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July 5, 2006

VIA HAND DELIVERY

Mr. Geoffrey Griffis, Chairman
District of Columbia Board of Zoning
Adjustment
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

Phil Feola
Phone: 202.663.8789
phil.feola@pillsburylaw.com

**Re: BZA Application No. 17429, St. Patrick'
Proposed Findings of Fact and Conclusions of Law**

Dear Chairman Griffis:

Given the completeness of the record in the above-captioned application, the Applicants' long efforts to achieve a consensus with neighboring property owners and community organizations, and that there was no opposition to the application at the public hearing, we respectfully request that the Board address its decision in this case with a Summary Order. Such an Order, conditioned appropriately, will ensure that the project fulfills its promises and allow the Applicants to move to the next stage of this development expeditiously. In this regard, attached as Exhibit 1 to this submission, is a Proposed Summary Order for your use.

If the Board decides against the issuance of a Summary Order in this case, attached as Exhibit 2 to this submission, is Proposed Findings of Fact and Conclusions of Law, for your use.

Respectfully submitted,

Phil Feola

Samantha Mazo

Attachments

cc: Ed Murphy
Katherine Bradley
John Delaney

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17429
EXHIBIT NO. 99

Board of Zoning Adjustment
District of Columbia
CASE NO.17429
EXHIBIT NO.99

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**APPLICANT'S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17429 of Friends of St. Patrick's Episcopal Day School, LLC ("**FOSP**") and the Vestry of St. Patrick's Parish, on behalf of the St. Patrick's Episcopal Church and Day School ("**School**"), collectively ("**FOSP/St. Patrick's**" or "**Applicant**"), pursuant to 11 DCMR § 3104.1 for a special exception to construct a middle and high school campus for 440 students and 100 faculty/staff, under Section 206, and a theoretical lot-subdivision for 18 homes under Section 2516 in the R-1-B Zone District on the Property at 1801 Foxhall Road, N.W. (Lots 825, 826, and 827 Square 1346).

HEARING DATES: February 28, 2006; June 13, 2006

DECISION DATE: July 11, 2006

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3D and the owners of property within 200 feet of the site. The application was referred to the Office of Planning, the Department of Transportation ("**DDOT**"), the Zoning Administrator, the Councilmember for Ward 3, ANC 3D and the Single-member ANC Commissioner, ANC 3D09 for review and report.

The site of this application is located within the jurisdiction of ANC 3D. On February 15, 2006, ANC 3D, which is automatically a party to this case, submitted a report in support this application with certain conditions. On February 28, 2006, the Board granted party status to: (i) the Colony Hill Neighborhood Association (“CHNA”), which represented the residents of the 41-home adjacent neighborhood located directly south of the Property; (ii) John Forrer, an individual property owner who lives at 1714 Hoban Road NW, directly south of the proposed residential development; and (iii) Camille Comeau and Jay Hebert, individual property owners who live at 1717 Foxhall Road, N.W. Subsequent to the February 28, 2006 hearing, all three parties entered into agreements with the Applicant. Therefore, at the commencement of the June 13, 2006 session, all three parties withdrew as Parties in Opposition and requested to be recognized as Parties in Support of the Application.

The Office of Planning submitted a report recommending approval of the application. DDOT submitted a report supporting the application. In addition, a representative of the National Park Service testified that his agency also supports the Application.

As directed by 11 DCMR §§ 3104, 206 and 2516, the Board has required that the applicant satisfy the burden of proving the elements necessary to establish a case for the special exceptions. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The School – Section 206

To be entitled to a special exception for a private middle and high school under 11 DCMR §§ 3104 and 206, the applicant must demonstrate: (i) it is 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; (ii) the site provides ample parking space to accommodate the students, teachers, and visitors likely to come to the site by automobile; and (iii) the approval does not tend to affect adversely the use of neighboring properties and such approval is in general harmony with the purpose and intent of the Zoning Regulations and Map. Based on the record before the Board, and having given great weight to the recommendations of the OP and ANC 3D, the Board concludes that the applicant has met the burden of proof for a special exception under 11 DCMR §§ 3104 and 206.

It is hereby ORDERED that the application for a special exception for a private school for Lots 827 and 826 in Square 1346 be GRANTED, subject to the following CONDITIONS which are applicable to Lots 827 and 826 only:

1. The School shall be constructed in accordance with the plans prepared by Macris, Hendricks and Glascock, P.A. dated June 8, 2006 and marked in the record as Exhibit No. 94.
2. The School shall be constructed in general accordance with the Illustrative Plans prepared by Barnes Vanze Architects, Inc. and marked in the record as Exhibits No. 93 and 96.
3. The maximum student enrollment shall be 440 students.
4. The maximum number of faculty and staff shall be 100.
5. The Northern Dell, Lot 826, shall remain as open space.

6. The School shall implement, or cause to be implemented, all the changes to the Foxhall Road right-of-way shown on the Revised Foxhall Road Plan (Exhibit No. 84) including the southbound left turn lane, northbound right turn lane, two northbound through lanes and traffic signal.
7. The School shall fully implement and comply with the St. Patrick's Operations Plan, marked in the record as Exhibit No. 86.
8. The School shall fully implement and comply with the 1801 Foxhall Road Six-Point Travel Management Plan ("TMP"), which is Exhibit I to the Applicant's Pre-Hearing Submission, marked in the record as Exhibit No. 35.
9. The School shall submit its final St. Patrick's Travel Management Plan to DDOT and ANC 3D prior to the opening of the 1801 Foxhall Road campus;
10. The School shall construct a six-foot sidewalk along Foxhall Road pursuant to DDOT recommendations and approval.
11. The School shall provide an annual report of the TMP including a report on the in-bound peak hour traffic count to the BZA, DDOT and ANC 3D.
12. The School shall construct its stormwater management system in accordance with the Conceptual Storm Drain and SWM Plan, marked as Exhibit No. 94. The School's stormwater detention facilities will be designed in accordance with the District's requirements for storm water management and, in addition, will provide 24 hour extended detention of the one year storm. Further, discharge rates from these facilities will not exceed 2 cubic feet per second for the one and two year storm events.

13. The School shall generally conform to the Illustrative Parkland Edge Conditions restrictions, marked in the record at Exhibit No. 93.
14. The School may be constructed in phases over the course of seven years.

Theoretical Lot Subdivision – Section 2516

In accordance with Section 2516, the Board can grant a special exception for a theoretical lot subdivision provided that the Applicant meets its burden of proof under Subsection 3104.1, and demonstrates that the proposed theoretical lot subdivision would meet the conditions listed in Section 2516; that it would be in harmony with the general purpose and intent of the Zoning Regulations and Maps; and that it would not adversely affect use of neighboring property. In pertinent parts, under Subsection 2516.4, “The number of principal buildings permitted by this section shall not be limited; provided that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter... and §§3202.1 and 3202.2 are met.” Under Subsection 2516.6(b) “Notwithstanding any other provisions of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five feet (25 ft.) in width, but need not be paved for its entire width.” Under Section 2516.9, “The proposed development shall comply with the substantive provisions of this title and shall not likely have an adverse effect on the present character and future development of the neighborhood.”

Based upon the record before the Board and having given great weight to the OP and ANC 3D recommendations, the Board concludes that the applicant has met the burden of proof for a special exception under 11 DCMR §§ 3104 and 2516.

