GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 17320 of St. Albans School, on behalf of the Protestant Episcopal Cathedral Foundation of D.C., pursuant to 11 DCMR § 3104.1, for a special exception to permit additional facilities including renovation of athletic fields and related structures and construction of a performing arts center serving a private school under § 206, in the R-1-B District at premises 3101 Wisconsin Avenue, N.W. (Square 1944, Lot 25).

HEARING DATES: June 14, 2005 and July 26, 2005
DECISION DATE: September 13, 2005

DECISION AND ORDER

This application was submitted March 10, 2005 by St. Albans School on behalf of the Protestant Episcopal Cathedral Foundation of the District of Columbia, the owner of the property that is the subject of the application. Following a public hearing, the Board voted 5-0-0 on September 13, 2005 to grant the application subject to conditions.

Procedural Matters

Application. St. Albans School ("St. Albans" or "Applicant") filed an application pursuant to 11 DCMR § 3104 for a special exception under 11 DCMR § 206 to permit additional facilities for a private school located in the R-1-B zone at 3101 Wisconsin Avenue, N.W., on a portion of the parcel known as the Washington National Cathedral Close (Square 1944, portion of Lot 25). 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 March 11, 2005, the Office of Zoning sent notice of the application to the Office of Planning; the Department of Transportation; 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 3C07.

A public hearing on the application was scheduled June 14, 2005. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on April 4, 2005 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 on April 8, 2005 (52 *D.C.R.* 3585) and April 15, 2005 (52 *D.C.R.* 3810).

Requests for Party Status. In addition to the Applicant, ANC 3C was automatically a party in this proceeding. There were no requests for party status.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17320
EXHIBIT NO. 55
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Applicant's Case. The Applicant provided testimony and evidence from Stephen Rippe, chief executive officer and executive vice president of the Protestant Episcopal Cathedral Foundation ("Foundation"); Jean Duff, chairman of St. Albans' community relations subcommittee; Vance Wilson, St. Albans' headmaster; Roger Duffy of Skidmore Owings & Merrill LLP, an expert in architecture; Richard Burck and Richard Arentz, experts in landscape architecture; Louis Slade of Gorove/Slade Associates, an expert on transportation, traffic, and parking; Coleen Meehan, the school's director of planning; David Baad, its director of athletics; Stephen McGregor, chairman of the school's governing board; and Kate Cullen, the Foundation's director of human resources. The Applicant also submitted a report prepared by Arup Acoustics concerning the likely noise impacts of the Applicant's use of proposed athletic fields on the subject property.

To improve its "outdated and over-utilized" facilities, the Applicant proposed a 10-year, multi-phase development comprising:

(a) renovation of the Upper School and extension of the existing New Wing to include additional classrooms and offices and social spaces;

(b) modification of the existing Satterlee-Henderson athletic field into three tiered fields containing a regulation track, two full-sized fields, a practice area, and eight tennis courts; and

(c) construction of a new underground performing arts center to house a new theater, classrooms, practice rooms, and storage.

As proposed, the reconfiguration of the athletic fields and construction of the New Wing Extension would begin in 2006, with completion scheduled for Fall 2007. Construction of the performing arts center would begin by 2010, depending on funding; the Applicant requested approval through the summer of 2015. The Applicant asserted that the proposed changes to the subject property would not have any significant impacts with respect to noise, traffic, parking, or number of students, or create any other objectionable conditions, in part because the Applicant was not proposing any increase in the number of students or activities, and only a small increase in the number of employees, at the subject property.

The Applicant noted that the Protestant Episcopal Cathedral Foundation is currently construction a new parking garage on the Close, which is expected to be completed by November 2006. The new garage will provide a net increase of approximately 300 parking spaces on the Close, which the Applicant asserted would mitigate concerns about spillover parking on neighborhood streets in the vicinity of the Close.

By letter dated August 2, 2005, the Applicant submitted proposed conditions intended to mitigate any adverse impacts associated with the private school use. The proposed conditions included a transportation management plan addressing traffic and parking concerns. According to the Applicant, approval of the requested special exception would not alter existing traffic patterns or parking requirements, and "whatever perceived existing parking shortage" on neighborhood streets surrounding the Close would be eliminated by the construction of the new parking garage.

Government Reports. By report dated June 7, 2005 and through testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application subject to conditions prohibiting the use of amplification and lights on the reconfigured athletic fields. OP concluded that the Applicant's proposed expansion of the private school use would not be objectionable because the proposal would have an insignificant effect on noise, traffic, and parking, would not increase the number of students, and would increase the number of employees only slightly.

