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D.C. BOARD OF ZONING
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February 22, 2005

By Hand Delivery

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
441 4th Street, N.W., Second Floor
Washington, D.C. 20001

Re: BZA Case No. 17289; E.E. Just Collegiate Academy (Lot 811 in Square 478)

Dear Chairman Griffis and Members of the Board:

The E.E. Just Collegiate Academy (the "Applicant") hereby submits its pre-hearing statement in connection with an application for a special exception to operate a private school in the R-4 Zone and a variance from the off-street parking requirements, which was filed with the BZA on December 23, 2004.

Respectfully,

Heidi N. Sachs

Enclosures

cc: Reverend Stanley Byrd
Mr. David Spruill
Mr. Leroy Thorpe, ANC 2C

Document #: 1462619 v.1

BZA
Case No. 17289
Exhibit No. 21

Board of Zoning Adjustment
District of Columbia
CASE NO. 17289

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

RECEIVED
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Application of E.E. Just Collegiate Academy
BZA Application No. 17289

Public Hearing: March 8, 2005
ANC 2C

STATEMENT OF THE APPLICANT

This is an application of the E.E. Just Collegiate Academy (the "**Applicant**" or the "**School**") for a (1) special exception to allow for the operation of a private school located at 1544 Fifth Street, N.W. (Lot 811 in Square 478) (the "**Property**"), as shown on Exhibit A, in the R-4 Zone District and (2) a variance from the off-street parking requirements of 11 DCMR § 2101. Special exception relief is necessary for the operation of the School.

I.
Nature of Relief Sought

This statement is submitted on behalf of the School in support of the application to the Board of Zoning Adjustment (the "**BZA**" or "**Board**") for the following relief from the requirements of the Zoning Regulations pursuant to 11 DCMR §§ 3401.1: (1) a special exception from the requirements of Section 206 to establish a private school on the Property in the R-4 Zone District; and (2) a variance from §2101 of the Zoning Regulations in order that the School may operate without providing any parking space on-site. The Applicant's satisfaction of the standards for granting special exception and variance relief are discussed in detail in Sections IV and V of this statement.

II.
Jurisdiction of the Board

The Board has jurisdiction to grant the variance and special exception relief requested herein pursuant to § 8 of the Zoning Act, D.C. Code, 2001 Ed. § 6-641.07(g)(2) and § 6-641.07(g)(3).

III.
Background

A. Description of the Property and Surrounding Area

The School is located at 1544 5th Street, N.W. (Lot 811 in Square 478) and is situated in the Miles Educational Annex, which is part of the Third Baptist Church ("**Church**") (see Exhibit B). The School is located in the Greater Shaw Neighborhood, which is a residential neighborhood comprised primarily of single family row-houses. The Property is currently improved with a 3 story church building and annex. The Site is zoned R-4 (as shown on Exhibit C) and the predominant zone classification in the area is R-4. There are small pockets of R-5-B, R-5-D, C-2-A and C-2-B Zone Districts surrounding the Property. The Church is located one block west of New Jersey Avenue and two blocks south of Rhode Island Avenue. There are several churches and public schools in the immediate neighborhood, including the Scott Montgomery Elementary School located directly across the street from the Applicant on 5th Street, Shaw Junior High School on Rhode Island Avenue and Dunbar High School on New Jersey Avenue. The Kennedy Recreation Center and Howard University Hospital are also located a few blocks from the School.

B. History of the Building

The Third Baptist Church was founded in 1857 and has been located at 1546 Fifth Street, N.W. since 1885. The original building still remains on the lot. In addition to worship services, the Church provides a Sunday School for children and several community outreach programs.

At some point prior to 1958, the Church acquired an apartment and two adjoining properties to use as a future site for an educational building to encourage youth to follow the Christian way of life. This annex, known as the Miles Educational Annex is the current home of the School.

C. Description of the School

The E.E. Just Collegiate Academy is a private Christian school serving eleven (11) students in grades four through six. There is only one teacher at the School. There are no part-time staff, but there are some volunteers from local high schools. The hours of operation are 7:30 to 3:30 p.m. Monday through Friday. There is also an after-school component for the students from 3:30 to 6:00 p.m. each afternoon. The School uses the A Beka curriculum, which is a curriculum popular among Christian schools.

