might be expected to drive to school.

35. The Board concludes that approval of the Applicant's Project will not create adverse traffic impacts. School-related traffic congestion will diminish on streets in the vicinity of the subject property: on 37th Street as a result of the limit on student drop-offs and pick-ups to only those vehicles with 5th or 6th graders; and on Wisconsin Avenue due to the reconfigured traffic circulation, greater queuing area for student drop-offs and pick-ups on the subject property, and access to and from the subject property at signalized intersections. Implementation of the Applicant's traffic management plan will further mitigate the impact of school-related traffic in the vicinity of the subject property.

Adequate Parking

36. The Applicant currently provides 192 parking spaces on the subject property. The Board previously directed Sidwell to provide 145 parking spaces to serve the private school use on the subject property. (Application No. 12945, order dated August 7, 1979).

37. The proposed new two-level, below-grade parking garage will provide 307 parking spaces, raising the number of parking spaces on the subject property to 323.

38. The Applicant is proposing to retain the current maximum of 190 employees at the subject property. After completion of the Project, the largest assembly space on the subject property will be the new athletic facility, with a capacity of 616. Therefore, the Applicant's parking requirement under chapter 21 of the Zoning Regulations will be 189 spaces (two parking spaces for every three employees and one space for every 10 seats in the largest assembly space).

39. Currently, the peak morning occupancy utilizes 133 parking spaces (69 percent of all spaces on the subject property), while the peak afternoon occupancy utilizes 161 spaces (84 percent). However, students who drive to school currently are not permitted to park on the subject property during school hours. Approximately 124 students currently drive to school and park on neighborhood streets.

40. Curb parking on Wisconsin Avenue in the vicinity of the subject property is restricted to holders of residential parking permits on school days and during peak periods. On the west (Sidwell) side of 37th Street, parking is prohibited in front of the middle school but unrestricted in other areas. On the east side of 37th Street, in front of Hearst Elementary School, parking is limited to 15 minutes during school drop-off and pick-up times. Parking is unrestricted on the north side of Quebec Street, at the southern edge of the subject property, but restricted on the south side of Quebec Street and the north side of Upton Street near the subject property.

41. The Applicant proposes to implement a parking policy that will permit students to park on the subject property and prohibit their parking on those residential streets in the vicinity of the school where parking is restricted to holders of residential parking permits. To ensure compliance, the Applicant will register student vehicles and require them to display a sticker or other form of identification so that any violations can be reported to the school. The dean of Sidwell's upper school will monitor student compliance and respond to any community complaints. The means of identification will indicate the telephone number of a 24-hour hotline provided by Sidwell to receive complaints.

42. The Board credits DDOT's testimony that the overflow parking of school-related vehicles on neighborhood streets in the vicinity of the subject property will be insignificant after completion of the Project due to the addition of the new parking garage coupled with an expected increase in mass transit usage. The additional parking spaces available on the subject property and the prohibition on student parking on streets with restricted parking will also reduce any adverse impacts associated with overflow parking.

43. The Board finds that the proposed expansion of the private school use is not likely to become objectionable to adjoining and nearby property because of parking, and that the Applicant's proposal – which provides for construction of a new underground garage as well as new parking policies applicable to students – will provide for ample parking space to accommodate the students, teachers, and visitors likely to come to the site by automobile.

Number of Students

44. Sidwell Friends School is currently authorized to enroll a maximum of 780 students. (*See* Application No. 16139; order dated August 16, 1996) However, the Applicant's actual student population is 800.

45. The Applicant proposed to increase its authorized student enrollment initially to 825 students, and to 850 one year after completion of the new parking garage.

46. With respect to enrollment, OP recommended:

    (a) an increase to a maximum of 800 students in conjunction with the Applicant's implementation of a traffic management plan;

    (b) an increase to a maximum of 825 students one year after issuance of a certificate of occupancy for the new parking garage, subject to the Applicant's submission to the Zoning Administrator of evidence of compliance with the conditions of approval of the requested special exception, including the traffic management plan, and DDOT's submission of evidence to the Zoning Administrator that the garage is working successfully; and

    (c) an increase to a maximum of 850 students six years after issuance of the certificate of occupancy for the new parking structure, subject to the Applicant's submission to the Zoning Administrator of evidence of compliance with the conditions of approval of the requested special exception, including the TMP, and DDOT's submission of evidence to the Zoning Administrator that the TMP is operating successfully.

