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April 20, 2005

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By Hand Delivery

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

Re: St. Patrick's Episcopal Day School – Application No. 17300

Dear Chairman Griffis and Members of the Board:

Enclosed please find Proposed Findings of Fact and Conclusions of Law that we have prepared in connection with the above referenced application. As we discussed at the public hearing on April 12, 2005, the Applicant has requested only two modifications to the order: (1) to increase enrollment and (2) to allow students to walk between campuses. The Applicant has not requested changes to any other condition of the order. The Applicant demonstrated at the public hearing on April 12, 2005 that the conditions in Order No. 16852 have functioned well and have achieved their intended purposes.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Allison C. Prince

Enclosures

cc: Maxine Brown Roberts
Office of Planning

Alma Gates, Chair
ANC 3D

BZA
Case No. 17300
Exhibit No. 37

Board of Zoning Adjustment
District of Columbia
CASE NO. 17300
EXHIBIT NO. 37

APPLICANT'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

GOVERNMENT OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

Application No. 17300 of St. Patrick's Protestant Episcopal Church, pursuant to 11 DCMR § 3104.1 for a special exception to allow an increase in the student enrollment at a private school (last approved under BZA Order No. 16852-A), from 40 to 60 children, under section 206, in the R-1-B District at premises 4925 MacArthur Boulevard, N.W. (Square 1393, Lot 17) and to permit students to walk between the premises and the main campus at 4700 Whitehaven Parkway.

HEARING DATES: April 12, 2005

DECISION DATE: April 26, 2005

DECISION AND ORDER

Following a public hearing, the Board voted _____ on April 26, 2005 to approve the application subject to conditions.

PRELIMINARY MATTERS

Applicant. The application was filed on January 28, 2005, by St. Patrick's Protestant Episcopal Church (the "Applicant" or "School"), the owner of the property that is the subject of the application.

Application. The application requests a special exception under 11 DCMR § 3104.4 to allow an increase in the student enrollment at an established private school, from 40 to 60 children under § 206 in an R-1-B Zone District at 4925 MacArthur Blvd., N.W. The private school use of

the Property originally was approved in BZA Order No. 16852. In the present application, the Applicant proposes to implement the enrollment increase in two phases, with 10 students to be added in school year 2006-07 and the remaining 10 students to be added in school year 2007-08. The zoning relief requested in this application is self-certified pursuant to 11 DCMR § 3113.2.

Notice of Application and Notice of Hearing. By memoranda dated January 31, 2005, the Office of Zoning advised the D.C. Office of Planning, the Zoning Administrator, the City Council Member for Ward 3, the D. C. Department of Transportation, and Advisory Neighborhood Commission ("**ANC**") 3D, the ANC for the area within which the Property is located, of the application.

The Board scheduled a public hearing on the application for April 12, 2005. Pursuant to 11 DCMR § 3113.13, the Office of Zoning, on February 14, 2005, mailed notice of the hearing to the Applicant, the owners of all properties within 200 feet of the Property, and ANC 3D.

The Applicant's affidavits of posting and maintenance indicate that two zoning posters were placed at the Property's two street frontages (1) MacArthur Blvd, N.W., and (2) Ashby Street, N.W., beginning on _____, in plain view of the public.

Requests for Party Status. The Board received no requests for party status.

Applicant's Case. Peter Barrett, head of St. Patrick's Episcopal Day School, testified on behalf of the Applicant. The Applicant also presented testimony and evidence from Robert

Brenneman, an acoustical engineer with Polysonics Corp., recognized by the Board as an expert in acoustical engineering, regarding the potential noise impacts of the additional 20 students.

Government Reports. The Office of Planning ("**OP**") submitted a report and testified that it had reviewed the application with respect to traffic, parking, noise, number of students, and other potentially objectionable conditions. In its report dated April 5, 2005, OP recommended that the BZA limit its approval to the initial proposed enrollment increase of 10 students. OP recommended that the Applicant be required to return to the BZA for additional approval prior to the second phase of the proposed enrollment increase. OP recommended approval of the Applicant's request that students be allowed to walk between campuses under specified conditions.