The School has been operating in the Church since September 7, 2004. The School is located on the second floor of the Miles Educational Annex. The School also uses a buffered courtyard on the ground floor as recreation space for the students.

IV.
Compliance with Section 206 of the Zoning Regulations

Private schools are permitted to operate in residential zones with special exception approval. In obtaining approval of a special exception pursuant to Section 206, the Applicant has the burden of showing that the private school will not become objectionable to adjoining and nearby property because of noise, objectionable traffic conditions, number of students, or other

objectionable conditions related to the location and operation of the private school. The Applicant also has the burden of showing that there is ample parking space. This application fully satisfies the standards for special exception relief for private schools in the R-4 District, pursuant to 11 DCMR §206.

Section 206.2: **The School Shall be Located Such That it is Not Likely to Become Objectionable to Neighbors Because of Noise, Traffic, Number of Students or Otherwise Objectionable Conditions.**

There will be no objectionable impacts on adjacent or nearby properties. Only eleven students between the ages of nine and eleven attend the School. The proposed play area of 500 square feet is appropriately buffered from nearby properties. The play area is in a courtyard, which is surrounded on all four sides - by the church on the north side, the School on the east side, an approximately 20 foot high brick fence on the west side and a wire fence to the south. On the other side of the wire fence is a wooden fence and a vacant row-house. Given the brick enclosures on three of the four sides of the play area and a vacant row-house on the forth side, the play area is adequately buffered and will not create objectionable noise or any other objectionable condition. Further, since the opening of the School on September 7, 2004, there have been no complaints from neighbors regarding noise from any part of the School, including the play area.

The eleven children are dropped off in the mornings and picked up in the afternoons by private vehicles. School buses do not service the School. Drop-off and pick-up times are staggered such that students are dropped off at the School between 7:30 and 8:00 am, and students are picked up between the hours of 3:30 and 6:00 pm. Further, since the opening of the school, there have been no objectionable traffic conditions or complaints from neighbors regarding the pick-up or drop-off of students. Given the extremely small student body, the

increase in traffic as a result of the School is minimal and the presence of the School does not create any objectionable traffic conditions. The Applicant will not create any adverse impacts on the neighboring properties.

Section 206.3: The School Shall Provide Sufficient Off-Street Parking Spaces to Meet the Reasonable Needs of Teachers, Other Employees and Visitors.

Due to the configuration of the lot, there is no off-street parking provided on site. However, there is only one teacher/staff member working at the School. The teacher parks on Fifth Street, where there is adequate off-site parking. While visitors must also park on street, there are a significant number of available on-street parking spaces within a one block radius of the Property.

Pursuant to Chapter 21 of the Zoning Regulations, Applicant is required to provide one off-street parking space. However, as mentioned above, the Church and the Miles Education Annex occupy so much of the lot that there is inadequate space to provide even one parking space on-site. This issue is addressed further in Section V below.

V.
THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF FROM SECTION 2101 PURSUANT TO 3103.2 OF THE ZONING REGULATIONS

The Application meets the requirements for variance relief under Section 3103.2 of the Zoning Regulations. The burden of proof for area variance relief is well established. The applicant must demonstrate that the Property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the applicant, and that the granting of the variance will not cause

substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *Palmer v. BZA*, 287 A. 2d 535, 541 (D.C. 1972). As set forth below, the application meets the three-part test for area variance relief.

A. The Property is Affected by an Exceptional Situation or Condition

The D.C. Court of Appeals held in *Clerics of St. Viator v. D.C. Board of Zoning Adjustment,* 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the "property", not just the "land"; and that " . . . property generally includes the permanent structures existing on the land [footnote omitted]." *Id.* at 293-294. The Court held that the exceptional situation standard of the variance test may be met where the required hardship inheres in the land, or the property (i.e., the building on the land).

The Property is subject to an extraordinary and exceptional situation because it is improved with a building that occupies the majority of the lot. There is simply not enough land area to provide even one off-street parking space on the Property. As such, the existing lot configuration certainly makes the Property subject to an extraordinary and exceptional situation.