47. ANC 3C recommended a maximum enrollment of 800 students initially, with a possible increase to 825 dependent on traffic and parking conditions; ANC 3C opposed consideration of an increase in enrollment above 825 until after one year's successful implementation of the traffic management plan. ANC 3F also recommended an initial increase in enrollment to a maximum of 800, with no additional increase until the Applicant had demonstrated that "all students, teachers, faculty, [and] visitors are parking on campus for one school year."

48. The Board finds that no objectionable conditions are likely to result from an increase in enrollment to 800 students initially and to 850 following completion of the new parking

garage, with the related changes in traffic circulation, creation of a large area for student drop-offs and pick-ups, and increased availability of parking – including parking for student – on the subject property. The Board concludes that the proposed new parking garage and attendant operational changes would mitigate any adverse impacts of the relatively small increase in enrollment requested by the Applicant.

Roof structures

49. The Applicant requested a special exception under § 411.11 for certain aspects of the roof structures on the proposed middle school addition and renovation. According to the Applicant, the requested roof structure relief would allow Sidwell to optimize the design of the middle school building and to place a new stairway in the most appropriate position so as to maximize the amount of classroom and academic space in the building. The requested relief would permit:

    (a) a new staircase to access the roof that would not be set back from the building perimeter but placed so as to provide rooftop access for maintenance and observation of rooftop equipment and structures without interfering with classroom layout or daylighting and natural ventilation objectives;

    (b) separate enclosures for equipment and structures, where three separate shafts are needed so that natural ventilation penthouses can be located between classrooms to ventilate each classroom effectively, and three cooling tower components, required to correspond to modular equipment in the central plant, would be aligned with the ventilation penthouses to provide space for skylights, because a single enclosure would create the appearance of a much larger rooftop structure and would negatively impact both the rooftop vegetation and the effectiveness of the skylight; and

    (c) cooling towers that will be 15 feet, six inches high and set back 12 feet from the face of the north building wall, where the size of the cooling tower equipment is fixed by design loads and manufacturers' standards, and a single unit is impractical because of the modular approach to the central plant equipment and because clearances are required around the cooling towers to permit necessary air circulation.

50. The Board finds that the requested special exception pertaining to roof structures on the proposed middle school addition and renovation satisfy the requirements for relief pursuant to § 411.11. Full compliance with the requirements of § 411 would be unreasonable, unduly restrictive, and impracticable to the Applicant because of operating difficulties, such as the impact on classroom space, and other conditions, such as the commitment to pursue LEED certification. Approval of the requested special exception would not impair the intent or purpose of the Zoning Regulations or affect the light and air of adjacent buildings.

Harmony with Zoning

51. The purposes of the R-1 district include to stabilize and protect quiet residential areas developed with one-family detached dwellings, and to promote a suitable environment for family life. 11 DCMR §§ 200.1-200.2. The R-1-B zone provides for districts of higher density than the R-1-A zone. 11 DCMR § 200.3.

52. The new buildings and additions planned as part of the Applicant's Project conform to requirements of the R-1-B district with respect to lot occupancy, height, bulk, and side and rear yards. Building height, as measured from the front of the property, will not exceed 40 feet. As a result of the proposed new construction, the lot occupancy on the subject property will increase from 13 percent to 19 percent.

53. The Board finds that the requested special exceptions – with respect to the Project that will expand the existing private school use and increase enrollment, and with respect to the roof structures on the middle school addition and renovation – 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.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2001) to grant special exceptions, as provided in the Zoning Regulations, where, in the judgment of the Board, 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 Map, subject to specific conditions. *See* 11 DCMR § 3104.1. The Applicant seeks special exceptions pursuant to 11 DCMR § 3104.1 to construct new buildings and additions to existing buildings in an expansion of an existing private school use under the conditions specified in § 206, with an increase in enrollment from 780 to 850 students in grades 5 through 12, and for approval of certain roof structures pursuant to § 411.11, in the R-1-B district at 3825 Wisconsin Avenue, N.W. (Square 1825, Lot 816).