It is hereby ORDERED that the application for the special exception for a theoretical subdivision for Lot 825, Square 1346 is GRANTED, subject to the following CONDITIONS which are applicable to Lot 825 only:

1. The Residential Development shall be constructed in accordance with the plans prepared by Macris, Hendricks and Glascock, P.A. dated June 8, 2006 and marked in the record as Exhibit No. 94.
2. The design of the Residential Development shall be constructed in accordance with the Illustrative Plans prepared by Barnes Vanze Architects, Inc. and marked in the record as Exhibit No. 96.
3. The Applicant shall fully implement and comply with the Architectural Agreements, marked in the record as Exhibit No. 87.
4. The Applicant shall construct its stormwater management system in accordance with the Conceptual Storm Drain and SWM Plan, marked as Exhibit No. 94. The Residential Development's stormwater detention facilities will be designed in accordance with the District's requirements for storm water management and, in addition, will provide 24 hour extended detention of the one year storm. Further, discharge rates from these facilities will not exceed 2 cubic feet per second for the one and two year storm events.
5. The Residential Development shall be constructed in accordance with the illustrative Tree Preservation Plan, marked in the record in Exhibit No. 96.
6. The Residential Development shall generally conform to the Illustrative Parkland Edge Conditions restrictions marked in the record at Exhibit No. 93.

Pursuant to 11 DCMR § 3100.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE:

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

Each concurring member has approved the issuance of this Decision and Order.

ATTESTED BY: _____

JERRILY R. KRESS, FAIA

Director, Office of Zoning

FINAL DATE OF ORDER: _____

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 § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 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 § 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.

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.

**APPLICANT'S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17429 of Friends of St. Patrick's Episcopal Day School, LLC ("**FOSP**") and the Vestry of St. Patrick's Parish, on behalf of the St. Patrick's Episcopal Church and Day School ("**School**"), collectively ("**FOSP/St. Patrick's**" or "**Applicant**"), pursuant to 11 DCMR § 3104.1 for a special exception to construct a middle and high school campus for 440 students and 100 faculty/staff, under Section 206, and a theoretical lot-subdivision for 18 homes under Section 2516 in the R-1-B Zone District on the Property at 1801 Foxhall Road, N.W. (Lots 825, 826, and 827 Square 1346).

HEARING DATES: February 28, 2006; June 13, 2006

DECISION DATE: July 11, 2006

DECISION AND ORDER

The applicants in this case are the Friends of St. Patrick's Episcopal Day School, LLC ("**FOSP**") and the Vestry of St. Patrick's Parish, on behalf of the St. Patrick's Episcopal Church and Day School ("**School**"), collectively ("**FOSP/St. Patrick's**" or "**Applicant**"). The FOSP/St. Patrick's filed an application with the Board of Zoning Adjustment on September 9, 2005, for a special exception under 11 DCMR § 3104.1 to construct a middle and high school campus for 440 students and 100 faculty/staff, under Section 206, and a theoretical lot-subdivision for 19 single family detached houses under

Section 2516 in the R-1-B Zone District on the Property at 1801 Foxhall Road, N.W. (Lots 825, 826, and 827 Square 1346). The Property abuts National Park Service property on both the eastern boundary (Glover Archbold Park) and northern boundary (Whitehaven Park).

Following a public hearing, the Board voted _____ on July 11, 2006 to grant the application subject to conditions.

PRELIMINARY MATTERS

Application. The application requests a special exception under 11 DCMR § 3104.1 to construct a middle and high school campus for 440 students and 100 faculty/staff (“**School Campus**”), under Section 206, on Lot 827 and Lot 826, and a theoretical lot-subdivision for 19 single family detached houses (“**Residential Development**”) under Section 2516, on Lot 825, for Property at 1801 Foxhall Road, N.W. (Lots 825, 826, and 827 Square 1346). The zoning relief requested in this application was self-certified pursuant to 11 DCMR § 3113.2.

Applicant. The Application was filed jointly by the FOSP and the School. The FOSP, a not-for-profit limited liability corporation, contributed monies and secured debt-capital in order to purchase the Property in 2004 from the Casey Mansion Foundation. FOSP has donated Lot 827 to the School for construction of a middle school and high school. An additional gift to the School of Lot 826 is pending, awaiting the formal approval of the Vestry of St. Patrick’s Parish and the Diocese.

The School is a co-educational Episcopal day school that was founded in 1956. In 1977, the School moved to its present location at 4700 Whitehaven Parkway, N.W., a campus that is now home to students in Nursery School through Grade 6. Pursuant to BZA Order 16852, the School opened the Grades 7 and 8 program, whose students now attend classes on the MacArthur Campus at 4925 MacArthur Boulevard, N.W.

Notice of Application and Notice of Public Hearing. By memoranda dated September 12, 2005, the Office of Zoning advised the D.C. Office of Planning, the Zoning Administrator, the Department of Transportation, the Councilmember for Ward 3, and the Advisory Neighborhood Commission (“ANC”) 3D, and the Single Member District Commissioner, ANC 3D09 of the application.

The Board scheduled the public hearing on the application for February 28, 2006. Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed the applicant, the owners of all property within 200 feet of the subject property, and ANC 3D notice of the February 28, 2006 hearing. Notice was also published in the D.C. Register. The School’s affidavits of posting and maintenance indicate that three zoning posters were posted beginning on February 8, 2005, in plain view of the public. Due to time constraints, the Board could only complete the preliminary/procedural matters during the February 28, 2006 hearing. The Board continued the hearing to June 13, 2006.

Requests for Party Status. ANC 3D was automatically a party in this proceeding. The Board granted party status to: (i) the Colony Hill Neighborhood Association (“CHNA”), which represented the residents of the 41-home adjacent neighborhood located directly south of the Property; (ii) John Forrer, an individual property owner who lives at 1714

Hoban Road NW, directly south of the proposed residential development; and (iii) Camille Comeau and Jay Hebert, individual property owners who live at 1717 Foxhall Road, N.W. Subsequent to the February 28, 2006 hearing, all three parties entered into agreements with the Applicant. Therefore, at the commencement of the June 13, 2006 session, all three parties withdrew as Parties in Opposition and requested to be recognized as Parties in Support of the Application.

Applicant's Case. The Applicant requested a special exception pursuant to Section 3104 to construct a middle and high school campus for 440 students and 100 faculty/staff, under Section 206, and a theoretical lot-subdivision for 19 homes under Section 2516. The Applicant presented testimony and evidence from John Delaney, managing member of the FOSP and former chairman of the School's Board of Trustees; Peter Barrett, Head-of-School; Alan Ward, a principal of Sasaki Associates, the land planners for the Project recognized by the Board as an expert in architecture and land planning; Anthony Barnes, a principal at Barnes Vanze Architects, recognized by the Board as an expert in architecture; Martin Wells of Wells & Associates, recognized by the Board as an expert in transportation and traffic engineering; and Terry Armstrong, the Chief Financial Officer of the St. Patrick's Episcopal Church and the Day School.

(a) Amended Application: Before the presentation of the Applicant's case, the Applicant's counsel, Mr. Phil Feola, indicated that FOSP/St. Patrick's had made several changes to its application in response to ANC, neighborhood and government agency concerns and requested leave of the Board to accept these amendments. These changes include (a) a decrease in the number of lots for the theoretical lot subdivision

from 19 to 18, removing a lot in the northeast section of the Property abutting the Glover-Archbold Park to accommodate concerns of the National Park Service (“NPS”); (b) relocation of all the retaining walls 18-inches into the Property, away from its boundaries with the parkland; (c) redesign of the Foxhall Road northbound right-of-way; and (d) as a part of the agreements with the parties and other concerned citizens, a revised Operations Plan for the St. Patrick’s Middle and High School (“**St. Patrick’s Operations Plan**”) marked as Exhibit 86 of the record; and (e) revised architectural restrictions for the proposed theoretical lot houses and the matter-of-right houses on Hoban Road (“**Architectural Agreements**”) marked as Exhibit 87 of the record.