B. Area Variance: Strict Application of the Zoning Regulations Would Result in Practical Difficulty

First, we need to make clear what is required to demonstrate a "practical difficulty." The requested relief is for an area variance. The test of a use variance is "undue hardship," which is a more stringent standard than required for area variances. In reviewing the standard for practical difficulty, the D.C. Court of Appeals stated in *Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. 1972) that, "[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. [Footnote omitted.] The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each

particular case." In area variances, applicants are not required to show "undue hardship" but must satisfy only "the lower 'practical difficulty' standards." *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2d 1362, 1365 (D.C. 1992), *citing Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). Finally, it is well settled that the BZA may consider " . . . a wide range of factors in determining whether there is an 'unnecessary burden' or 'practical difficulty' . . ." *Gilmartin*, 579 A.2d at 1171, *citing Barbour v. D.C. Bd. of Zoning Adjustment*, 358 A. 2d 326, 327 (D.C. 1976). See also, *Tyler v. D.C. Bd. of Zoning Adjustment,* 606 A.2d at 1367. Thus, to demonstrate practical difficulty, the applicant must show that strict compliance with the regulations is burdensome, not impossible. The Applicant, as demonstrated below, meets this standard.

The practical difficulty is that there is no room for on-site parking spaces. Because Applicant only has one teacher/staff person, the required amount of parking is .66 of a parking space. "Whenever calculations based on the schedule set forth in § 2101 result in a fractional space, any fraction of one-half or over shall require one (1) parking space." 11 DCMR § 2118.6. Therefore, the Applicant is required to provide one off-street parking space. As mentioned above, due to the lot configuration, there is simply no space on the Property to provide even one parking space.

C. Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan

Granting the requested variance relief will not cause harm to the public good or to the zoning plan. Schools by their very nature enhance the public good. This school, specifically is affiliated with the Church and provides Christian education. Also, Applicant will have no adverse impacts on the neighboring properties. There are a number of schools and families in

the neighborhood; one additional school that serves eleven children will have minimal impact on surrounding properties and will have no effect on the Zone Plan.

VI.
Community Outreach

The Applicant briefly presented this project to Advisory Neighborhood Commission 2C on November 3, 2004. The ANC commissioners had no objections to the use. The Applicant will formally present this application to Advisory Neighborhood Commission 2C at its regularly scheduled meeting on February 23, 2005. ANC 2C is expected to vote in favor of this application.

VII.
List of Witnesses Expected to Testify

The following witness is expected to testify at the public hearing on behalf of the Applicant:

1) David Spruill, Executive Head Master, E.E. Just Collegiate Academy

2) Reverend Stanley Byrd, Pastor, Third Baptist Church

VIII.
Exhibits in Support of the Application

Exhibit A: Portion of the Sanborn plat showing the Subject Property outlined in red

Exhibit B: Floor Plans

Exhibit C: Portion of the Zoning Map showing the Subject Property outlined in red

Exhibit D: Photographs of the Existing Building

Exhibit E: Outline of Testimony of David Spruill, Executive Director of Applicant

Exhibit F: Outline of Testimony of Reverend Stanley Byrd, Pastor, Third Baptist Church

IX.
Conclusion

For all of the above reasons, the Applicant is entitled to the requested special exception and variance relief in this case. Accordingly, the Applicant respectfully requests the Board to grant the application.