In accordance with § 206, a private school 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. 11 DCMR § 206.2. Ample parking space must be provided "to accommodate the students, teachers, and visitors likely to come to the site by automobile." 11 DCMR § 206.3. The Applicant must also demonstrate that the proposed private school use will be in harmony with the general purpose and intent of the Zoning Regulations and Map. 11 DCMR § 3104.1.

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 3C and ANC 3F, the Board concludes that the proposed roof structures and the proposed expansion of the existing private school use, as conditioned by the Board, can be located at the subject property so that they are not likely to become objectionable to adjoining and nearby property. The Board has imposed conditions in

this order in response to the Applicant's proposal, recommendations of OP, and concerns raised by ANC 3C and ANC 3F.

The Applicant seeks the Board's approval to operate at its current level of enrollment, which is twenty students higher than now authorized, and to increase this number by an additional fifty students once the new parking facility is in place. With respect to the ratification of its current enrollment, the Board notes that the record indicates that there have been some adverse impacts felt within the adjacent neighborhood, which may be at least partially attributed to the current unauthorized level of operation. Nevertheless, the Board finds that Applicant's newly implemented traffic management plan addresses those adverse impacts, particularly those related to traffic and parking of school-related vehicles.

With respect to the request to increase enrollment from 800 to 850, the subject property is a large site with ample space for the proposed new buildings and additions as well as the requested increase in enrollment. The Applicant's Project and traffic management plan will also aid in mitigating adverse impacts potentially arising from the expansion of this private school use. In addition, the new parking garage will greatly increase Sidwell's supply of parking on the subject property. In any event, the increase in enrollment is not likely to create a substantial increase in demand for parking attendant to the private school use. Indeed, the traffic impacts on nearby streets will likely be diminished as a result of the Applicant's proposal, especially due to the increased supply of parking, reconfiguration of traffic circulation, and implementation of the transportation management plan. Similarly, the Applicant's proposed roof structures satisfy the requirements of § 411 and will not create adverse impacts on the use of neighboring property.

Additional Relief. In light of the Board's finding that the proposed new buildings included in the Applicant's Project will be accessory buildings devoted to an expansion of the existing the private school use on the subject property, the Applicant was not required to seek either a special exception under § 2516 to permit two or more principal buildings on a single lot or a variance from § 3202.3, concerning multiple structures on a single lot of record.[2] The Board rejects the Applicant's argument that § 2516 is inapplicable to a private school use because of its legislative history. Section 2516 "applies to construction on a lot that is located in, or within twenty-five feet (25 ft.) of, a Residence District." 11 DCMR § 2516.2. The subject property is a lot zoned R-1-B and therefore located in a Residence district. Nothing in § 2516 limits its relevance only to residential developments, or exempts private schools (or any other use) located in a Residence district from its application. By statute, the Board lacks authority to amend any regulation, and would be exercising powers reserved to the Zoning Commission if it exempted any particular use from a regulation whose scope was not limited by the Zoning Commission. *Spring Valley Wesley Height Citizens Association v. D.C. Board of Zoning Adjustment,* 644 A.2d 434, 436 (D.C. 1994). The Board may interpret the meaning of the Zoning Regulations when their meaning is ambiguous or open-ended, but § 2516.2 is not ambiguous or open-ended so as to require interpretation. *Draude v. D.C. Board of Zoning Adjustment*, 527 A.2d 1242, 1247 (D.C.

[2] The Board makes no findings with respect to whether the proposed accessory buildings comply with all applicable requirements of the Zoning Regulations. The self-certified application requested only two special exceptions, and thus the Board's inquiry was limited to the proposed expansion of the private school use and to the proposed roof structures. *See, e.g.* the Board's order in Application No. 16974 (July 29, 2004).

1987). Rather, the interpretation favored by the Applicant would greatly change the plain meaning of the regulation.