ANC Report. ANC 3D, at its regularly scheduled meeting held on March 2, 2005, with a quorum present, voted 4-3-1 to oppose an increase in student enrollment from 40 to 60. The motion did not pass with regard to opposition to the enrollment increase because the ANC's By-laws require a voting majority of one-half plus one of the commissioners present, which in this case would be a margin of 5 votes. The ANC voted 7-1-0 to approve the change to approve the Applicant's request that students be allowed to walk between campuses under specified conditions. No representative of the ANC appeared at the public hearing.

Persons in Opposition to the Application. The Board received five letters in opposition to the application. The letters in opposition asserted generally that the proposed enrollment increase would create objectionable noise during student arrival, dismissal, and recess times, that the

school does not provide sufficient space for 60 students, and that the school has not been in operation long enough to evaluate its impact on neighboring properties. Michael Lovendusky, who submitted one of the letters, also testified in opposition to the application, stating that most of the School's students do not reside in the neighborhood. He also express concern about the School's overall expansion plans, specifically the potential plans to add a high school on another campus. He testified that the enforcement condition in the Order, Condition 20, does not work and allows the Applicant to violate the order 40 times every five years yet remain in compliance.

Persons in Support of the Application. The Board received two letters in support of the application. Charles and Sharon Houy, who reside at the property most immediately abutting the School, stated that they do not oppose the application. Another letter in support was submitted by three commissioners of ANC 3D, Sarah Shapley, Hugh Mullane, and Richard Hamilton. They stated that they voted in support of the enrollment increase because the traffic management has been effective, the School has engaged in ongoing communication with the community, and the School has demonstrated its willingness to comply with the conditions of its approval. Spence Spencer, a neighborhood resident, also testified in support of the application.

Closing of the Record. The record was closed at the end of the hearing. The Applicant filed proposed findings of fact and conclusions of law.

Decision Meeting. On April 26, 2005 the Board approved the application.

FINDINGS OF FACT

The Property and the Surrounding Area

1. The Property consists of approximately 21,000 square feet of land area located in an R-1-B Zone District at premises 4925 MacArthur Blvd., N.W. (Square 1393, Lot 823). The Property has approximately 150 feet of frontage on MacArthur Blvd. It also has frontage on Ashby Street, N.W.

2. The Property is located in the Palisades neighborhood of Ward 3, at the corner of MacArthur Blvd. and Ashby Street. Ashby Street is a narrow residential street improved with ten single-family houses.

3. The Property contains a 2-1/2 story building, built in 1905, in the northwest corner of the Property. The remainder of the Property is occupied by a parking lot and a large lawn. Pursuant to the Order, the building has been renovated for school use and consists of approximately 5,414 square feet of usable space suited to the School's seminar-style classroom format.

The Private School Use

4. In BZA Application No. 16852, the BZA approved the School's special exception request to operate a private middle school, grades seven through nine, for 40 students, and not to exceed eight full-time and four part-time faculty and staff. Order No. 16852, dated March 25, 2003, (the "**Order**") contained twenty conditions intended to minimize any adverse impact on neighboring properties. Condition 16 limits student enrollment "to a maximum of 40 students in grades 7 through 9." Conditions 7 and 8 require the School to implement a shuttle bus system and carpool program to minimize the number of vehicles coming to the subject property to drop off or pick up students.

5. In that application, the School originally requested an enrollment of 60 students, and designed the Building and the curriculum to accommodate that number of students. Following discussions with OP and members of the community, the School alternatively proposed an initial

enrollment of 40 students with an automatic increase to 60 students after the first year, conditioned upon the School's compliance with the conditions for approval of its special exception request.

6. In deciding Application No. 16852, the Board determined that a maximum enrollment of 40 was appropriate at that time. The Board did not accept the concept of an automatic increase, and stated that the School would need to return to the Board for additional approval if it decided to seek an increase in enrollment to 60 students.

7. Since the Order became effective, the School has completely renovated the building for school use. Classes began in the renovated building in January of 2004.

8. The School has implemented the new landscape design, adding 15 new trees and other plants to the Property. In accordance with Condition 17 of the Order, the School has constructed, with the input of the neighboring property owner, a fence along the southern property line of the Property.

9. The site provides on-site parking for fifteen vehicles. This number of parking spaces has proven adequate for the approved eight full-time and four part- time faculty members and staff, as well as visitors to the School.