Respectfully submitted,

SHAW PITTMAN LLP

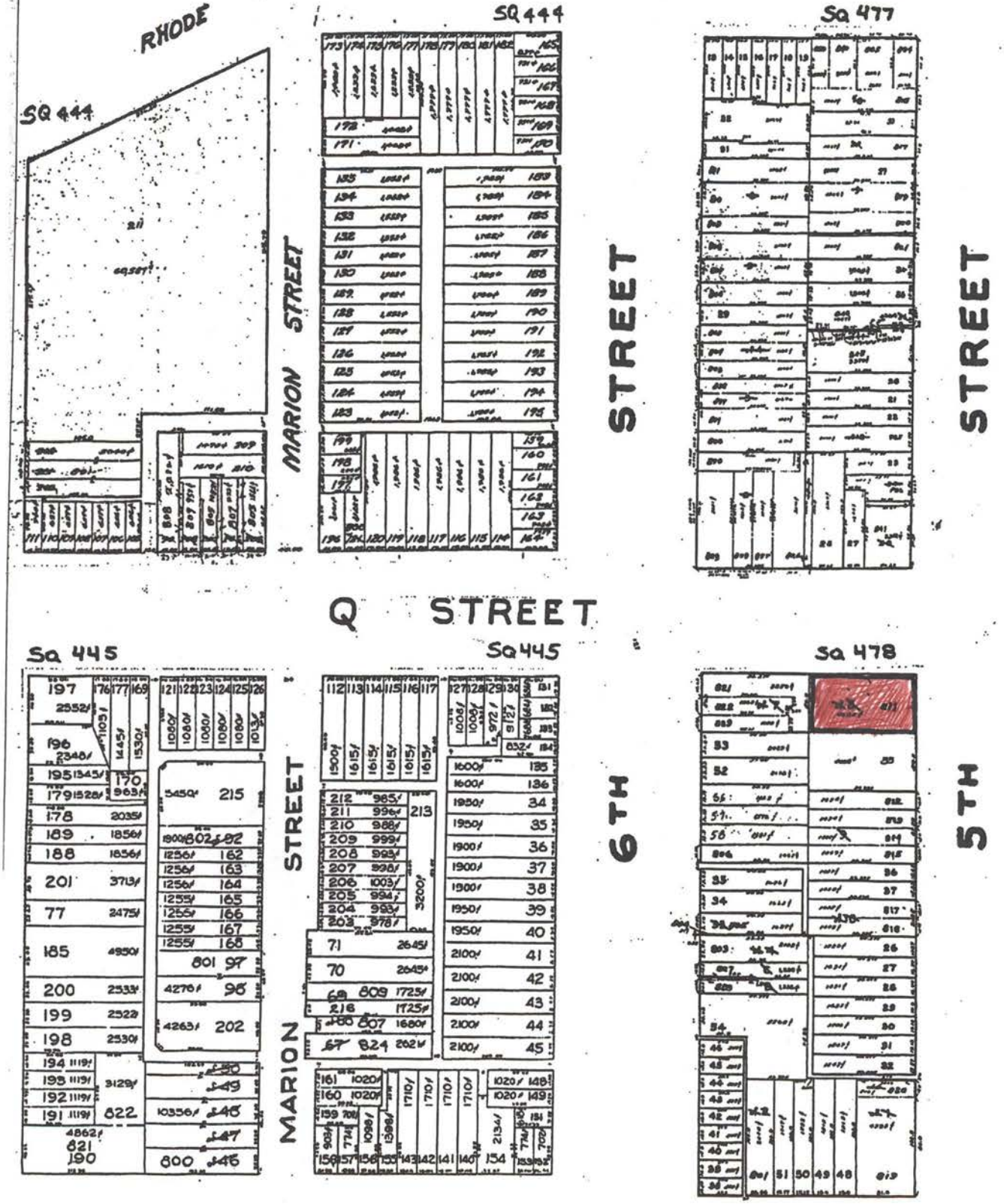
By: Garland H Stillwell (HNS)
Garland H. Stillwell