(b) John Delaney: Mr. Delaney testified about the history of the Property and the background of FOSP. Mr. Delaney also detailed FOSP/St. Patrick’s community and agency outreach efforts, the Applicant’s goals for the project, and the attributes of the site design.

(c) Peter Barrett: Mr. Barrett testified that the St. Patrick’s Episcopal Church has been part of the Foxhall-Palisades community for more than 90 years and that the School will celebrate its 50th anniversary in 2006. Mr. Barrett also stated that currently no co-educational Episcopal secondary schools exist in Washington D.C. He further testified that over the last five years, St. Patrick’s has been studying the possibility of expanding its program to include a full Grades 7 through 12 curriculum. Mr. Barrett testified that FOSP/St. Patrick’s was requesting a school size of 440 students, with 120 students in grades 7 and 8 and 320 students in grades 9 through 12. In his testimony, Mr. Barrett explained that a school of this size is a small school, and that the School needs an

enrollment of this size both to support the depth and breadth of its educational offerings and to permit all of the School's current elementary students to remain enrolled at the School while allowing for some natural expansion at grades 7 and 9 as is the practice at many schools.

(d) Alan Ward: Mr. Ward described the Property and the surrounding neighborhoods that he reviewed when designing the site plan for the Property. He explained that the Property includes large topographical changes, including two separate swale drainage channels, one located in the north ("**Northern Dell**"), and the other located in the south ("**Southern Swale**"). Mr. Ward then highlighted some of the environmentally important sections of the Property, including the Northern Dell. Mr. Ward further testified that the site plan was designed to protect and enhance these portions of the Property.

(e) Anthony Barnes: Mr. Barnes testified that the amended Application resulted in: (1) a reduction in the number of lots (by one) abutting the parkland in the northeast corner of the Property; (2) relocation of the retaining walls 18 inches into the Property away from the parkland; (3) removal of a staircase to the Glover Archibald Park; (4) an adjustment to the stormwater management system in order to share the overflow from the system under the School's athletic field for the large storm events; and (5) with the approval of the District Department of Transportation, redesign of the Foxhall Road northbound right-of-way to permit two lanes of unimpeded northbound traffic passage at all times and the addition of a right turn lane northbound at the School entrance.

Mr. Barnes indicated that the School site (Lot 827) is 7.72 acres, the Northern Dell open space (Lot 826) is 1.53 acres, and the Residential Development (Lot 825) is 8.05 acres. Mr. Barnes described the School Campus as two quadrangles (one for the high school and one for the middle school) tucked into the slope at the northwest corner of the parcel, in close proximity to the existing St. Patrick's School on Whitehaven Parkway with a series of separate buildings; a high school; a middle school; an auditorium; a gymnasium; an administration building and an athletic field. He demonstrated that vehicles will access the School by a 1,175 foot two-lane loop road. Mr. Barnes also explained that the School will provide an underground parking garage, which is designed to accommodate 170 cars. Mr. Barnes further testified that the School complies with Section 206 of the Zoning Regulations because it will not cause an objectionable impact due to noise, traffic, parking, or number of students.

Mr. Barnes also described the Residential Development, which will be comprised of nine matter-of-right houses on Hoban Road and 18 theoretical lot subdivision home sites, as an open, garden neighborhood with sidewalks on at least one side of the street and consistent front yard setbacks and streetscape. Mr. Barnes testified that the Applicant has voluntarily adopted a 25 foot setback for the houses on Hoban Road (front porticos excepted). Mr. Barnes explained that the Residential Development will comply with all the Zoning Requirements of Section 2516, and that the lots all have a 50 foot minimum width and range in size from 7,800 to 20,780 square feet, well in excess of the minimum lot size (5,000 square feet) in the R-1-B Zone District. Mr. Barnes explained the Architectural Agreements that the Applicant has voluntarily agreed to adopt to ensure this new development's compatibility with the existing Colony Hill neighborhood. He

testified that the project seeks to strike a balance between the needs of the development and the preservation of the site's most valuable natural resources. Specifically, Mr. Barnes pointed out that the plan preserves the Northern Dell as open space, has three separate pocket parks and preserves valuable viewsheds. In addition, Mr. Barnes testified that the Applicant intends to save 50 percent of the healthy special tree candidates. Finally, Mr. Barnes explained the project's stormwater management system, stating that the four main storage facilities of the stormwater management system will exceed the District of Columbia standards by installing a quantity control for the 2-year and 15-year storm events and 24-hour detention of the 1-year storm event. Mr. Barnes also highlighted that the stormwater management facilities contain sand, cartridge or similar filters to filter out suspended solids.

(f) Martin Wells: Mr. Wells submitted a detailed written analysis concerning the project's traffic impact and testified that the Applicant is proposing to locate the School on a four-lane section of Foxhall Road, N.W. He described the Applicant's plans to improve Foxhall Road by: (1) adding a demand-activated traffic signal at the School's entrance, 700 feet south of Whitehaven Parkway and 1100 feet north of Reservoir Road; (2) retaining the current two lanes southbound and adding a dedicated southbound left-turn lane; (3) retaining the two lanes currently traveling northbound and adding a right-turn lane at the School's entrance; and (4) continuing the two-through lanes northbound to the intersection of Foxhall Road and Whitehaven Parkway. Mr. Wells explained the School's circulation plan, in which all School drop-off and pick-ups will take place on the site. Mr. Wells explained that vehicles will enter the campus through the loop road and students will be dropped off directly in front of either the middle school or high

school. Mr. Wells stated that all of the School's parking would be accommodated on the School's campus, and that with the 170 spaces in the garage and the 47 spots on the loop road, the School will be able to accommodate 217 parked cars, almost twice the 112 spaces required by the Zoning Regulations. Mr. Wells explained that the Residential Development would be accessed by an extension of 45th Street, which would extend from Hoban Road into the Residential Development's internal loop road. Mr. Wells detailed the St. Patrick's six-point Travel Management Plan ("TMP"), which includes a (1) Carpool Initiative, (2) Shuttle Bus Service Plan, (3) Parking Solutions Plan, (4) Student Driving Initiative and Controls; (5) Walk/ Bicycle Initiative, and (6) Staggered Arrival and Dismissal Time Plan. Mr. Wells concluded that the combined traffic from the School and the Residential Development will have a minimal impact on traffic on Foxhall Road because it would only increase peak hour traffic on Foxhall Road traveling northbound as little as five, but not more than 14 percent and that it would only increase peak hour traffic traveling southbound by between one and four percent over existing conditions.

(g) Terry Armstrong: Mr. Armstrong testified about the St. Patrick's Operations Plan, which was developed and finalized in concert with the Applicant's outreach efforts. Mr. Armstrong testified that in the two years since the project was envisioned, the Applicant has had over 30 meetings with different neighborhood groups including the ANC 3D, Foxhall Community Citizens Association ("FCCA"), Colony Hill Neighborhood Association ("CHNA"), and the Friends of Whitehaven Park; has conducted over a dozen tours of the Property for neighbors and their professional representatives; and created a website, www.1801Foxhall.com, which included all

documents, plans and studies that had been filed with the BZA. Mr. Armstrong discussed the highlights of the St. Patrick's Operations Plan, which was created jointly with the community: (1) a cap on the number of in-bound morning peak hour trips to the School at 146 trips; (2) all parking on site; (3) limits on the use of the athletic field, including no lights for nighttime athletic use; (4) a limitation on the number of events (not related to School operations) with more than 50 participants; (5) a closed campus; and (6) no summer camp program.