By supplemental report dated August 16, 2005, the Office of Planning provided further analysis of the impact of the number of performances at the new performing arts center and the use of the gymnasium and athletic fields by persons other than students, faculty, and staff. OP noted that, as revised, the application proposed a maximum of 100 events per year, potentially occurring between 8:00 a.m. and 11:00 p.m., Sunday through Thursday, and 8:00 a.m. to midnight on Fridays and Saturdays. According to OP, the impact of the new, larger performing arts facility would be to encourage larger attendance to some performances.

OP expressed concern that the conditions proposed by the Applicant would encourage persons using the St. Albans facilities to attempt first to park on neighborhood streets, followed by parking on the Close and in the parking garage. Noting the distance of the gymnasium and athletic fields from the new parking garage, so that parking in the neighborhood would be very convenient, OP stated that the Applicant's parking policy should strongly encourage parking on the Close and discourage parking on neighborhood streets. However, according to OP, the Applicant's parking management plan and policy to reduce parking demand and discourage off-site parking were very generalized and did not give details of the programs and how they would be enforced. OP noted that the Applicant indicated that all parking can be accommodated on the Close and therefore recommended that all users should be deterred from parking off-site.

By memorandum dated June 8, 2005, the District Department of Transportation ("DDOT") indicated no objection to the Applicant's proposal so long as the Applicant adjusted the schedule of events at the new performing arts center to minimize conflict with rush-hour traffic, and provided that construction of the new garage on the Close proceeded as planned to provide adequate parking. To avoid any adverse impact on the area road network, DDOT recommended that performances at the new performing arts center should not begin before 7:30 p.m. so as to minimize conflict with rush-hour traffic, which extends until 6:30 p.m.

By memorandum dated August 12, 2005, DDOT submitted its comments on the conditions proposed by the Applicant to mitigate any objectionable conditions associated with the requested special exception. DDOT recommended denial of the application until the Applicant prepared a transportation management plan approved by DDOT and by ANC 3C. According to DDOT, construction of the new parking garage should improve traffic circulation and safety, and reduce on-street parking demand on the surrounding neighborhood streets. However, DDOT recommended that the Applicant should implement a strong transportation management plan to reduce on-site parking demand, establish a parking policy to use the garage and forbid any parking on the surrounding neighborhood streets, establish a community liaison with the ANC and surrounding neighborhood to resolve traffic and parking issues, and reduce the number of performances and coordinate them with athletic activities to minimize traffic and parking congestion in the surrounding neighborhood.

DDOT cited as the "major problems generated by the Saint Alban School and other institutions on the Cathedral Ground" as (a) the parking supply deficit caused by the combined impacts of performing arts, sport activities, and other activities at the Close, (b) the Applicant's lack of a transportation management plan, (c) the number of performances, and (d) the use of the athletic field by outside organizations.

DDOT indicated that the additional parking spaces provided in the new parking garage "will reduce the impact on on-street parking supply on neighborhood streets." DDOT's recommendations included that the Applicant should (i) develop a strong transportation management plan to encourage the use of carpools and vanpools and to discourage the use of single-occupancy vehicles; (ii) increase the use of mass transit and institute a shuttle bus to reduce vehicle travel to and from the school, in light of the proximity of the subject property to Metrobus and Metrorail; and (iii) encourage the use of bicycles and walking by providing conveniently located bicycle parking for both students and employees.

With respect to the number of performances, DDOT expressed doubt about the Applicant's proposed limit of 100 events per year, potentially occurring between 8:00 a.m. and 11:00 p.m., Sunday through Thursday, and 8:00 a.m. to midnight on Fridays and Saturdays. While DDOT acknowledged that the parking impact of additional events on the neighboring community could be minimized to the extent that the new garage would be available for the events, DDOT strongly urged the Applicant to reduce the number of performances at the performing arts center and to reduce the hours that performances would be scheduled. DDOT also recommended that the Applicant should coordinate the schedule of performing arts and athletic events so as to minimize the combined transportation and parking demand generated by performing arts and athletic events at the subject property. Finally, DDOT stated that the Applicant should limit the use of its facilities by outside users, with the schedule for such activities coordinated with the ANC and the surrounding neighborhood community.