By: Heidi N Sachs
Heidi N. Sachs

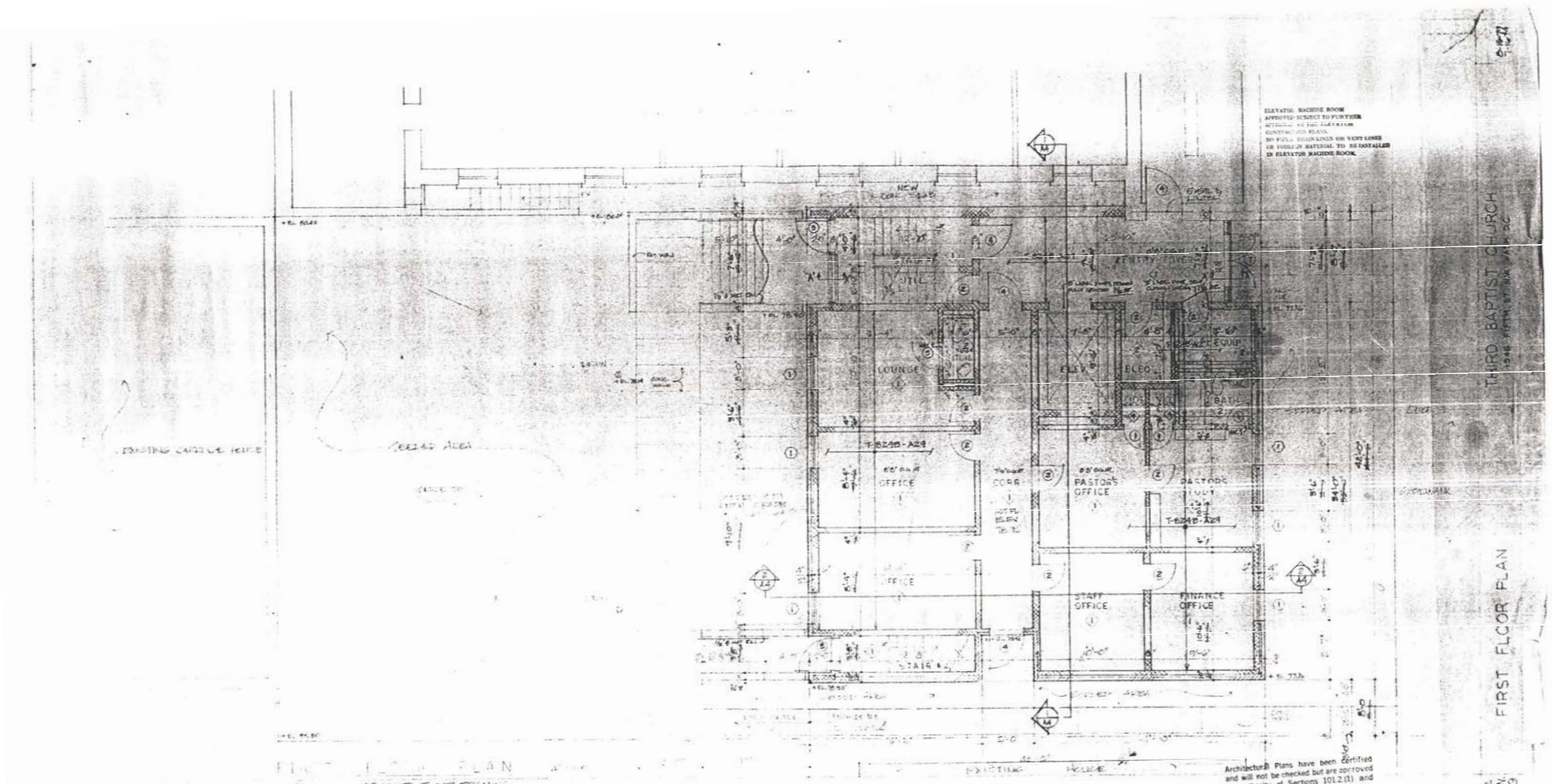
February 22, 2005

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A


RHODE
SQ 444
SQ 444
MARION STREET
STREET
Sq 477
STREET
Q STREET
Sq 445
Sq 445
MARION STREET
6TH
Sq 478
5TH
P STREET

B



GENERAL NOTES

1. FOUNDATION DESIGN BEARING CAPACITY = 4 KSF
2. ELEVATIONS SHOWN THUS 0'-0" ARE BOTTOM OF FOOTING ELEVATIONS
3. FIRST FLOOR CONSTRUCTION IS SLAB ON GRADE
4. SECOND + THIRD FLOOR CONSTRUCTION IS PRECAST CONCRETE PLANK ON LOAD BEARING MASONRY WALLS. EXPOSED
5. SEE SHEET S1 FOR STRUCTURAL NOTES AND TYPICAL DETAILS
6. ALL PLANK SHALL BE TOPPED WITH 2" PER STRUCTURAL CONCRETE REINFORCED WITH 6x6 W4 W4 WWF.
7. FLAT ROOF CONSTRUCTION IS UNVENTED STEEL PLANK W/ RIGID INSULATION AND BUILT-UP ROOFING.
8. ROOF TRUSSES SHALL BE DESIGNED AND FABRICATED BY MANUFACTURER OF BETTER QUALITY AND MEET OR EXCEED ALL SPECIFICATIONS OF GREATER STRENGTH WITH ALLOWABLE STRESSES: F_b = 1800 PSI, F_c = 1400 PSI, F_v = 180 PSI, $F_{c\perp}$ = 625 PSI. EXHIBIT EXACT LAYOUT.