The Applicant indicated an intent to begin construction of the Residential Development as soon as possible, but stated that the full build-out of the School would likely take longer. Consequently, it asked the BZA to allow the School campus to be built-out in phases.

Government Reports. By a report dated February 21, 2006 and in testimony at the public hearing, OP recommended approval of the application, subject to a series of conditions derived from community concerns, the Applicant's proposed mitigation measures, and recommendations of the District Department of Transportation ("DDOT"). OP observed that the Property has many environmentally sensitive areas and that the Applicant has worked to either incorporate them into the development or has proposed specific measures to be implemented in order to minimize impacts to these areas.

OP concluded that the proposed School meets the requirements of Section 206 and 3104, in that the number of students, 440 students and 100 faculty/staff, would not be objectionable; that noise from the school was not likely to become objectionable to neighboring properties because the buildings will be recessed into the topography, and

the School has agreed to limit the nighttime use of the field; the School's Travel Management Plan ("TMP") would successfully limit its traffic impact on Foxhall Road and the surrounding neighborhood roads; and that with 217 on-site parking spaces, 100 more than is required by the Zoning Regulations will accommodate students, teachers, and visitors to the site.

OP also found that the Residential Development satisfied the requirements of Section 2516 and 3104. In particular, OP found that the Residential Development will be in harmony with the general purpose and intent of the Zoning Regulation and map and will only have a "minimal impact on neighboring properties"; that the Residential Development will not likely have an adverse effect on the present character and future development of the Colony Hill neighborhood because the Applicant has proffered a set of Architectural Guidelines that are to be include in the HOA Guidelines; and planting additional trees and landscaping that will help to create a buffer around the houses in the new Residential Development. OP also addressed the specific requirements of Section 2516 and found them to be satisfied.

In conclusion, OP found that the Applicant has demonstrated that it meets the requirements of Section 206 and 2516 and therefore OP recommended approval of the requested special exceptions with the following conditions:

The School

1. The number of students in the middle and high school shall not exceed 440 (grades 7-8, 102 students and grades 9-12, 320 students). The total number of staff and faculty shall be limited 100 full time equivalent employees.

2. All students, employees, and visitors are required to park on campus.
3. Parking spaces at the Whitehaven campus, if necessary, shall be used for event parking.
4. The school shall establish a parking sticker program for students who drive to school.
5. The use of the field will terminate at 6:00 P.M.
6. Athletic events will not be held on Sundays unless required by the athletic league for a particular sport, or unless on an emergency basis.
7. Outdoor evening events beginning after 7:00 P.M. (non-athletic) will be limited to four (4) per year.
8. The use of the facilities by outside parties will be limited to those related to St. Patrick's Episcopal Church.
9. The use of sound systems or other amplifications on the fields, except for the announcer calling games, is prohibited.
10. Deliveries to the school shall be scheduled outside of peak traffic hours.
11. All six elements of the Travel Management Plan shall be implemented.

Theoretical Lot Subdivision – Hoban Road (matter-of-right) Lots

1. Vehicular access to garages shall be from the interior of the site and not Hoban Road.

2. The front elevation of the houses will be sited a minimum of 25 feet from the front lot line, except that porches, porticos and stoops may extend into the Voluntary Setback up to a minimum of six feet.
3. A minimum of thirty (30) percent of the front elevations shall be no greater than thirty feet from the front lot line. Exceptions to this requirement may be made by the Home Owners Association Architectural Review Committee in order to save existing trees or for the curvature of Hoban Road. For purposes hereof, the front elevation shall not include any one story building elements.
4. Front doors, defined for these purposes as the main entrance doors, shall face Hoban Road, the extension of 45th Street, or at an angle presenting itself to both Hoban Road and 45th Street.
5. Exterior walls shall consist primarily of brick or stone, and may also include precast, concrete, stone, or wood window features such as keystones, sills an/or surrounds. At least one, but not more than three, will be painted brick with the initial construction. Gables, dormers, and side and rear elevations may also include wood siding, cementatous siding or panelized wood.
6. All major roof ridges will have pitches of 6:12 minimum. This minimum will not apply to roofs and porches, porticos, bay window, dormers, gables or other similar structures. Maximum floor to ceiling heights are ten feet on the first floor, nine foot on the second floor and 8 feet for any attic space (all heights are approximately 3 inches.) Floor to ceiling heights are measured to the primary

ceiling; interior volume or architectural spaces (such as foyers and tray ceilings) are excluded from this requirement.

7. Primary roof materials will be natural or artificial slate. Metal or composition roofs are permitted on flat roofs and on minimal areas, such as porches, bay windows, crickets, dormers, ridge vents, etc.
8. A maximum of thirty (30) percent of any façade facing Hoban Road will be fenestrated.
9. Individual windows on the front elevation shall have vertical and not horizontal proportions and be operable double hung, provided however, (a) any window component of a bay window may have horizontal proportions and may have fixed windows and (b) decorative windows such as Palladian windows, transoms, octagons, half or full rounds, are also permitted.
10. Individual window openings in the front elevation may not exceed four feet wide by ten feet tall unless they are a part of a bay window or the individual windows or other glazing are ganged together so that there is a minimum width of 3 inches between the glazing and adjacent windows.
11. Windows, except bay windows, Palladian windows, transoms, octagons, half or full rounds, or other decorative windows in the front elevation, shall be divided into openings no larger than 24 inches in height or width by muntins.
12. Plans approved for each house will be the unit built with some flexibility for minor changes when more detailed plans are finalized.

13. Monitoring of tree protection during construction by a certified arborist.

OP testified at the public hearing that the Applicant's School Operations Plan (Exhibit No. 86), the School's TMP (Exhibit No. 35) and the Architectural Agreements (Exhibit No. 87) effectively incorporate, and in most cases are more stringent than, OP's recommended conditions, thus accomplish the goals of OP's proposed conditions.

The Department of Transportation by written reports and testimony at the hearing determined that the application would not have an adverse traffic or parking impact provided certain conditions were met by the Applicant. DDOT found the Applicant's traffic analysis to be accurate and that it agrees that the School campus circulation is adequate. It recommends that the Applicant construct a 6-foot sidewalk adjacent to the eastern side of Foxhall Road. DDOT supported the Applicant's travel management plan and requested that the School implement a carpooling plan and van shuttle service to reduce vehicle trips to the school. DDOT, by the reports and in testimony, approved the Applicant's proposed changes to Foxhall Road ("**Revised Foxhall Road Plan**"), marked as Exhibit No. 84 of the record), that is, to install a dedicated right-turn lane at the School's entrance and maintaining two northbound through lanes on Foxhall Road to Whitehaven Parkway. With regard to the Residential Development, DDOT found that the traffic impact of the Residential Development would not be objectionable.

The Department of Health's Environmental Health Administration, by a memorandum dated February 27, 2006, stated that the Water Quality Division had decided to take jurisdiction over an isolated wetland in the southern swale of the Property and indicated that the Applicant will be required to submit an application for mitigation

of this area. Two representatives of the DOH testified at the hearing that: (1) the Applicant had submitted the requested application for mitigation pursuant to its February 27th memorandum and DOH will make its decision on this application after reviewing it and following a review and recommendation by the United States Army Corps of Engineers (“**ACOE**”); and (2) that the Applicant’s stormwater management system meets the District of Columbia standards and that the Department of Health has no concerns about the system.

ANC 3D: The ANC voted, at a regularly scheduled meeting with a quorum present, by a vote of 6-1-0, on February 16, 2006 to recommend approval for the special exception for the School, subject to certain conditions and to recommend approval for the special exception for the Residential Development, subject to certain conditions by a vote of 7-0-0. In addition, during a special meeting on May 28, 2006, the ANC voted to request that certain additional conditions (“**Additional Conditions**”) be included in any BZA Order. Following the May 28, 2006 ANC vote, the School agreed to include most of the Additional Conditions in the St. Patrick’s Operations Plan, which it is marked in the record as Exhibit No. 86.