By memorandum dated September 2, 2005, DDOT indicated its conclusion, based on its review of additional information provided by the Applicant, that construction of the new parking garage, coupled with the implementation of the Applicant's proposed transportation management plan, "will address most of the parking problems generated by the ... proposed performing arts center." To further minimize parking and traffic impacts on the adjacent residential neighborhood, DDOT recommended implementation by the Applicant of the following measures:

(a) all parking related to events at the new performing arts center should be accommodated in the new garage or in surface spaces located on the Close;

(b) access from the garage should be limited to the Wisconsin Avenue exit for events scheduled to end after 10:00 p.m. to minimize late evening traffic on residential streets; and

(c) the schedule for events – including performances, recreation activities, and other events within the Close during after-school hours – should be coordinated so that major traffic-generating events are not concentrated on the same evening.

ANC Report. At a special public meeting held June 6, 2005 with a quorum present, ANC 3C voted unanimously (5-0-3) to pass a resolution in opposition to the application. The resolution stated that the Applicant had:

> not satisfied 11 DCMR 206.2 because the noise, number of students, and other conditions, including trash and hours and intensity of use, are objectionable to adjoining and nearby property owners and are likely to worsen with the increased intensity of athletic field use, the type of use and capacity of the new Performing Arts Center and the unrestricted outside usage contemplated by the School.

The ANC also expressed concern that the Applicant's proposal to provide 160 parking spaces and any additional spaces in the new parking garage would be insufficient to meet its parking demand. According to the ANC, the "unmet demand" for parking created by school-related traffic was "being satisfied in the neighborhood" and the Applicant's "practice of using the neighborhood streets has caused great hardship on neighbors who must circle blocks and cannot park near their homes." ANC 3C objected that the Applicant had not committed to a policy with an enforceable guarantee that visitors to the athletic fields or performing arts center "would park in surface spaces on the Close or in the new garage."

Persons in Support. The Board received four letters in support of the application. The letters generally stated that the Applicant's proposal would significantly improve the private school facilities and would not adversely affect the community. Seven persons testified in support of the application, including a resident of the 2900 block of 34th Street, directly across from a portion of the Applicant's existing athletic field. These individuals stated generally that no adverse impacts result from the Applicant's current operations or would be created by the proposed expansion of its facilities.

Persons in Opposition. Four persons testified in opposition to the application, stating generally that activities on the Close create objectionable impacts related to noise, trash, traffic, and parking, particularly when facilities on the Close, such as the Applicant's athletic facilities, are used during non-school hours by persons not affiliated with the private school. Persons representing the Massachusetts Avenue Heights Citizens Association and the Cleveland Park Citizens Association also spoke in opposition to the application.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. St. Albans School, a private school founded in 1909 for boys in lower school (grades 4 through 8) and upper school (grades 9 through 12), is located on a portion of the Washington National Cathedral Close in Northwest Washington, D.C. (Ward 3).

2. The Washington National Cathedral Close is a single lot (Lot 25) containing approximately 56 acres and comprising almost the entire Square 1944. The Close is bounded by Wisconsin Avenue, Massachusetts Avenue, Woodley Road, 34th Street, and Garfield Street. The topography of the Close is highest at the Cathedral and slopes down toward Garfield Street with a difference of 85 feet.

3. The Cathedral Close is an individual landmark listed in the D.C. Inventory of Historic Places and on the National Register of Historic Places. In addition to the National Cathedral and St. Albans School, the Close is also the location of St. Albans Church, the College of Preachers, the National Cathedral School for Girls, Beauvoir Elementary School, residences, and accessory buildings.

4. The portion of the Close used by St. Albans is approximately 781,000 square feet and is located at the southern edge of the subject property, abutting Massachusetts Avenue, Garfield Street, and 34th Street.

5. The subject property is zoned R-1-B. The area surrounding the subject property is characterized by residential uses. Apartment buildings are located across Wisconsin Avenue, while single-family detached dwellings are located along Garfield Street and 34th Street. St. Sophia's Greek Orthodox Church is located on Garfield Street across from the subject property.

6. The subject property currently contains several buildings and facilities devoted to the Applicant's private school use, including the Lane-Johnston Building, the True-Lucas Building, Little Sanctuary, the Steuart Building, the New Wing, the Activities Building, the Lawrence Pool, and the Martin Gymnasium. The site also contains one non-regulation athletic field used by the Applicant.

