BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

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Application of St. Patrick's Episcopal Day School

BZA Application No. _____
ANC 3D

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

In 2003, the Board of Zoning Adjustment (the "**Board**") unanimously approved the application of St. Patrick's Episcopal Day School ("**SPS**") to operate a private junior high school (the "**School**") in the existing building (the "**Building**") located at 4925 MacArthur Boulevard, N.W. (Square 1393, Lot 17) (the "**Property**"). The approval is subject to twenty conditions set forth in BZA Order No 16852-A (the "**Order**").[1] Condition number 16 of the Order limits student enrollment to a maximum of 40 students in grades 7 through 9. This application requests that the maximum student enrollment be increased to 60 students, with the increase to be phased in over two years beginning in the Fall of 2006.

II.
BACKGROUND

A. St. Patrick's Day School

St. Patrick's Episcopal Day School was founded in 1956 as a nursery school at the old St. Patrick's Church located at Foxhall and Reservoir Roads, N.W. In addition to the School, SPS currently operates a co-educational elementary school for 440 students at 4700 Whitehaven

[1] The Board initially issued Order No. 16852 on March 25, 2003. The language at the end of the order erroneously stated that the order shall not be valid for more than six months. The Board issued a Corrected Decision and Order No. 16852-A, which also was dated March 25, 2003. The

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BZA
Case No. 17300
Exhibit No. 4

Board of Zoning Adjustment
District of Columbia
CASE NO. 17300
EXHIBIT NO. 4

Parkway. Prior to the Board's approval of Application No. 16852, the School operated its middle school program in leased space on MacArthur Boulevard. In January 2004, following the Board's approval and completion of the renovations, the School relocated the program the Subject Property. The School has been operating in the building since that time.

The middle school program offers a challenging academic curriculum taught in small, seminar-based sections of eight to twelve students for core classes of humanities (literature and American history), mathematics, science, and foreign language. Art, music, religion, service learning, health, athletics, and other community-building time complete the curriculum. The Building is ideally suited for the program. It contains small classrooms, a library, as well as music, art, and lunch rooms.

Community service is an integral part of the SPS program, with activities across grade levels ranging from volunteer work for the Salvation Army's Grate Patrol program to a range of seasonal and special-needs collections to a school partnership in Haiti. Seventh and eighth grade students take a service learning course that includes classroom study as well as service at organizations such as So Others Might Eat, IONA House, Capital Area Food Bank, and DC Central Kitchen.

B. Prior Zoning Approvals

In January of 2002, SPS applied for special exception approval under § 206 to relocate its middle school program to the Subject Property. SPS initially requested a maximum permitted enrollment of 60 students, and designed the renovations to the Building and its middle school program to accommodate that number of students. Following discussions with the Office of

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corrected order correctly stated that it was valid for two years. All references in this Statement

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Planning ("**OP**") and members of the community, SPS alternatively proposed an initial maximum of 40 students with an automatic increase to a maximum of 60 students after the first year, conditioned upon the School's compliance with the conditions of approval of its special exception request.

While OP initially recommended approval of the application with a maximum permitted enrollment of 60 students, in a supplemental report, OP recommended the alternative enrollment cap proposed by SPS. The enrollment would be capped at 40 students initially, but could be increased to 60 students after the first year if the School demonstrated compliance with the conditions of its approval. OP further recommended that SPS be required to submit a report demonstrating its compliance with all conditions of approval as a prerequisite to the automatic increase. OP suggested that the report be reviewed by the Compliance Specialist in the Office of Zoning, who after consulting with OP, the District Department of Transportation, ANC 3D, and representatives of the community, would have the authority to permit the enrollment increase. OP also suggested that SPS submit during the public hearing an agreement outlining the proposed enforcement mechanism.

During the public hearing on October 8, the Board requested that OP recommend a time limit for the special exception and asked OP to submit a report addressing the success of community liaison committees. OP filed the requested report on November 8, 2002, and recommended an enrollment cap of 40 students and a 10 year duration for the special exception. In its discussion of the proposed time limit, OP expressed concern that its initial reports had been unclear with regard to the automatic enrollment increase. OP stated that it had not clearly

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of the Applicant refer to the corrected order.

described how the impact of the increase to 60 students would be assessed. OP did not address its reasons for recommending the lower enrollment cap or the difference in impact that the additional twenty students would have, but stated that SPS was willing to cap the enrollment at 40 students with a ten-year time limit.