ANC 3D’s February 16, 2002 Conditions, Residential Development:

- (1) There shall be a single point of ingress to and egress from the subdivision located at the intersection of Hoban Road and 45th Street, N.W.;
- (2) Two-way traffic shall be permitted to enter and exit Hoban Road from its intersection with Foxhall Road to 45th Street;

(3) A Homeowners Association, Architectural Guidelines (provided Colony Hill agrees) and Covenants, Conditions and Restrictions shall be implemented as presented by the Application in its September 8, 2005 and February 9, 2006 submission (Exhibit C), and will be filed with the land records prior to the sale of any individual lot;

(4) The Applicant shall establish a nondisturbance buffer area in coordination with the National Park Service for any lots that abut federal park property. The nondisturbance buffer areas shall be protected by a covenant recorded in the land records of the District of Columbia;

(5) The Applicant's arborist shall, in consultation with the National Park Service, develop an "approved species" plant list. The nondisturbance buffer area may only be planted with trees and shrubs on the "approved species" list;

(6) The Applicant agrees to treat weed, insect and disease infestation species within the nondisturbance buffer area by using specified environmentally "friendly" products;

(7) The Applicant shall, in consultation with the National Park Service and the District's Environmental Health Administration, implement best management practices and take measures to control soil erosion to protect the natural drainage channels, Waters of the United States and the adjacent parklands, and modify the four stormwater discharges to increase biofiltration and groundwater recharge;

(8) The Applicant shall conduct quarterly construction meetings with immediate neighbors, interested members of the community and the ANC throughout the construction phase. A 24-hour hotline shall be installed;

(9) The Applicant shall establish a construction entrance to the property at the original entrance to 1801 Foxhall Road; and, implement a DDOT approved Transportation Management Plan for the construction site that shall include the Safety Standards for Construction Vehicles, "The Cooper Code."

ANC's February 16, 2002 Conditions, School:

NOISE

- (1) The use of amplified sound shall be strictly prohibited on school grounds;
- (2) The school will not rent or permit use of the athletic field by outside groups (including church-related groups) for organized sporting or other events.

TRAFFIC

- (1) Ingress to and egress from the school shall be located on Foxhall Road at a location approximately opposite the residence of the German Ambassador;
- (2) School traffic shall be controlled by an on-demand traffic signal and all expenses for design and installation shall be born by the school;
- (3) A DDOT approved right turn bay/deceleration lane shall be provided on Foxhall Road for northbound traffic entering the school driveway;

(4) A DDOT approved stacking lane shall be provided for southbound traffic turning left into the school driveway;

(5) A DDOT approved stacking lane shall be provided for northbound cars turning left at the intersection of Foxhall Road and Whitehaven Parkway;

(6) Appropriate signage shall be installed on Foxhall Road to permit clear driver channelization decisions, and additional traffic management conditions as may be established subject to DDOT review and approval of traffic management issues;

(7) Conditional approval of the conceptual St. Patrick's Traffic Management Plan (Exhibit I) is granted provided that prior to the opening of school a fully developed plan with an implementation strategy shall be presented to the ANC and DDOT, and shall include carpooling goals for achieving Average Vehicle Occupancy rates, shuttle bus use by students and faculty/staff including pick up and drop off locations, appropriate coordination with other schools in the area, staggered arrival and dismissal times, and a formalized school policy on student drivers;

(8) Prior to the opening of each school year, (a) the Traffic Management Plan shall be made part of the enrollment contract between the school and student families and compliance will be made a requirement for continued enrollment; and (b) St. Patrick's shall report to the ANC on how the Transportation Management Plan is being implemented.

NUMBER OF STUDENTS

(1) Initial enrollment shall be for students in the seventh, eighth and ninth grades. At the end of the second full year of school operation, a transportation report shall be submitted to DDOT and the ANC indicating the success of the carpool plan and shuttle bus plan;

(2) A transportation report shall be required for each subsequent year until the school reaches full capacity and any requests for an increase in students beyond the initial enrollment shall be based on the successful implementation of the school's transportation plan;

(3) The number of students shall be capped at 440 students. There shall be a maximum of 100 faculty and staff.

AMPLE PARKING

(1) Ample parking, but not less than that required under Chapter 21 of the Zoning Regulations shall be provided by the school;

(2) Parking by school staff and students on surrounding neighborhood streets shall be strictly prohibited;

(3) Visitors to the school, including visiting teams and parents, shall be required to park on campus.

ENVIRONMENTAL PROTECTION

(1) The “Northern Dell” (Exhibit A, Parcel B) shall be preserved as open land and for wildlife by the school in perpetuity, in the form of a binding covenant and easement pursuant to Title 42 of the DC Code, as a part of the real property recordation before the Recorder of Deeds;

(2) Whitehaven Parkland shall be treated as an environmental asset and educational opportunity for St. Patrick’s School. The School shall work closely with the National Park Service to ensure there is no encroachment on the park during or post construction of the new campus;

(3) The School shall work with the Environmental Health Administration to develop appropriate stormwater management practices to minimize adverse downstream environmental effects.

ANC3D’s May 28, 2006 Conditions, School Operations:

(1) There shall be no approval of summer academic programs or a camp at this time.

(2) There shall be established a three-tiered events classification based on the number of attendees at each event and the number of events in each category permitted each academic year. The School and church shall be limited to 6 “major” non-athletic events per year; 12 intermediate events per year of which no more than five such events may be held outdoors, but none of the five events may be held on the athletic field; and, there, shall be an unlimited number of events having less than 50 attendees. All outdoor or summer events [those occurring outside the normal school academic year] must

conclude by 6:00 PM. Events at other times of the year must conclude by 10:00 PM Sunday through Thursday or 11:00 PM on Friday or Saturday.

- (3) No open campus at this time.
- (4) Cap on daily AM vehicle trips.
- (5) Reporting Requirements and Enforcement Mechanisms.

In addition, ANC 3D Chairperson Alma Gates and Ann Haas, SMD 3D-09, testified at the June 13, 2006 hearing in support of the application indicating that while most of the conditions recommended by the ANC were reflected in the Applicant's agreements with the Parties, the following ANC conditions had not been specifically adopted: (1) a DDOT-approved traffic management plan for construction; (2) a thorough review of the final St. Patrick's Traffic Management Plan by DDOT and ANC 3D prior to the opening of the 1801 Foxhall campus; and (3) the requirement of annual reports of the School's success in meeting the TMP goals to be furnished to DDOT and the ANC 3D. In addition, during her testimony, Chairperson Gates urged the BZA to adopt a condition in the final Order requiring the Applicant to record a binding covenant and easement to ensure that the Northern Dell would be preserved as open land in perpetuity.

Commissioner Ann Haas testified regarding her concerns about the number of schools located near the site; levels of service at the intersection of Foxhall Road and Reservoir Road; environmental protection for the Northern Dell, the Whitehaven Park and Glover Archbold Park; the Project's proposed stormwater management system; and

expressing her hope that St. Patrick's will demonstrate a commitment to being a good neighbor and forge a partnership with the existing neighbors to meet this goal.