10. Under the shuttle bus system, students are dropped off by their parents at the School's campus main located at 4700 Whitehaven Parkway, which is almost exactly one-half mile from the Property. In the morning, the students are picked up at the 4700 Whitehaven Parkway and transported to the Property by a shuttle bus. At dismissal time, the students are picked up by the shuttle bus at the Property and transported to the 4700 Whitehaven Parkway Campus, where they participate in extracurricular activities or are picked up by their parents.

11. Under the current traffic management plan students arriving late for school, after the

shuttle bus has completed its last route, are picked up at the Whitehaven Campus by one of the administrative staff members of the School and transported to the Property.

The Proposed Enrollment Increase and Student Walking between Campuses

12. The School has proposed an enrollment increase of 20 students, to be added in two phases. Ten additional students would be admitted for the 2006-2007 school year, bringing the total enrollment to 50 students. An additional 10 students would be admitted for the 2007-2008 school year, which would bring the total enrollment to the proposed maximum of 60 students.

13. The Board agrees with Peter Barrett, who testified on behalf of the School, that the proposed enrollment increase will not cause objectionable impacts. During the previous school year, the School could accept only one student who had not been enrolled at St. Patrick's the prior year. The additional seats will provide a new option for families in the District of Columbia. In addition, the increase will enable the School to round out class sizes, provide a greater range of choices for the students, and provide more opportunities for important extracurricular activities such as the School choirs, dramatic presentations, and sports teams.

14. The Board finds that the School has been in operation for 15 months, and the conditions set forth in the Order are working well to mitigate any objectionable impact of the School on neighboring properties. The Zoning Compliance Specialist has not identified a single violation during the School's 15 months of operation. In addition, the minutes of the quarterly meetings reflect a cooperative relationship between the School and its neighbors, and they do not reflect adverse noise or traffic impacts. Letters submitted both in opposition to and in support of the application state that the traffic management plan is working well and that traffic on Foxhall Road has improved significantly due to the improvements on the main campus. Although some of the letters submitted in opposition stated that the School creates objectionable noise, the Board

finds that the limited noise associated with the students occurs only during the brief times that students are outside the building, namely during arrival, departure, and recess/lunch period. Recess and lunch periods for the students are limited to a total of less than one hour per day for the school day.

15. The Applicant has demonstrated that the additional 20 students will have a negligible impact on noise and traffic.

16. The Order contains several measures intended to minimize noise impacts of the School. No organized sports are permitted on the Property, and all outdoor activity involving students is supervised by an adult. The School may not employ loudspeakers, amplified music, or bells. Daytime and evening special events on the Property are limited.

17. As Peter Barrett testified, the students' outdoor recess and lunch time is limited to a total of less than one hour per day for the entire school. This time is divided between student groups. The additional students may result in an increase in the number of groups dividing the limited outside time, thereby reducing the time outside for each of the groups. The total outdoor time for the students will remain limited to less than one hour.

18. The Board credits the testimony and report of Robert Brenneman of Polysonics Corp. that the Property and the immediately surrounding area are the additional 20 students will not create objectionable noise impacts. The testimony was based on an actual field study of the noise generated by the students during their outdoor time.

19. The Property and immediately surrounding area are subject to noise from vehicle traffic on MacArthur Boulevard. In addition, the Property is located in the direct flight path of Reagan National Airport, which results in flyovers immediately overhead. The Applicant's sound expert concluded that noise levels from the increased enrollment from 40 to 60 students will generally

not increase the existing noise level on the surrounding properties, particularly since there will not be a significant increase in the number of students outside at any one time during the recess period. He testified, and the Board finds, that even a doubling of the number of students outdoors at any time would have only a modest impact on noise levels.. Further, he determined that the sound of the voices is compatible with this residential neighborhood, even with the additional students.

20. The Order also contains conditions intended to minimize traffic impacts. The Order required the School to establish and maintain a shuttle bus system and a carpool program.

21. The School has fully implemented the shuttle bus system and carpool program, and it has been successful. Letters both in opposition to and in support of the application recognized the success of the traffic management plan.

22. The proposed additional students will arrive at and depart from the School on the shuttle bus, and will add, at most, one shuttle bus run in the morning and one in the afternoon. This would result in a total of three shuttle bus runs in the morning and three in the afternoon. According to the testimony of Peter Barrett, the time period for unloading the shuttle bus at the Property ranged from 49 seconds to 1 minute and 30 seconds in one test period.