7. By order issued November 5, 1976 (BZA Application No. 12174), the Applicant received special exception approval to renovate its Activities Building and to construct a new wing addition to an existing gymnasium as well as a new academic building, subject to conditions limiting maximum attendance for any school event to 1,300 persons and requiring a minimum of 130 parking spaces.

Proposed Expansion of the Private School Use

8. The Applicant proposed to construct an extension to the existing New Wing designed to connect and unify buildings used by the upper school. The new construction, which will extend the New Wing at its current height and width, will contain approximately 18,000 square feet of space used for classrooms, faculty and administrative offices, student social space, and a student bookstore. The New Wing Extension will also bridge and suppress a service road, so that all truck delivery and loading will take place underground, directly beneath their current operations. The existing loading dock will be converted into a terrace or green space for circulation and passive social activities.

9. The Applicant proposed to reconfigure the existing athletic field, located at the southeast corner of the Close, into three separate tiers. The upper level will contain a regulation

competition and practice field for football, soccer, and lacrosse, surrounded by a regulation six-lane track, with seating for approximately 600 people built into the hillside on the north face of the site. The lower tier, located approximately 18 feet below the upper tier, will provide a regulation baseball field that can be converted into two practice fields, as well as an additional half-field for practice. The third tier, located at the corner of the intersection of 34th and Garfield Streets, will contain eight tennis courts and a support building built into a hillside.

10. The reconfigured athletic facility will include practice and game venues for the Applicant's interscholastic teams in baseball, cross country, football, lacrosse, soccer, tennis, and track and field. The fields will be used primarily during the fall and spring athletic seasons; *i.e.* from September 1 to November 15 and from March 1 to May 15, respectively. One or two interscholastic games will likely be played on the fields virtually every day, with multiple games generally played "back to back" rather than simultaneously. The Applicant indicated that the number of games played would remain unchanged from the current schedule, consistent with the limit allowed by rules of the Intercollegiate Athletic Conference.

11. The proposed performing arts center will consist of a new auditorium and support space for the performing arts programs of St. Albans and the National Cathedral School, and will provide a venue for some programs of the Cathedral. The Applicant stated that neither St. Albans nor the National Cathedral School intended to modify their current programs of theater, music, and other performing arts activities.

12. The new performing arts center will be located directly under the circular drive at the front of the school, with no visible change in grade at the upper-campus level. The performing arts center will contain 39,000 square feet of space, with 650 seats in the auditorium. The lowest level of the facility will consist of a proscenium stage, orchestra pit, and seating for 350 people. The above-grade component of the performing arts center, known as the Library Addition, will contain three classrooms, an art studio, and two music ensemble rooms.

13. The new performing arts center will be an accessory building devoted to the expanded private school use of the subject property.

14. The Applicant requested a 10-year period of approval of the application, through the summer of 2015. As planned, both the construction of the New Wing Extension and reconfiguration of the athletic fields would be completed by Fall 2007, while construction of the performing arts center would begin by 2010.

15. The Applicant did not propose to increase the intensity of use of its athletic facilities, with the exception of hosting additional track meets, and did not propose to increase the number of performances held in the new performing arts center compared to the number of performances currently held in other venues at the subject property.

16. The Applicant permits some use of its facilities by "outside users"; that is, persons using the Applicant's indoor and outdoor facilities who are not affiliated with St. Albans or with the Foundation. The Board credits the Applicant's testimony that use of St. Albans facilities by unaffiliated users is relatively small in scope and creates minimal traffic or parking impacts on neighboring property.

Noise Impacts

17. The Board credits the Applicant's testimony that the proposed changes in its campus will not have any perceptible increase in noise levels on adjacent or adjoining properties, in part because the number of students and the intensity of activities will not increase over the current levels. The New Wing Extension will not generate noise but might buffer existing noise by creating an underground location for the service road and loading facilities. The performing arts center will be constructed underground using acoustical standards appropriate for performing arts. The Board credits the conclusion of the Applicant's sound consultant that the proposed expansion and reconfiguration of athletic fields on the subject property will not create adverse noise impacts on neighboring residences on Garfield or 34th Street.

18. The Board also credits the testimony of the Office of Planning that the New Wing Extension and performing arts center will not create any additional noise that would affect the adjacent community, and that any increase in noise associated with the new athletic facilities will not be noticeable at nearby residences.