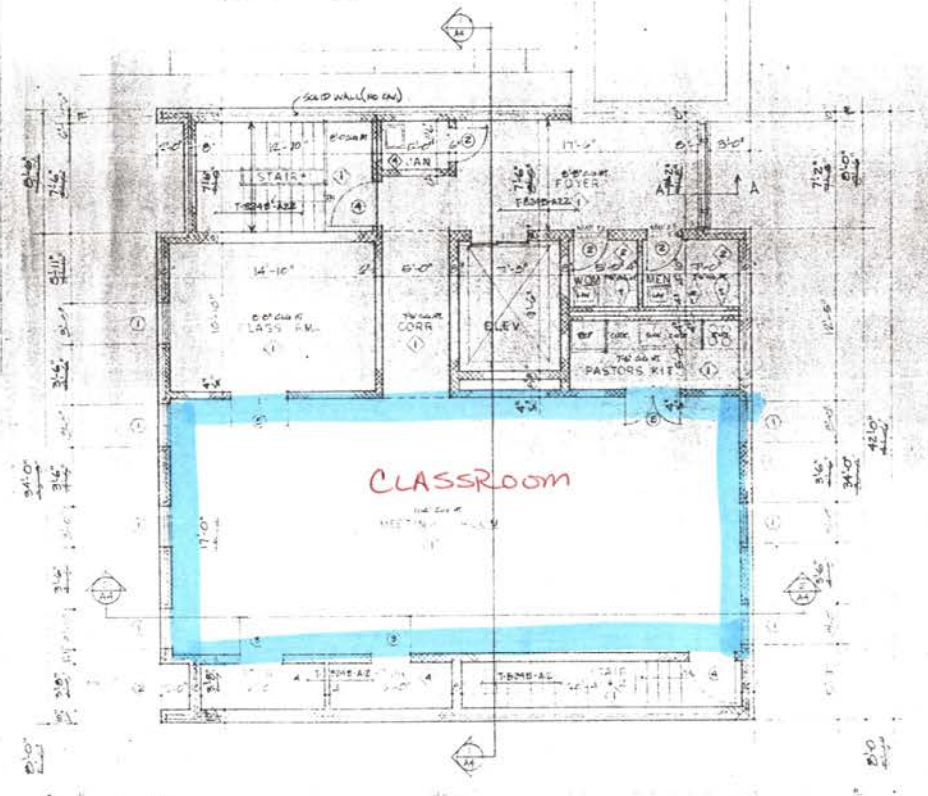
Architectural Plans have been certified and will not be checked but are approved by authority of Sections 101.2 (1) and 102.1 of The 1972 D. C. Building Code.