23. The additional students also will be included in the School's Carpool Initiative, which established a target average vehicle occupancy of 1.60. The Carpool Initiative has been highly successful, resulting in a peak average vehicle occupancy in November of 2004 of 1.81 in the AM and 1.87 in the PM.

24. The School also proposes to permit students to walk between the 4700 Whitehaven Parkway campus and the Property. Students would only be permitted to walk at the beginning of the day, during school arrival time, and at the end of the day, during school dismissal time. Any

late-arriving students who have parental permission would walk if weather permits. Students would permitted to walk in other circumstances. For example, students who have arranged to work with a faculty member before school might walk to arrive at the MacArthur Campus shortly after 7:30 a.m., before the first shuttle bus drop-off. The School stated that it anticipates two or three such instances each day. There would be many fewer instances in which students would walk in the afternoon, since all students go directly to athletics or dismissal from the main campus when they leave the Property at the end of the day. An example of a student who would need to walk at dismissal time would be a student who is going to an "independent study" athletic activity, such as outside tennis lesson.

25. The only students who would be allowed to walk from one campus to the other would be those whose parents have given written permission for them to do so. Parents would be asked to sign a permission form at the beginning of the school year. Students whose parents have not granted permission, whether those students arrive in a timely or tardy fashion, would continue to be transported at all times by existing means. In order to walk from the Whitehaven Campus to the Property, students would be required to check in at the Whitehaven Campus, just as they do when they arrive for shuttle transportation. Once the students have checked in, faculty or staff at the Whitehaven Campus would alert faculty and staff at the middle school that the students are walking there from the Whitehaven Campus.

26. The Applicant's proposal to permit students to walk between the 4700 Whitehaven Parkway campus and the Property will have a positive impact on traffic by reducing the number of vehicular trips to and from the Property.

27. The Office of Planning has recommended approval of the Application. In its report, OP supported the Applicant's proposal to permit students to walk between the Whitehaven campus

and the Property. However, in its report, OP recommended approval of an enrollment increase of only 10 students, and suggested that the Applicant be required to return to the Board to request a further 10 students, to allow time for further monitoring of the School's operations.

28. The Board does not agree with OP that the enrollment increase should be limited to 10 students and that the School should be required to return to the Board for further approval for the additional 10 students. The Board finds that neither OP's report, nor OP's testimony during the hearing, identified specific, quantifiable impacts that would justify limiting the enrollment increase to 10 rather than 20. Indeed, during the hearing, OP testified that a 20 student increase would be acceptable.

29. Based on all of the above and all of the information submitted into the record, the Board finds that the proposed enrollment increase is not likely to become objectionable to adjoining or nearby property owners because of noise, traffic, number of students, or other objectionable conditions. Further, the Board finds that the School's request that students be permitted to walk between the 4700 Whitehaven campus and the Property has received unanimous support from the community and OP and would not result in objectionable impacts.

CONCLUSIONS OF LAW AND OPINION

The Board of Zoning Adjustment is authorized under the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code § 5-524(g)(2)), to grant special exceptions as provided in the Zoning Regulations. The Applicant applied under 11 DCMR § 3104.1 for a special exception pursuant to 11 DCMR § 206 to allow an increase in student enrollment and to permit students to walk between the main campus at 4700 Whitehaven Parkway and the

Property. The notice requirements of 11 DCMR § 3113 for a public hearing on the application have been met.

The Applicant is a private school as that term is used in the Zoning Regulations. To meet its burden of proof under Subsection 3104.1, the Applicant must demonstrate that the proposed enrollment increase would meet the special conditions listed in Section 206; that it would be in harmony with the general purpose and intent of the Zoning Regulations and Map; and that it would not be likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions. Under Section 206.3, ample parking space, but not less than that required in Chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

The Board approved the use in the Order, in which it determined the School had met its burden under § 206 for use of the building as a private school. The Order contained numerous conditions designed to mitigate any adverse impacts on neighboring properties, and those conditions have been successful. Fears that the School would create unmanageable traffic conditions have not materialized, and the School's traffic management plan has worked well. The students will continue to be outside the building only during limited times, and other noise impacts are adequately addressed by the existing conditions of the Order. The conditions set forth in the Order relating to traffic and noise will remain in place. Furthermore, the Applicant's request that students be permitted to walk between the 4700 Whitehaven Parkway campus and the Property will not result in objectionable impacts. Indeed, it will have a positive impact on traffic by reducing vehicular trips to the School. The proposed relief will have no effect on parking or number of faculty and staff. Accordingly, granting special exception relief in this case

is in harmony with the general purpose and intent of the Zoning Regulations and map, and will not adversely affect the use of neighboring properties.