During its deliberations, the Board decided not to impose a time limit on its approval. The Board also rejected the concept of an incremental enrollment increase. Member Zaidan expressed concern that the incremental increase was unworkable and that it would be difficult to determine what would trigger the increase to 60 students. In deciding not to support the incremental increase, Mr. Zaidan stated that it would be more appropriate for the applicant to return to the Board for modification of the condition. This would provide a hearing process during which the Board would hear testimony regarding the impact of the additional twenty students. Chairman Griffis also indicated that it would be difficult at that time to measure the impact of the additional twenty students. Accordingly the Board voted to approve an enrollment cap of 40 students.

The Board voted unanimously to approve the School's application to renovate and expand the Building for use as a junior high school. The Order approved the application subject to twenty conditions. Many of those conditions initially were proposed by SPS with the intent of minimizing the potential for any adverse impacts on neighboring properties. Condition 16 limits student enrollment "to a maximum of 40 students in grades 7 through 9." SPS requests that Condition 16 be modified to permit a maximum enrollment of 60 students. It is requesting only minor changes to one of the other conditions to allow students to walk between the Building and the main campus at 4700 Whitehaven Parkway ("**4700**").

Following issuance of the Order in March of 2003, SPS began renovating the Building in accordance with the approved plans. During the renovation process, SPS made some design changes in order to improve the safety of the Building for its students. These changes included the installation of a sprinkler system. As a result of the design changes, SPS was able to create an additional small space in the cellar. In March of this year, SPS filed an application to permit use of the cellar space as a classroom. The Board granted the application and issued Order No. 17164, dated August 25, 2004.

III.
DESCRIPTION OF PROPERTY AND PROPOSED USE

A. Subject Property and Environs

The Subject Property is located on a large, landscaped lot in the R-1-B Zone District. The lot area of the Subject Property is approximately 21,000 square feet. It is located in the Palisades neighborhood of Ward 3, at the intersection of MacArthur Boulevard and Ashby Street, N.W. The Subject Property has 150 feet of frontage on MacArthur Boulevard. Its northern frontage is along Ashby Street, a narrow residential street improved with ten single-family houses. Ashby Street has a paved width of 25 feet and contains parking on both sides of the street.

The Building is a two and one-half story mansion constructed in 1905. It features approximately 7,451 square feet of usable space, including the cellar, which is suited to the seminar-style classroom format employed at the School. The remainder of the Subject Property is occupied by a parking lot and a large lawn.

The Building is well-buffered from adjacent residential uses. It is set back 37 feet from the eastern property line, along which is a board-on-board fence six feet high. The fence continues along the southern property line, from which the Building is set back 95.5 feet.

The Building has been completely renovated for school use, and classes began in the renovated Building in January of last year. It has been an excellent setting for the program. The renovation has provided a state-of-the-art facility that retains the integrity of the original Victorian mansion. The classroom space is light-filled and well-designed. The resource rooms, such as the first floor art room and the library, offer modern amenities in a home-like setting. The additional cellar space has proven to be an appropriate location for the music room. Little, if any, sound from its use can be heard outside of the building.

SPS also has implemented the new landscape design. The new design preserves the existing mature trees on the Subject Property. It also enhances the existing landscape with an array of new trees and shrubs. A new yew hedge along the MacArthur Boulevard and Ashby Street borders has replaced the overgrown and poorly-maintained hedge that for many years marked the Subject Property. The School has maintained the landscaping on the Subject Property to a high standard.

The site contains on-site parking for fifteen vehicles, which is more than sufficient to handle the approved eight full-time and four part-time faculty members as well as visitors.

B. Proposed Enrollment Increase

SPS proposes to increase its permitted enrollment from 40 to 60 students over a two-year period. As set forth above, the School's program was designed for 60 students, and the original application was for 60 students. During the hearing process, SPS agreed to limit its enrollment to 40 students in order to address concerns about whether the proposed incremental increase was workable. Now, after a full year of operation, SPS continues to believe that an enrollment of 60 students is appropriate for this site and will have little impact on adjacent properties. SPS does not plan to request any additional increases in enrollment. As part of the prior zoning approval process, SPS offered to enter into a binding covenant that would limit enrollment of any school

on the site to 60 for so long as SPS operates a school on the Subject Property. SPS has entered into that covenant.

Since January of 2004, when the School began holding classes in the Building, the School has complied meticulously with the Order's twenty conditions. If the enrollment increase is approved, SPS plans to continue to enforce them rigorously. Of all of the conditions, SPS has been most pleased with the effectiveness of the transportation management plan. Parents have been willing to comply with the plan, and SPS has been highly successful in preventing unauthorized drop-offs or pick-ups at the school. When the shuttle bus drops children off or picks them up at the School, it stops only briefly with a minimum disruption to traffic on MacArthur Boulevard The additional students will arrive at and depart from the School on the shuttle bus. The additional twenty students will not create a need for more parking at the School. The number of faculty and staff will not exceed the cap already established in the Order and the existing fifteen spaces are more than adequate for employees and visitors.