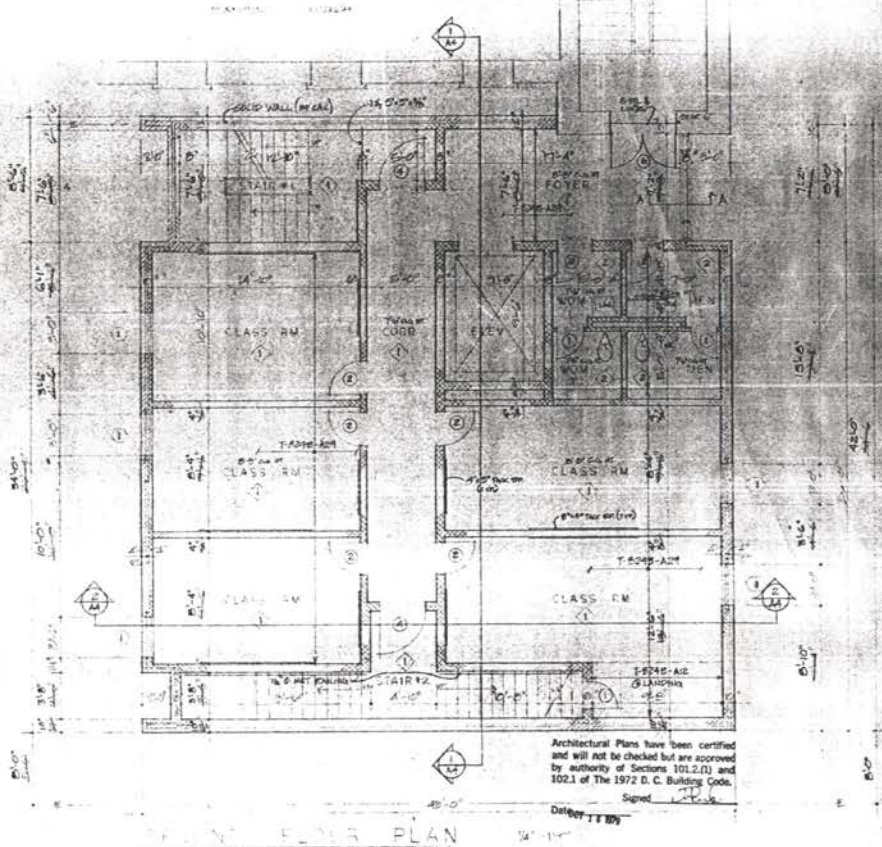
Signed

Date OCT 1 6 1978

ARCHITECTURAL PLANS CERTIFIED AS PROVIDED IN THE DHCD REGULATION OF 8-30-78.

MICHAEL COHALAN A.I.A.
46 U STREET S.W.
WASH. D.C. 554-4459





Architectural Plans have been certified and will not be checked but are approved by authority of Sections 101.2.(1) and 102.1 of The 1972 D. C. Building Code.

Signed

Date

DOOR SCHEDULE

MARK	MAT.	W	H	THK	FINISH	HEAD	JAMB	THRESH	HARDWARE	REMARKS
①	AL. MET.	2'-0"	6'-8"	1¾"	BRONZE					
②	AL. MET.	2'-6"	6'-8"	1¾"	PAINT					
③	AL. MET.	3'-0"	6'-8"	1¾"	PAINT					
④	AL. MET.	3'-6"	6'-8"	1¾"	BRONZE					
⑤	AL. MET.	4'-0" PR.	6'-8"	1¾"	PAINT					
⑥	AL. MET.	7'-0" PR.	6'-8"	1¾"	BRONZE					
⑦	AL. MET.	8'-0" PR.	6'-8"	1¾"	PAINT					

WINDOW SCHEDULE

MARK	SIZE	MAT.	TYPE	HEAD	JAMB	SILL	REMARKS
①	8'-0" x 6'-0"	ALUM.	CASE.				
②	8'-0" x 4'-0"	ALUM.	CASE.				

FINISH SCHEDULE

MARK	FLOOR	BASE	WALLS	CEILING	REMARKS
①	V.A.T.	VINYL	PAINT GYP. BD.	ACOUSTICAL TILE	
②	CERAMIC	CERAMIC	PAINT GYP. BD.	ACOUSTICAL TILE	
③	CARPET	VINYL	PAINT GYP. BD.	ACOUSTICAL TILE	
④	V.A.T.	VINYL	GYP. BD.	GYP. BD. PLANK	