19. The Board finds that the requested special exception will not create adverse noise impacts on neighboring property. The new buildings will be internal to the property, not adjacent to any residential structures; the performing arts center will be mostly underground and enclosed; and no amplification will be used at the athletic facilities except for an announcer calling games.

Traffic Impacts

20. The Applicant presently employs 143 faculty and staff at the subject property (128 full-time and 15 part-time employees, described by the Applicant as 133 full-time equivalent employees). The Applicant proposed to increase the number of full-time equivalent employees over a 10-year period in conjunction with the construction of the New Wing Expansion, for a new total of 143 full-time equivalent employees.

21. The Applicant proposed to implement a transportation management plan designed to mitigate any adverse traffic and parking impacts associated with the private school use. Elements of the plan will encourage persons driving to the subject property – including students, employees, and persons using the Applicant's facilities – to park on the Close rather than using on-street parking in the surrounding neighborhoods; encourage employees to participate in a "Commuter Rewards" program offering incentives to commute by means other than driving; and impose limits on the use of the Applicant's athletic fields so as to limit traffic and parking impacts generated by the use of the facilities.

22. The Board credits the testimony of the Applicant's traffic expert that the Applicant's proposed increase in its number of employees would likely increase the number of vehicle trips both to and from the subject property by six per weekday, and increase the demand for parking by six spaces, and thus would have an insignificant impact on traffic and parking conditions in the vicinity of the Close.

23. The proposed reconfiguration of the athletic fields will not alter the Applicant's current athletic programs, and thus will not affect day-to-day traffic conditions. Because the new athletic facilities will meet league standards, the reconfiguration will permit St. Albans to host track and field events at the subject property, including a league meet once every six years and up to two meets each year. While track and field events do not attract significant spectator traffic, the events will generate additional trips to the subject property by buses. Parking for the buses will be provided within the Close.

24. Events at the new performing arts center will likely draw a maximum of approximately 750 people, including the audience, cast, and crew members.

25. Currently, persons attending performing arts events at St. Albans park primarily on Pilgrim Road on the Close, on Garfield Street, and on nearby neighborhood streets. Performances start as early as 6:00 p.m., so that traffic to the subject property coincides with weekday evening traffic. However, except for events involving the younger students, most performances are scheduled to begin later in the evening.

26. Parking for events held at the performing arts center will be accommodated in the new garage, which will have two entrances. The Wisconsin Avenue entrance, the most congested point around the Close, will have a traffic signal synchronized with other traffic signals along Wisconsin Avenue. The Board credits the testimony of the Applicant's traffic expert that the new garage, and its entrance at a signalized intersection, will improve traffic safety and traffic conditions on Wisconsin Avenue.

27. The Board also credits the testimony of the Applicant's traffic expert that the larger capacity of the new performing arts center will generate significant additional traffic arriving at the Close, but will not likely create adverse traffic impacts, primarily because of the times that performances will be scheduled and because the new parking garage will increase the supply of parking available on the Close, so that persons driving to a performance would not likely seek parking on nearby residential streets. The traffic expert concluded that 150 new trips would likely be generated a few times per year on Friday evenings before a performance; however, those vehicles will use the entrance to the parking garage at a signalized intersection at Wisconsin Avenue, thereby mitigating any potential objectionable conditions due to traffic or parking associated with the additional traffic generated by events held at the performing arts center.

28. The Board credits the testimony of DDOT that the proposed expansion of the existing private school use would have a minimal effect on the surrounding street system, except during evenings when the performing arts center was in use, because the application did

not propose to increase student enrollment and contemplated an increase in faculty and staff of nine persons.

29. The Board concludes that approval of the requested special exception will not generate objectionable conditions due to traffic. The Applicant is not proposing to increase the number of students enrolled or to increase the intensity of use of its facilities significantly; the requested increase in employment is small and will be phased in gradually over 10 years. The Applicant will implement a transportation management plan that addresses issues and concerns raised by DDOT and the ANC with respect to potential adverse traffic and parking impacts associated with the private school use.

Adequate Parking

30. The Close currently contains 532 parking spaces, which serve all uses located on the Close. Of these parking spaces, 154 spaces are allocated to the Applicant's private school use.

31. The underground parking garage currently under construction is expected to be completed in late 2006. The garage will contain 414 parking spaces and will result in the elimination of some existing spaces, resulting in a net increase of 307 parking spaces on the Close. Approximately 180 spaces in the garage will not be reserved for any particular use but will be generally available for any vehicles driven to the Close.