National Park Service: David Murphy of NPS testified during the June 13, 2006 hearing that the NPS has no objection to the Applicant's proposed design, but that the NPS: (1) wants to make certain that the parkland downstream from the Property is protected; (2) is interested in the outcome of the wetlands mitigation application; and (3) would like the Northern Dell to be preserved as open space. Mr. Murphy indicated that NPS was pleased with the Applicant's decisions to eliminate a lot in the northeast corner of the Property, move all retaining walls 18-inches away from the parks, set back all the houses 30 feet from parkland, set back the School buildings 50-feet from the parkland, and eliminate stairways from the Residential Development into the parkland.

Parties and Persons in Support of Application. At the hearing, the individuals and organizations granted party status (in opposition) by the Board, (CHNA, John Forrer, and Camille Comeau and Jay Hebert) testified that they had executed agreements with the Applicant and were now Parties in Support of the Application. CHNA and John Forrer testified that their transition to becoming a party in support was based on the Applicant's and the BZA's adoption of the St. Patrick's Operations Plan and the Architectural Agreements, which are marked as Exhibits No. 86 and No. 87 of the record and urged their adoption into the BZA Order. Camille Comeau and Jay Hebert also testified that Applicant's redesign of, and DDOT's support for, the Revised Foxhall Road Plan (Exhibit No. 84) was critical to them. Each of the parties further testified to the Applicant's good-will, patience, and honesty during the negotiation process. In addition,

the Foxhall Community Citizens' Association ("FCCA") also testified as an association in support and stated that it too had executed an agreement with the Applicant. The FCCA also urged the BZA to adopt the St. Patrick's Operations Plan (Exhibit No. 86) into the Final Order. Other neighbors testified as persons in support, due to the School's strong reputation of service to the community; the quality education available at the School; and the important contribution past and current St. Patrick's students have made to the community. Ms. Sydney Ferguson, testified in support of the application, but urged the Board to include all aspects of the Agreements reached with the CHNA into the decision. She indicated her disfavor with DDOT's position to make Hoban Road two ways between Foxhall Road and 45th Street. In addition to the oral testimony, the BZA received many letters of support for the application.

Parties and Persons in Opposition to the Application. There were no parties or persons in opposition to the application that appeared at the public hearing although the record contains letters of opposition to the application, the concerns cited in those letters are effectively addressed by the Applicants' submissions at the June 13, 2006 hearing and the conditions of this Order.

FINDINGS OF FACT

The Subject Property and the Surrounding Area

1. The Property consists of 17.3 acres of undeveloped land and is located in the R-1-B Zone District at 1801 Foxhall Road (Lots 825, 826, 827, Square 1346). The Property had previously been used as a farm and for a single family dwelling known as the Brady Estate.

2. The Property is located Ward 3 and is bordered by Foxhall Road on the west; Whitehaven Park on the north; Glover-Archbold National Park on the east; and Hoban Road and the Colony Hill neighborhood of 41 single family houses on the south. The German Embassy complex is located across Foxhall Road from the Property.

3. The Property is highly vegetated and is improved only with parts of the foundation of the Brady Mansion, a gate and stone driveway, a perimeter fence and some retaining walls.

4. The topography of the Property consists of moderate, to sharply, rolling terrain with slopes ranging up to 40 percent. In addition, it contains two natural drainage areas, the well-preserved Northern Dell and the heavily manipulated Southern Swale. Generally, the Property slopes from a high along Foxhall Road, with an elevation of 240 feet, above sea level, towards Glover-Archbold Park, with an elevation of 150 feet and from the Whitehaven Park down slope towards Hoban Road. Although the natural topography of the Property has been previously modified by prior farm use and the Brady Estate, many of the natural contours and slopes still exist.

5. To measure the project's environmental impact, the Applicant commissioned an Environment Assessment, included as Exhibit F of the Applicant's Pre-Hearing Statement, marked as Exhibit No. 35 in the Record.

6. The Applicant also commissioned a Phase 1 Archeological Study, included as Exhibit G in the Applicant's Pre-hearing statement, marked as Exhibit No. 35 in the record. The Phase 1 Archeological Study concluded that the Site has been extensively farmed and/or landscaped during the 19th and 20th centuries. Thus, the entire Site, but

most markedly the Southern Swale, appears to have been disturbed by farming or landscaping.

7. The Property has been undeveloped for many years and thus has become wooded with both “Special” (as defined by District of Columbia law) and non-Special Trees and vegetation.

8. To assess and limit the impact on the Special Tree coverage, the Applicant has adopted a tree preservation plan with the goal of preserving 50 percent of the healthy special trees and to plant many other new trees on the site.

9. The Applicant proposes to keep the entirety of the Northern Dell (Lot 826) as an undeveloped open space.

10. In regards to the Northern Dell, ANC Commissioner Gates testified that the ANC conditioned its support for the School , in part, that the Northern Dell would be preserved as open land for perpetuity. The Board finds that this Order will restrict the use of this area as open space appropriately and that it encourages the Applicant to engage in discussions with the ANC (and others) to extend protection of this open space beyond the Board’s decision.

11. The Property is located at the upper reaches of a large surface drainage area that feeds into an off-site stream that flows northeast into Glover-Archbold Park and drains into Foundry Branch, a minor tributary to the Potomac River.

12. To manage the stormwater and runoff during rain and snow events, the Applicant will incorporate 24 hour extended detention of the one year storm into the proposed detention vaults. This method is “state-of-the-art” in protecting against downstream erosion and has recently been adopted into the stormwater standards of both Maryland and Virginia. The stormwater management system adopted by the Applicant will provide detention for the 2 and 15-year storms and stormwater quality management as required by the District of Columbia law. The stormwater management system will limit discharge rates to 2 cubic feet per second (“CFS”) at each of the four proposed storm water facilities for the one and two year storm events, but not for larger storm events. Existing, pre-development, storm water flows for larger storm events also exceed 2 CFS.

13. On July 8, 2005, the Army Corps of Engineers confirmed that the Property contained no jurisdictional wetlands, although the ACOE did take jurisdiction over an ephemeral stream in the southern portion of the Property, which it found to be a “Waters of the United States”. Specifically, the Army Corps of Engineers’ Jurisdictional Determination Number 05-02418-11 dated July 8, 2005 stated that George Harrison of the ACOE performed a field inspection with representatives of the District Department of Health Water Quality Division on June 3, 2005 and concluded that, other than the ephemeral stream, “these isolated areas are not subject to Corps’ jurisdiction pursuant to Section 404 of the Clean Water Act and Department of the Army authorization is not required for any work in these areas” (see Exhibit No. 21, Tab D).

14. Contrary to its initial determination, DOH has decided to take jurisdiction over an isolated wetland located in the highly manipulated southern swale and requested the

Applicant to file a Wetlands Application to the D.C. DOH and ACOE for mitigation of the impact to this isolated wetland, which the Applicant filed on May 10, 2006.

The Proposed Private School Use

15. St. Patrick's Episcopal Day School, a co-educational Episcopal Day School, was founded in 1956. Currently, St. Patrick's educates students in grades nursery through 8 and is located at 4700 Whitehaven Parkway and 4925 MacArthur Boulevard, NW.

16. The application proposes constructing a new middle and high school for 440 students in grades 7-12 and 100 faculty and staff on the Property.

17. The proposed School campus will be constructed on the northern portion of the Property (Lot 827) closest to the existing elementary school on Whitehaven Parkway and the School seeks permission to construct it in phases.

18. This application proposes the construction of two separate campus quadrangles, one for the high school and one for the middle school. The proposed School buildings are designed to be tucked into the Property's topography to limit the School's visual impact. In addition to the academic quadrangles, the Applicant is proposing to construct a separate administrative building, gymnasium, an athletic field and a school theater/auditorium. The School will also have a 170-car underground parking structure. The separate buildings are accessory to the use of the Property as a private school.