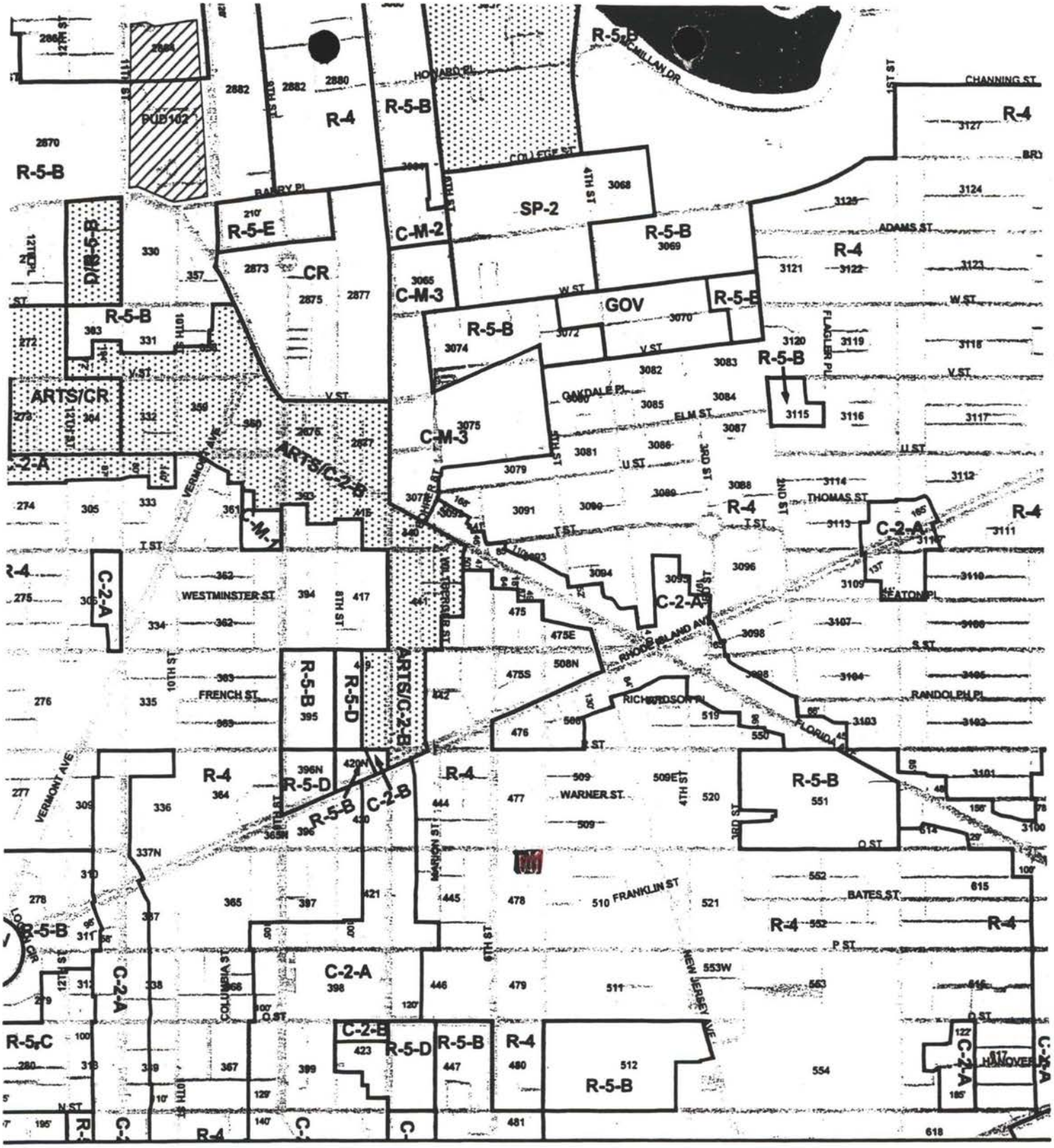
ARCHITECTURAL PLANS CERTIFIED AS REQUIRED IN THE D.M.C.R. REGULATIONS OF 8-30-76.

Richard C. Whelan

THIRD BAPTIST CHURCH
SCHEDULES · PLANS

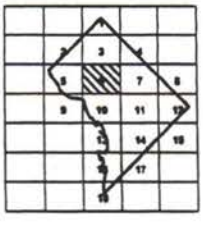
RICHARD C. WHELAN AIA
461 N STREET S.W.
WASH. DC 554-4459

C



eets are extracted from the 1999 ortho photography.

Overlay	Description
HR	Hotel Residential
LO	Langdon
MW	Neighborhood Commercial.-Macomb-Wisconsin
NO	Naval Observatory
RC	Reed Cooke
SSH	Sixteenth Street Heights
TSP	Tree and Slope Protection
WH	Tree and Slope Protection-Wesley Heights
WP	NeighborhoodCommercial-Woodley Park



Map 6

Z
the Di

D

ENTRANCE



ELEVATOR
TO
CLASSROOM



CLASSROOM



CLASSROOM/
EMERGENCY
EXIT DOOR TO
COURTYARD



OUTSIDE EXIT
TO
COURTYARD



COURTYARD/
PLAY AREA



E

OUTLINE OF TESTIMONY OF DAVID SPREWELL, EXECUTIVE HEAD MASTER, E.E. JUST COLLEGIATE ACADEMY

I. Introduction and Relevant Teaching Experience

II. Description of the School

- A. Students and Staff
- B. Mission
- C. Curriculum

III. Relationship with Third Baptist Church

IV. Outreach to Neighbors

V. Conclusion

F

OUTLINE OF TESTIMONY OF REVEREND STANLEY BYRD, PASTOR, THIRD BAPTIST CHURCH

I. Introduction

II. Description of the Church

A. History of the Church

B. Relationship with Community

III. Location of School within the Church

IV. Parking

V. Outreach to Neighbors and ANC

IV. Conclusion