32. After completion of the garage, the Close will have a total of approximately 835 parking spaces.

33. The Board credits the testimony of the Applicant's traffic expert that the peak demand for parking on the Close is a total of 826 vehicles. Currently the shortfall between parking supply on the Close and peak demand is 294 vehicles, leading to spillover parking on neighborhood streets in the vicinity of the Close. After completion of the garage, which will increase the number of parking spaces by 307, the total supply of parking available on the Close will exceed the estimated peak demand for parking.

34. After completion of the garage, 163 parking spaces on the Close will be designated for use by vehicles associated with the Applicant's private school use.

35. The Board credits the testimony of the Applicant's traffic expert that the peak demand for parking created by the Applicant's private school use is approximately 210 to 230 vehicles, in excess of the 154 spaces currently designated for St. Albans as well as the 163 spaces that will be designated after completion of the garage. Thus, parking demand generated by the private school use occasionally causes spillover parking on nearby neighborhood streets. At times the parking spaces designated for use by St. Albans are improperly used by other users on the Close, or drivers may opt to park on-street in a location more convenient to St. Albans than a designated space within the Close.

36. The Board credits the testimony of the Applicant's traffic expert that spillover parking associated with the Applicant's private school use will likely diminish after completion of

the parking garage. The number of spaces designated to the Applicant will increase by nine, and any demand for parking in excess of 163 spaces will likely be satisfied by the new garage, which will offer approximately 180 unreserved spaces available for vehicles parking on the Close.

37. Bus parking associated with events at St. Albans, including events held on the athletic fields, will be accommodated on the Close. Ten parking spaces located on Pilgrim Road will be designated for use by school buses, and will provide parking for three buses.

38. The Board credits the Applicant's testimony that the need for parking generated by the new performing arts center will be served by the parking garage.

39. The Applicant proposed to increase the number of its employees at the subject property from 143 actual to 143 full-time equivalent employees, which the Applicant describes as an increase of nine full-time equivalent employees. After completion of the Applicant's proposal, the largest assembly space will be the new performing arts center, with a seating capacity of 650. Thus, the parking requirement under chapter 21 of the Zoning Regulations for the proposed expanded public school use will be at least 160 spaces (two parking spaces for every three employees, or 95, and one space for every 10 seats in the largest assembly space, or 65).[1]

40. 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 approval of the application will provide for ample parking space to accommodate the students, teachers, and visitors likely to come to the site by automobile. The Applicant's proposal includes several elements – including an increase in the number of surface parking spaces on the Close allocated to the Applicant; the ability to use parking spaces in the new garage; the implementation of new parking policies applicable to students, teachers, and visitors driving to the subject property; and limitations on the use of its facilities – that will substantially mitigate the likelihood of spillover parking on neighborhood streets surrounding the Close.

Number of Students

41. The Applicant presently has an enrollment of 568 students. The Applicant proposed to maintain the current level of enrollment, with a two-percent variance permitted in light of the need for flexibility with respect to the number of students admitted. The two-percent variance would permit enrollment of up to 11 students over the "target" enrollment of 568, for a maximum total enrollment of 579.

42. The Board finds that no objectionable conditions are likely to result from the number of students associated with the requested special exception. The Board does not find that the current enrollment of 568 students has created objectionable conditions or adversely affected the use of neighboring property. The Board credits the Applicant's testimony

[1] The parking requirement set forth in Chapter 21 is based in part on the total number of employees. The Applicant expressed its number of employees on a "full time equivalent" basis and did not indicate its total number of the employees.

that its intention is to maintain the current enrollment, subject to a maximum potential increase of 11 students, to 579, depending on the number of students who accept admission to St. Albans.

Harmony with Zoning

43. 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.

44. The development proposed by the Application will conform to requirements of the R-1-B district with respect to height. The heights of the New Wing Extension and the performing arts center will be 34 feet, four inches and 23 feet, four inches, respectively. As a result of the proposed new construction, the lot occupancy on the St. Albans portion of the Close will increase from 10.7 percent to 11.6 percent.

45. The Board credits the testimony of the Office of Planning that the proposed expansion of the private school use will fulfill the intent of the Zoning Regulations and Map to allow uses that are compatible with single-family residential areas.