The Board is required, under D.C. Code § 6-623.04, to give "great weight" to OP recommendations. The Board also is required, under D.C. Code § 1-309.10, to give "great weight" to the recommendations of the ANC for the area within which the Property is located. Under Section 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135, 47 DCR 5519 (2000)), the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances, articulating specific findings and conclusions with respect to each of the ANC's issues and concerns.

The Board notes that the ANC proposed a motion to oppose the enrollment increase., but that motion was not approved because a majority of the commissioners did not vote in favor of it. The ANC voted unanimously in favor of permitting students to walk between the campuses. The Board also observed that no representative of the ANC appeared at the public hearing. The Board has carefully considered the ANC's report and finds the ANC's recommendation persuasive with regard to allowing students to walk between the campuses.

In its report OP recommended that the enrollment increase be approved, but for only 10 additional students. OP's reasoning was that this would allow more time for OP and the community to evaluate and monitor the School's operations. The Board does not agree that additional monitoring of the School's operations is necessary. The School has demonstrated that the additional 20 students will have little effect on noise and traffic. Furthermore, OP did not explain the difference in impact between 10 or 20 students and failed to identify any specific objectionable impacts that the additional 10 students would create.

For the reasons stated above, the Board concludes that the Applicant has met the burden, it is hereby ORDERED that the application be GRANTED, subject to the following CONDITIONS, which shall supersede the conditions set forth in Board of Zoning Adjustment Order No. 16852, as corrected by Board of Zoning Adjustment Order No. 16852-A, both dated March 25, 2003, which established the private school use of the Property. The purpose of each condition is indicated in parenthesis following each condition.

1. No organized sports shall be conducted on the subject property. All outdoor activity involving students shall be conducted on-site and shall be recreational in nature. The applicant shall provide adult supervision for all outdoor activity involving students at the subject property. (insure that the outdoor space is used for casual recreation)

2. The Applicant shall not employ loudspeakers, amplified music, or bells at the subject property. (noise control)

3. The Applicant shall schedule all deliveries to the subject property to occur between 9:30 a.m. and 4:00 p.m., Monday through Friday. (noise control)

4. The school building shall be open for occupancy by students from 7:30 a.m. until 4:00 p.m., Monday through Friday. (define and limit use)

5. The subject property shall not be occupied by students for a minimum of two months during the summer season. (to ensure highly limited noise in summer)

6. The Applicant shall not use large commercial dumpsters on the subject property. (noise control and visual impact)

7. The Applicant shall provide a shuttle bus system to minimize the number of vehicles coming to the subject property to drop off or pick up students. (prevent direct drop-offs, define and limit bus arrivals)

    a) Students who do not walk to school or arrive at the subject property by public transportation will be required to arrive at the gymnasium at the Applicant's Whitehaven campus between 7:30 a.m. and 7:55 a.m. on school days for transportation to the subject property by shuttle bus. In the afternoon, the students will be required to return to the Whitehaven campus via shuttle bus for pick-up.

    b) Students may also walk from the gymnasium at the Whitehaven Campus to the subject property after 7:30 a.m., provided they have already been recorded as

having arrived at the Whitehaven Campus. Any students walking from the Whitehaven Campus to the MacArthur Campus shall walk across Whitehaven Parkway, through the Lab School campus to MacArthur Boulevard and then proceed to the subject property. At dismissal time, students may walk from the subject property to the Whitehaven Campus, for sports or for dismissal, provided they have the approval of the MacArthur Campus Director or his/her designee. Any students walking from the MacArthur Campus to the Whitehaven Campus shall walk along MacArthur Boulevard and through the Lab School property to the Whitehaven Campus.