19. The proposed School campus will be integrated within the Property and will have significant green set asides including a campus green area. The School buildings will be

set back 50 feet from the Whitehaven Park and will include stepped, planted retaining wall/bank areas.

20. The Board credits Mr. Barnes' testimony and the report and testimony of the OP that the School Campus is designed to meet and/or exceed the zoning requirements for the R-1-B Zone District. Specifically, the buildings' heights will fully conform to the Zoning Regulations and the buildings will have side and rear yard setbacks substantially in excess of those required. The total lot occupancy of the School site will be 19.3 %, and a minimum of 170 parking spaces are being provided, in excess of 112 parking spaces are required by the Chapter 21 of the Regulations.

21. The Board credits the School's Traffic Impact Statement, testimony of its expert traffic consultant, and the report and testimony of the DDOT that, with the proposed improvements to the Foxhall Road right-of-way including a full-movement, signalized intersection on Foxhall Road at the School's entrance, a southbound left-turn lane, and a northbound right-turn lane for those vehicles approaching the School entrance from the south, and the TMP that the School will not create adverse impact of traffic in the area.

22. The School Campus circulation plan provides for a 1,175-foot long, two-lane internal loop road, which will accommodate 47 on-site, drop-off/pick-up queuing spaces in one lane along the internal loop and 94 such queuing spaces in two lanes. The projected demand for queuing spaces is only 24 cars, therefore, the plans more than adequately address the need for on-site vehicular queuing.

A. Noise Impacts

23. The Board finds that noise emanating from the School will not adversely affect neighboring property given the proposed location of the campus and the existing noise levels in the area. The Board credits the testimony of Mr. Barnes and the report and testimony of the OP that, because of the Property's relative isolation, no excessive noise is likely to spill beyond the campus boundaries. Moreover, because the School buildings and playing fields are tucked into the topography, the noise impact from the School is expected to be minimal.

24. The School has submitted the St. Patrick's Operations Plan, marked as Exhibit No. 86, which will establish policies to assure that the School's operations will minimize and not create an adverse impact on neighboring properties. The Operation Plan includes the following constraints: (a) games, practices, and other organized uses will not be scheduled to start on the athletic field after 5:30 p.m. and practices and other organized uses of the field (except for games) will conclude at the earlier of dusk or 7 p.m.; (b) games, practices, and other organized uses will not be regularly scheduled on Sundays and will not be held on Sundays unless required by the School's athletic league for make-up games or unless on an emergency basis; (c) the School will not use, or permit the use of, sound systems or any amplified sound on or near the field, although a temporary amplification system may be used for special events no more than three times per year; (d) the School will not rent or permit outside individuals or groups to use the athletic field; (e) the School will be limited to 10 "major" non-athletic events, which will conclude by either 10PM (Sunday through Thursday) or 11PM (Friday and Saturday)

except for a limited number of late evening events; (f) the School will be limited to 5 events per year that are not directly related to the business or activities of either the middle school or the high school and for which the number of attendees is expected to exceed 50, but none of these events may be held on the athletic field; (g) the School will be limited to 5 events during the summer that conclude after 7 PM and for which the number of attendees is expected to exceed 50 and any such events may be held indoors or outdoors, but will not be held on the athletic field; (h) the School will be limited to a maximum of 6 indoor (non-athletic) evening events per year that conclude after either 10PM (Sunday through Thursday) or 11PM (Friday and Saturday); and (i) the School will be limited to a maximum of 4 outdoor (non-athletic) evening events that conclude after 8 PM which will conclude by either 10PM (Sunday through Thursday) or 11PM (Friday and Saturday). Only two of these four events may conclude after either 10PM (Sunday through Thursday) or 11PM (Friday and Saturday) and these events will not be held on the athletic field.

25. ANC 3D has conditioned its approval of the School on the adoption of the following conditions addressing noise: (1) The use of amplified sound shall be strictly prohibited on school grounds; and (2) the school will not rent or permit use of the athletic field by outside groups (including church-related groups) for organized sporting or other events.” The Board finds that the ANC’s conditions are adequately addressed by the restrictions contained in the St. Patrick’s Operations Plan.

26. Based on the above findings, the Board concludes that the noise created by the School will not be objectionable or create adverse noise impact on neighboring property.

B. Traffic Impacts

27. Foxhall Road, at this location, is a four lane arterial road, which carries a high volume of commuter and local traffic.

28. The Applicant's traffic expert, Wells and Associates, LLC, performed a traffic study of the area and generated a Traffic Impact Analysis and a Traffic Management Plan ("TMP") for the School. The Traffic Impact Analysis and TMP were submitted as part of the School's application Exhibits No. 12, 21 and 29 of the record and updated as part of the Applicant's Pre-Hearing Statement, marked as Exhibit No. 35 of the record.

29. The Board credits the Traffic Impact Analysis, the reports and testimony of the DDOT, the testimony of Mr. Wells that the proposed School will not adversely effect traffic patterns in the vicinity of the site or have an adverse impact on the road network.

30. The internal circulation system contains a two lane road, operated counterclockwise, that will accept vehicles entering the site from Foxhall Road, travel a distance of 1,175 feet to pick-up and drop-off points for the School. This internal road system provides queing space for 94 cars and the Board credits the testimony and report of the Applicant's traffic expert and the DDOT that this is adequate to ensure minimal impact on neighboring streets.

31. The Board credits Mr. Wells' testimony that the School will generate 262 vehicle trips during its morning peak hour, 175 vehicle trips during its afternoon peak hour, and 189 vehicle trips during the peak PM commuter hour. Both Mr. Wells and DDOT agreed that the peak-hour increases are kept within reasonable limits by implementation of the

School's Six-Point Travel Management Plan ("TMP"), attached as Exhibit I of the Pre-Hearing Statement marked as Exhibit No. 35 of the record; and any traffic impacts will be minimized by the TMP and the new left-turn traffic signal.

32. The School has devised a detailed TMP aimed at decreasing the number of cars traveling to and from the School each day and that the TMP will be part of the enrollment contract between the family and the school. The TMP includes: a carpool initiative; shuttle bus service; parking controls; student driving controls; a walk/bike initiative; and staggered start and dismissal times. In order to further reduce the impact of the School traffic, the Board credits the testimony of Mr. Armstrong, indicating the School voluntarily agreed to "cap" in-bound, morning peak hour traffic at 146 trips.

33. The Board credits DDOT's oral testimony at the public hearing and its reports dated February 24, 2006 and June 9, 2006, in which it stated that DDOT supports the School's access and circulation plan, its TMP, and the Revised Foxhall Road Plan (Exhibit No. 84) and that implementation of these elements will ensure that the School will not create any adverse impact due to traffic.

34. ANC 3D conditioned its approval of the School on numerous conditions relating to traffic, including: (1) a DDOT approved right turn/bay deceleration lane for traffic on Foxhall Road for northbound traffic entering the school driveway; (2) a DDOT approved stacking lane for southbound traffic turning left into the school driveway; (3) a DDOT approved stacking lane for northbound cars turning left at the intersection of Foxhall Road and Whitehaven Parkway; (4) appropriate signage; (5) ANC 3D review of the fully developed TMP prior to the opening of school; (6) prior to the opening of each school

year, the TMP shall be made part of the enrollment contract between the school and student families and the School shall report to the ANC on how the TMP is being implemented. The Board finds that the Applicant through the implementation of the Operations Plan, the circulation system, TMP, the Revised Foxhall Road Plan and trip cap has adequately addressed all of the traffic-related conditions and concerns raised by the ANC.