46. The Board finds that the requested 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.

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 Uses listed under 11 DCMR § 3104, including private schools or expansions thereto, may be permitted by the Board if in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and if the use or expansion will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions, including the applicable requirements of 11 DCMR § 206. The Applicant seeks a special exception pursuant to 11 DCMR § 3104.1 to construct a new building and an addition to an existing building, and to reconfigure its athletic facilities, in an expansion of an existing private school use under the conditions specified in § 206 in the R-1-B district at 3101 Wisconsin Avenue, N.W. (Square 1944, Lot 25).

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, the Board concludes that the proposed expansion of the existing private school use, as conditioned by the Board, can be located at the subject property so that it is 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 issues and concerns raised by ANC 3C to set parameters for operation of the expanded private school use that will ensure that no objectionable or adverse condition will be created.

The subject property is a large site with ample space for the proposed new construction and reconfigured athletic facilities. The Applicant's proposal, including its transportation management plan adequately address adverse impacts potentially arising from the private school use, particularly those related to traffic and parking. The Applicant has proposed modest potential increases in enrollment and number of employees, while the supply of parking available on the Close, as well as the number of surface parking spaces allocated to the Applicant, will increase. The proposed expansion of the private school use is not likely to generate adverse impacts, including objectionable conditions related to traffic and parking. The availability of the new garage and implementation of the Applicant's new transportation management plan will likely mitigate existing impacts related to school-related traffic congestion and spillover parking in the neighborhoods near the Close.

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 proposed a 10-year, multi-phase development comprising three major components and requested approval through mid-2015, indicating that two elements would be undertaken within two years but that the schedule for construction of the performing arts center would depend on funding. In approving the requested phasing plan, the Board notes that the Applicant has enumerated the changes to the existing private school use that will be undertaken as part of the requested special exception, and that 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.

ANC's issues and concerns. The Board accorded the issues and concerns raised by ANC 3C the "great weight" to which they are entitled. In doing so, the Board fully credited the unique vantage point that ANC 3C holds 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 ANC,

particularly with respect to traffic, parking, and use of the Applicant's facilities by "outside users" not affiliated with the Applicant. The Board was not persuaded by the ANC that approval of the application would create objectionable conditions with respect to noise or number of students.

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 Skidmore, Owings and Merrill; Richard Burck Associates Landscape Architects; and Arentz Landscape Architects, marked in the record as Exhibit No. 36. The Applicant shall have flexibility to modify the design in accordance with the recommendations of the Historic Preservation Review Board. The Applicant may construct the project in two phases. Phase I, consisting of the reconfigured athletic fields and New Wing Extension, shall commence within two years of the issuance of this Order. Phase II, encompassing the Performing Arts Center, shall start within 10 years of the issuance of this Order.

2. The Applicant's maximum enrollment shall not exceed 579 students. The Applicant may employ up to 143 full-time equivalent faculty and staff. No later than November 1 of each year, the Applicant shall submit to the ANC the total number of students, faculty, and staff for that academic year.

3. The Applicant shall require faculty, staff and students who drive to school and who do not have valid Zone 3 Residential Parking Permits ("RPP") to park on the Close (including in the parking garage to be located under the Cathedral lawn), in designated off-street parking, or on areas of streets not restricted to Zone 3 parking. The Applicant shall direct faculty, staff, and students with Zone 3 RPPs to park on the Close before resorting to on-street parking.

4. The Applicant shall maintain its current allotment of 154 parking spaces during construction of the Protestant Episcopal Cathedral Foundation garage. As a result of the lost surface parking spaces during construction, the Applicant shall lease 40 spaces from a nearby church or other location and shall construct 12 parking spaces on Pilgrim Road until completion of the Foundation parking garage. The Applicant shall make available 210-230 parking spaces after completion of the garage.

5. The Applicant shall encourage its employees to participate in the Foundation's "Commuter Rewards" program to reduce parking demand generated by faculty and staff.

6. The Applicant shall establish a parking policy for its faculty, staff, and students that will be consistent with Conditions No. 3 and 4. The parking policy shall require any student, staff, or faculty member who drives to school to register his or her vehicle with the Applicant and to display an identifying sticker on his or her vehicle that will facilitate compliance with the parking policy.

7. The Applicant shall require each student's parent or legal guardian to agree to the parking policy when the parent or legal guardian signs each year's enrollment contract. Students who violate the parking policy will be subject to disciplinary action as set forth in the enrollment contract.

8. The Applicant shall inform all visitor schools in writing of the designated visitor parking and shall direct visitors from such schools to park in those areas identified in Condition No. 3 to the extent that parking is available. The Applicant shall provide adequate parking for buses on the Close and shall require buses to park in the designated spaces.