IV.
THE APPLICANT IS ENTITLED TO SPECIAL EXCEPTION RELIEF UNDER THE ZONING REGULATIONS

Uses permitted by special exception are deemed compatible with other uses permitted in that particular zoning and classification provided certain requirements are met. Schools are recognized as reasonable and appropriate uses in the residential zone – "In general, uses of land for educational purposes are 'highly favored,'" Glenbrook Road Ass'n v. D.C. Board of Zoning Adjustment, 605 A.2d 22 (D.C. 1992). Also, in reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites of the requirements are satisfied, the Board ordinarily must grant the application. *See, e.g.,* Nat'l

Cathedral Neighborhood Ass'n v. D.C. Board of Zoning Adjustment, 753 A.2d 984, 986 n.1 (D.C. 2000). 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.

V.
THE APPLICANT MEETS THE STANDARDS FOR AN INCREASE IN ENROLLMENT TO SIXTY STUDENTS

Pursuant to Section 206 of the Zoning Regulations, a private school shall be permitted in the R-1 Zone District if the Board of Zoning Adjustment finds that two requirements are met. First, the private school must not be objectionable to adjoining and nearby property because of noise, traffic, number of students or other objectionable conditions (11 DCMR §206.2). Second, ample parking space, but not less than that required under Chapter 21 of the Zoning Regulations, must be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile (11 DCMR §206.3).

A. The Proposed School Use Shall Be Located So That It Is Not Likely to Become Objectionable to Nearby Property Because of Noise, Traffic, Number of Students or Otherwise Objectionable Conditions

1. Noise

In the Order, the Board concluded that use of the Subject Property as a junior high school for 40 students would not create objectionable noise. The Board based its conclusion in part on conditions proposed by SPS that were intended to minimize potential adverse noise impacts of the proposed school. The Board adopted the proposed conditions in the Order. They include the following: limited outside play time; no use of bells, amplified music, or loudspeakers; limited hours of operation; a carpooling and shuttle bus program; and limited number of special events. Based on a sound study submitted by SPS, the Board also found that the surrounding area was

subject to a certain level of noise disturbance from vehicular traffic on MacArthur Boulevard and airplanes heading to or departing from National Airport.

The additional twenty students will not result in objectionable noise, and will have little effect on noise emanating from the School. During the proceedings relating to SPS's original application, SPS's sound engineer studied the potential impact associated with the enrollment of 60 students originally proposed by SPS. By studying a similar school, the engineer measured the noise caused by student arrival and departure and the effect of student voices at lunchtime or during breaks. The sound engineer concluded that the noise associated with a middle school for 60 students would not exceed existing noise levels caused by traffic on MacArthur Boulevard and airplanes arriving at and departing from National Airport.

SPS will continue to implement the measures approved in the Order intended to minimize noise impacts of the school. The School will maintain its current hours of operation for students, which are from 7:30 a.m. to 4:00 p.m., with classes beginning at 8:00 a.m. Only two special evening events and two special daytime events will be permitted per year. The School will not conduct any organized sports activities on the Subject Property, and the students will continue to use the front doorway as the only permitted student entrance to the Building. The School has implemented these mitigating conditions fully, and they have worked well. The School has received no complaints about student noise from neighboring property owners. In addition, the Building is well-buffered from adjacent residential properties. It is set back 37 feet from the residence on its eastern boundary property and 95.5 feet from the residence on its southern boundary.

2. Traffic

The additional twenty students will have a negligible effect on traffic. SPS has fully implemented the shuttle bus system and carpool program required by the Order and they have

functioned well. The additional students will arrive at and depart from the School on the shuttle bus, and the additional students will, at most, add one shuttle bus run. Since the traffic management plan involved the use of shuttle buses operating between the two campuses, the BZA order required changes to improve conditions on the main campus. Those changes have been implemented with great success. The driveway along 4700 Whitehaven Parkway has been reconfigured to facilitate efficient drop-off and pick-up. In addition, the carpool program has been extremely effective and the School has met or exceeded the targets set forth in the Order.

3. **Number of Students and Faculty/Staff**

SPS requests approval of an additional twenty students, but proposes no change to the number of faculty/staff approved in the Order. As set forth above, SPS originally applied for a student enrollment cap of 60. Alternatively, SPS requested an initial enrollment cap of 40, which would be automatically increased to 60 after one year if the School abided by the conditions in the Order.