c) The shuttle buses shall employ a round-trip route between the Whitehaven campus and the subject property utilizing Whitehaven Parkway, MacArthur Blvd., Arizona Avenue, Loughboro Road, and Foxhall Road back to Whitehaven Parkway. (limit bus traffic to major roads)

d) The shuttle buses shall stop to on- and off- load students on MacArthur Blvd. in front of the school building. The applicant shall ensure that the shuttle buses do not idle at the subject property but are released from the Whitehaven campus as necessary to make scheduled morning drop-offs and afternoon pick-ups. (define and limit bus arrivals)

e) The Applicant shall monitor compliance with the shuttle bus system daily and shall make such compliance a condition of student enrollment. The applicant shall not permit students to be dropped off or picked up at the subject property at arrival and dismissal times except in prearranged special circumstances, such as when a child will arrive late due to a doctor's appointment. Student drop-offs in special circumstances shall be at the Ashby parking lot. (prevent direct drop-off by parents)

8. The Applicant shall establish a carpool program to and from the Whitehaven campus serving students at the subject property. (reduce vehicular trips)

a) The Applicant shall require carpools to drop off and pick up students at the Whitehaven campus in coordination with the shuttle bus system for transportation to and from the subject property.

b) Before seeking a certificate of occupancy for the subject property, the Applicant shall submit the carpool program for review and approval by the District Department of Transportation (DDOT). The Applicant shall submit a progress report evaluating the carpool program to DDOT once per year; copies of the annual progress report and DDOT's response shall be given to the community liaison committee established by the Applicant pursuant to this order.

9. The total number of faculty and staff at the subject property shall not exceed 8 full-time and 4 part-time. (ensure adequate parking)

10. The Applicant shall provide at least 15 parking spaces on the subject property, as shown on the Applicant's site plan SP1. (Exhibit No. 340). (ensure adequate parking)

11. The Applicant shall use the subject property for special evening events after 4:00 p.m. no more than two times during the school year. Evening events shall finish no later than 10:00 p.m. (limit noise during evening hours)

12. The Applicant shall hold no more than two daytime special events, when the school is open to parents and other non-students, at the subject property during the school year. Daytime special events shall be scheduled to occur between 10:00 a.m. and 4:00 p.m. (limit traffic and noise impacts)

13. The applicant shall arrange adequate off-street parking for daytime and evening special events at a location off-site so that persons attending the events are not likely to park on the streets in the vicinity of the subject property. (limit traffic impacts)

14. The Applicant shall not permit use of the subject property at any time by any persons or groups for purposes not related to school use. (limit traffic and noise impacts)

15. The Applicant shall arrange any lighting used to illuminate the parking lot on the subject property so that all direct rays of the lighting are confined to the surface of the parking lot. (limit spillover lighting)

16. The Applicant shall limit enrollment at the subject property to a maximum of 60 students in grades 7 through 9. (define and limit use)

17. The Applicant shall install fencing, as shown on the site plan (Exhibit No. 340) along the southern property line, at the Applicant's expense, if requested by the abutting property owner. (limit visual impacts – the fence has been installed)

18. The Applicant shall establish and maintain a community liaison committee to address community concerns related to the private school use of the subject property. It is recommended that the community liaison committee include representatives of ANC 3D, the Palisades Citizens Association, owners of the property abutting the subject property, and other interested persons. The Applicant shall conduct meetings of the committee at least quarterly, giving notice of the meetings to committee members and to the owners of all property within 200 feet of the subject property. Detailed minutes of all meetings shall be taken, maintained, and circulated among the members. (address concerns as they arise in an effort to monitor and reduce impacts)

19. Expansion of the building on the subject property shall be limited to the area necessary for access shown on the Applicant's site plan (Exhibit No. 340). (this expansion is complete)

20. The special exception shall be valid except that this Order shall terminate and require modification upon a finding by the Board that the Applicant has either admitted violating, paid a fine for violating, or has been found by the Department of Consumer and Regulatory Affairs, after hearing, to have violated the same condition on three or more occasions within five years. (designed as an enforcement tool)

VOTE:

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____

JERRILY R. KRESS, FAIA

Director, Office of Zoning

FINAL DATE OF ORDER: _____

PURSUANT TO 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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