9. The Applicant shall limit the hours of its outdoor summer programs from 8:00 a.m. to 7:00 p.m., and shall provide vehicular pick-up and drop-off locations on the Close for participants in the summer programs.

10. The Applicant shall limit hours of events at the performing arts center from 8:00 a.m. to 11:00 p.m. Sunday through Thursday and 8:00 a.m. to midnight on Friday and Saturday. Performances at the performing arts center (not including rehearsals and practices) shall be held on no more than 100 days during any calendar year. The Applicant shall permit use of the performing arts center only by Foundation institutions and shall not rent out or otherwise use the performing arts center for commercial purposes, except that in rare circumstances the performing arts center may be made available on a limited basis to a non-Foundation not-for-profit institution or a community organization that has a compelling need for use of the performing arts center or that has suffered the loss of use of a similar facility and requires temporary relief from such loss.

11. The Applicant shall not schedule simultaneous varsity scrimmages or games with other schools on its athletic fields, with the exception of tennis matches and make-up games. The Applicant shall not schedule more than five athletic tournaments involving more than one visiting school per year on its athletic fields.

12. The Applicant may offer the use of its athletic fields to schools, organizations, or individuals unaffiliated with the Applicant or the Foundation ("unaffiliated users") during the academic year. The Applicant shall direct any unaffiliated users who do not have valid Zone 3 parking permits to park in those areas identified in Condition No. 3. Unaffiliated users shall not be permitted to use the athletic fields before or after the school day, or on weekends, during the school year, except as follows:

    (a) Except as provided in Condition No. 12(c), the Applicant may choose to provide a single field space for a single unaffiliated user on each weekend day, if there is no scheduled St. Albans or Foundation activity on the fields on that weekend day.

    (b) Any vehicular pick-up or drop-off will be directed to occur on the Close.

(c) Use of the athletic fields during the academic year by teams coached by a St. Albans coach or parent and consisting predominantly of St. Albans students shall be limited to no more than four days per week. Such events shall not last more than six hours.

(d) Unless being used by St. Albans, the track may be offered for public use subject to any restrictions placed on such use by the Applicant.

(e) The Applicant shall require each unaffiliated user to agree to its parking policy when the unaffiliated user signs a use agreement. Unaffiliated users who violate the parking policy will be subject to penalties as set forth int ehe use agreement.

13. The Applicant may offer the use of its fields to unaffiliated users during the summer when school is not in session as follows:

(a) The Applicant shall direct unaffiliated users who do not have valid Zone 3 parking permits to park in those areas identified in Condition No. 3.

(b) A single field may be used on a weekday when there is no summer camp activity or St. Albans or Foundation activity on that day. The field may be used for up to seven hours, beginning no earlier than 9:00 a.m. and ending no later than 6:00 p.m.

(c) A single field may be used four weekday evenings per week; provided, however, that the activity ends no later than 9:00 p.m.

(d) A single field may be used each weekend day by a single user either during the day or in the evening if there is no St. Albans or Foundation activity on the weekend day. The field may be used for up to six hours, beginning no earlier than 9:00 a.m. and ending no later than 9:00 p.m.

(e) Any vehicular pick-up or drop-off will be directed to occur on the Close.

(f) Unless being used by St. Albans, the track may be offered for public use subject to any restrictions placed on such use by the Applicant.

14. The Applicant shall not use lighting on the athletic fields at any time, except for safety lighting along pathways, as necessary.

15. The Applicant shall direct members and require staff and employees of its tennis club who do not have valid Zone 3 parking permits to park in those areas identified in Condition No. 3 when they drive to the St. Albans tennis courts.

16. The Applicant shall establish a neighborhood liaison committee for the purpose of coordinating and discussing uses of the athletic fields and parking for St. Albans as

provided in this Order. The Applicant shall provide a contact telephone number and e-mail address for neighbors who wish to report any failure to comply with the usage and parking conditions adopted in this Order.

17. The Applicant shall routinely request DDOT or other appropriate District agencies to enforce parking restrictions in the immediate neighborhood surrounding the Close. The Applicant shall work with DDOT to study appropriate garage exit points for events held at the performing arts center.

VOTE: 5-0-0 (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., Carol J. Mitten and John A. Mann II voting to approve with conditions)

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 27 2006

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.

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (2001). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE

FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF 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.

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.

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.

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