Phasing. Generally, no order of the Board authorizing the erection or alteration of a structure is valid for a period longer than two years unless, within that period, the plans for the erection or alteration are filed for the purposes of securing a building permit. 11 DCMR § 3130.1. The erection or alteration approved in the permit must be started within six months after the date of the issuance of the permit, and must proceed to completion in accordance with its terms. 11 DCMR § 3130.3. If the work is not started within the six-month period, the permit will expire and will not be renewed. *Id.* However, those provisions may be waived by the Board, for good cause shown, when, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. 11 DCMR § 3100.5.

The Board finds good cause for a waiver of the two-year requirement with respect to this application. The Applicant undertook a long-term study of its facilities needs and proposed a large undertaking comprising numerous components in a single integrated Project. In approving the requested phasing plan, the Board credits the Applicant's statement of intent to work on the Project without interruption until its completion, but notes that latitude may be needed in case construction must be halted temporarily due to fundraising, financing, or other extraordinary circumstances. The Board does not agree with the ANCs that the proposed Phase II is too conceptual or that its approval should be deferred. The Applicant has enumerated all changes to the existing private school use that will be undertaken as part of the Project, and the Board has found that the proposed expansion of the existing private school use, as conditioned in this Order, will be consistent with the requirements of § 206 and § 3104 of the Zoning Regulations.

ANCs' issues and concerns. The Board accorded the ANCs the "great weight" to which they are entitled. In doing so, the Board fully credited the unique vantage point that ANC 3C and ANC 3F hold with respect to the impact of the proposed expansion of the existing private school use on the ANCs' constituents. The Applicant proposed several conditions, which the Board adopts in this Order, addressing concerns raised by the ANCs, particularly with respect to school-related traffic and parking. With respect to enrollment, the Board was not persuaded by the ANCs that approval of the Applicant's request for a maximum of 850 students would create adverse impacts on the use of neighboring property, given that the increase will not become effective until after completion of the parking garage and the reconfigured traffic circulation on the subject property, which will mitigate any adverse traffic and parking impacts associated with the larger enrollment. The Board declined to adopt other recommendations suggested by the ANCs as unnecessary or outside the scope of the Board's jurisdiction.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof. It is hereby **ORDERED** that the application is **GRANTED** subject to the following **CONDITIONS:**

1. The Project shall be constructed in accordance with the plans prepared by Kieran Timberlake Associates LLP Architects and marked in the record as Exhibits No. 29 and 32.

2. The Applicant shall fully implement and comply with the Transportation Management Plan (Exhibit H to the Applicant's pre-hearing submission of May 14, 2004), marked in the record as Exhibit No. 29.

3. The maximum enrollment shall be 800 students. The Applicant may increase enrollment to a maximum of 850 students, in grades 5 through 12, no sooner than one year after issuance of a certificate of occupancy for the new parking garage, provided that the Applicant first submits evidence of its compliance with this Order to the Zoning Administrator. The Applicant shall also seek comments from DDOT regarding the operation of the parking garage for submission to the Zoning Administrator.

4. The maximum number of faculty and staff shall be 190.

5. Once the new parking garage is operational, the Applicant shall ensure that only vehicles containing a 5th or 6th grader will drop off or pick up students on 37th Street.

6. At the beginning of each school year, but in no event later than October 5, the Applicant shall provide the Board, the Zoning Administrator, and DDOT documentary evidence to demonstrate its enrollment figures and compliance with the terms and conditions of this Order, including the transportation management plan.

7. The Applicant shall provide an annual report to ANC 3C and ANC 3F, due no later than December 31, indicating enrollment and staff levels, and certifying their compliance with this Order.

8. The Applicant may construct the Project in two phases. The first phase (Phase I), including the new below-grade parking garage and the middle school addition and renovation, shall commence within two years of the issuance of this Order. The second phase (Phase II), encompassing the remainder of the Project, shall be started within seven years of the issuance of this Order.

VOTE: 4-0-1 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II, and Kevin L. Hildebrand voting to approve with conditions; Ruthanne G. Miller not voting, having recused herself)

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

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: MAR 4 2005

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.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 17149

As Director of the Office of Zoning, I hereby certify and attest that on MAR 0 4 2005 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