In the Order, the Board decided that a maximum student enrollment of 40 was more appropriate at that time, stating "the Board cannot find, based on the testimony and evidence in the record in this proceeding, that a maximum enrollment of 60 students is not likely to become objectionable to adjoining and nearby property because of noise, traffic, or otherwise objectionable conditions that might arise with the higher enrollment." This is now an appropriate time for the Board to evaluate whether the 60 student cap originally proposed by SPS would be objectionable. The School has been operating at the Subject Property for a full year. At the time of the hearing, testimony about objectionable impacts was largely speculative and based in part on the Board's 1962 denial of an application for expansion of a kindergarten on the Subject Property. SPS now has the opportunity to present, and the Board now has the opportunity to evaluate, evidence of how the School actually affects nearby residential

properties. The Building has been designed to accommodate 60 students, and there is more than adequate space for them. The Building occupies only 14.4% of the Subject Property, while the Zoning Regulations permit a lot occupancy of 40%. The substantial green space on the site provides an ample buffer between the Building and the neighboring properties to the south and east. As set forth above, the additional twenty students will create little additional noise, traffic, or other objectionable conditions.

During the proceedings related to Application No. 16582, some community residents expressed concern about the possibility of later requests for increases in enrollment. In order to alleviate their concerns, SPS offered to enter into a binding covenant that would limit student enrollment to 60 for as long as SPS operates a school on the Subject Property. Also, the School proposes the phase-in of the twenty additional students over two years in order to further minimize impacts. The first ten additional students would not be permitted until the Fall of 2006, a full two and one-half years after the establishment of the School on the site. The final ten not will be permitted until the Fall of 2007.

B. St. Patrick's Will Provide Ample Parking Spaces On The Property To Accommodate Teachers/Staff and Visitors

The Zoning Regulations require eight parking spaces for the proposed eight full-time and four part-time faculty members. The Order requires SPS to provide a minimum of fifteen parking spaces. Under Section 2101.1 of the Zoning Regulations, the number of parking spaces required for a middle school is based solely on the number of teachers and other employees of the school. Accordingly, the additional students will have no effect on the number of parking spaces required by the Zoning Regulations. Moreover, the additional twenty students will not generate a need for additional parking at the School. The fifteen parking spaces currently provided for visitors are not fully utilized.

C. Original Community Concerns

At the time of the original hearings, several members of the community expressed concern about the use of the site for a school. There was extensive testimony about the potential for noise and disruption caused by adolescents. There was also exhaustive testimony about the unworkability of the traffic management plan. St. Patrick's has now demonstrated that the students do not cause severe noise issues and the traffic plan has been nothing short of a success. The Zoning Compliance officer has not found a single violation by the School in the first year of the School's operation. This is largely due to the diligence of the faculty and administration in enforcing the Order and the full cooperation of the parents and students.

D. Change in Condition to Allow Students to Walk Between Campuses

The current Order does not allow students to walk between the two campuses. That has resulted in some logistical difficulties. Specifically, the Order, as currently worded, prohibits students who are dropped off at the main campus from walking to 4925. For that reason, any students who arrive late, after the shuttle bus has completed its last route, are picked up at the 4700 campus by one of the 4925 administrative staff members and brought to 4925. St. Patrick's is interested in eliminating this awkward condition by simply allowing students who have checked in on the main campus to walk to 4925. In addition, the current Order limits students from walking from 4925 to 4700 at the end of the school day. St. Patrick's is now proposing language to allow walking under limited circumstances and with the consent of the 4925 faculty. The distance between 4925 and 4700 is almost exactly one-half mile.

VI.
WITNESSES

A. Peter Barrett, Head of School

B. Dan Spector, MacArthur Campus Director

C. Martin J. Wells, Traffic Engineer

VII.
EXHIBITS IN SUPPORT OF THE APPLICATION

The applicant submits the following exhibits in support of the application;

Exhibit A BZA Form 120 – Application

Exhibit B BZA Form 135 – Zoning Self-Certification Form

Exhibit C Photographs of the Subject Property

Exhibit D Zoning Map and Sanborn Atlas Excerpts

Exhibit E Building Plat

Exhibit F Authorization Letter from the Property Owner

Exhibit G Property Owners' List

VIII.
CONCLUSION

As demonstrated above, the application meets the criteria set forth in Section 206 for special exception approval and is, therefore, in harmony with the general purpose and intent of the Zoning Regulations. In compliance with Section 3104.1 of the Zoning Regulations, the school has demonstrated that the relief sought is in harmony with the general purposes and intent of the Zoning Regulations and will not adversely affect neighboring properties. The school respectfully requests that the Board of Zoning Adjustment approve this application.

Respectfully submitted,

Shaw Pittman LLP

By: 
Allison C. Prince

January 28, 2005

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