C. Number of Students and Faculty/Staff

35. The Board finds, based on the testimony of Peter Barrett, Anthony Barnes and the OP that the proposed School buildings and campus are large enough to accommodate the needs and demands of a private school for grades 7 through 12, with a maximum of 440 students and 100 faculty and staff and that no objectionable conditions are likely to result from an enrollment of 440 students and employment of 100 faculty and staff.

36. The ANC conditioned its approval of the School on a set of conditions concerning number of students. At the June 13, 2006 hearing, Chairperson Gates testified that the Applicant had addressed all of these conditions in agreements with the neighbors, and that the ANC 3D supports the middle and high school for 440 students and 100 faculty/staff “assuming the implementation of a DDOT approved Travel Management Plan.” The Board finds that the ANC’s concerns are satisfied by the inclusion of the conditions in this Order regarding traffic and school operations.

D. Ample Parking

37. Section 2101.1 of the Zoning Regulations delineates the requirements for parking for middle and high schools. For middle schools, the requirement is two spaces for every three faculty and other employees. For high schools, the requirement is two spaces for every three faculty and other employees plus one space for each 20 classroom seats or one space for each 10 seats in the largest gym, auditorium, or area useable for public assembly, whichever is greater.

38. For the School, the Zoning Regulations require that 112 parking spaces be provided on the Property. The Board finds that the number of parking spaces shown on the plans, 170 underground spaces and 47 above-ground spaces, are more than adequate to insure that all parking is accommodated on site..

39. The ANC 3D conditioned its recommendation for approval of the Application on the following conditions related to parking: (1) ample parking, but not less than required under Chapter 21 of the Zoning Regulations shall be provided by the School; (2) parking by school staff and students on surrounding neighborhood streets shall be strictly prohibited; (3) visitors to the School, including teams and parents, shall be required to park on Campus. The Board finds that the ANC 3D's recommended conditions are met by the St. Patrick's Operations Plan and the parking plan.

40. The Board finds that the School provides more than the required number of on-site parking spaces and that its planned parking monitoring will be effective to ensure that the School will not cause objectionable impacts on neighboring properties.

E. Harmony with the Zoning Regulations and Map and the Comprehensive Plan

41. The proposed School buildings are within the height, lot occupancy, yard and bulk requirements for the R-1-B Zone District. The buildings will not exceed 40 feet in height and the lot occupancy will be 19.3%.

42. The Comprehensive Plan Generalized Land Use Map designates the site as low-density residential. Schools are considered to be part of the fabric of a residential community. As the Comprehensive Plan notes, many residential neighborhoods also include institutional uses, such as schools, which contribute to the character and enhance the livability of the communities.

43. The Board credits the report and testimony of OP, which found “the [School] proposal fulfills the intent of the Zoning Regulations.”

44. The Board finds that the proposed school is in harmony with the Zoning Regulations and Map and is not inconsistent with the Comprehensive Plan.

The Theoretical Lot Subdivision

45. The Applicant is also proposing to build a 18-house theoretical lot subdivision on the southern 8.05-acre portion of the Property (Lot 825). The Applicant proposes to construct a Residential Development composed of nine single-family lots as a matter-of-right along Hoban Road, and an additional 18 lots along an internal, private road by a §2516 special exception. The matter-of-right homes will front on Hoban Road and all houses in the theoretical lot subdivision will front on a private street.

46. Section 2516.4 of the Zoning Regulations requires that the homes in the theoretical lot subdivision meet the requirements of the Zone District in which the Property is located. The Property is located in the R-1-B Zone District, which is designed for low-density residential development, and that single-family detached dwellings on lots with a minimum area of 5,000 square feet, can be built as a matter-of-right in the R-1-B Zone District.

47. The Board finds that the size of the lots will range from 7,800 square feet to 20,780 square feet and will average 10,505 square feet and that all of the lots will have a minimum width of 50 feet. In addition, the Board finds that all lots will have less than 40 percent occupancy, and the houses will have a maximum height of 40 feet and three stories. In addition, the Board further finds that all of the lots are designed to have 25-foot rear yards, eight-foot side yards and 25-foot front yards (front porticos excepted). Therefore, the Board found that the proposed lots will satisfy the requirements of §2516.4.

48. The Board credits the testimony of OP, which concluded in its February 21, 2006 Report that “each of the theoretical lots provide the required site area and widths, as well as a building envelope within the required setback.”

49. Section 2516.6 of the Zoning Regulations require that the private roads for ingress and egress into, and out of, the development shall be at least 25-feet in width, have a turning area with a diameter of not less than 60 feet, and the area of land that forms the private roads not be included in the square footage allotment of each separate lot. The Board credits the testimony of Mr. Barnes that the Applicant has designed an interior

private road will be 28-feet wide, with two 10-foot travel lanes and one eight-foot parking lane in most places; in a few sections of the road, however, due to the topography of the site and in order to enhance tree preservation, the road narrows to 22 feet (within a 25 foot right-of-way) – two eleven foot travel lanes with no parking lane. The Board credits DDOT, which found in its February 24, 2006 Report that it “would require that 45th Street N.W. remain as a means of vehicular access to the new residential development.” Further, the Board credits the testimony of OP which found that “the modification from a cul-de-sac to loop road is preferable in this instance as the loop road is longer and conforms to the topography of the site.” Thus, the Board finds that the use of this loop road per the Applicant’s plans satisfies Section 2516.6.

50. The Board credits the OP which testified that the proposed extension of 45th Street satisfies the requirements of §2516.7 and that “the proposed loop road will not affect the future development of the area and the lots are above the area requirements and appropriate parking for each house is provided.” The Board so finds.

51. In regards to access, the ANC conditioned its support of the Residential Development on the following conditions: (1) there shall be a single point of ingress to and egress from the subdivision located at the intersection of Hoban Road and 45th Street; and (2) two-way traffic shall be permitted to enter and exit Hoban Road from its intersection with Foxhall Road to 45th Street. The Board finds that the site plan satisfies these conditions.

52. Section 2516.9 of the Zoning Regulations states that the proposed development “shall not have an adverse effect on the present character and future development of the

neighborhood.” The Board credits the testimony of Mr. Barnes and the testimony and report of the OP that the Residential Development will be an open neighborhood with sidewalks on one side of the street and will be in harmony with the surrounding neighborhoods. The Board finds that the proposed special exception is in harmony with the intent and purposes of the Zoning Regulations and the requirements of Section 2516.

53. In order to assure harmony with the surrounding neighborhoods, the Applicant has worked with the neighbors to create the Architectural Agreements, marked in the Record as Exhibit No. 87. The Board credits the testimony of Mr. Barnes, John Forrer, and the CHNA that the Applicant has voluntarily adopted the Architectural Agreements, which include the following: (1) a document containing the HOA Documents, Architectural Guidelines and Covenants, Constraints and Restrictions (“CCR”) for all the houses in the Residential Development; (2) a document detailing the specific restrictions on the matter-of-right houses on Hoban Road; and (3) a document detailing how the Hoban Road Restrictions will be enforced. The Board credits the OP that the Architectural Agreements “allow the houses to complement the existing residences across Hoban Road” and finds that implementation of the Architectural Agreements will ensure compatibility of the Residential Development with existing neighborhoods.

54. Regarding the impact to the neighbors, ANC 3D conditioned its support of the Residential Development on the implementation and recordation of the HOA Architectural Guidelines and CCRs. The Board finds that the Applicant has satisfied this condition with the Architectural Agreements, marked in the record as Exhibit No. 87.

55. The Board credits the reports and testimonies of Mr. Wells and DDOT that the new residential development will not create objectionable traffic impact on Colony Hill or other surrounding neighborhoods. The Board finds that the Residential Development does not adversely affect the neighboring properties.

56. Section 2516.10 of the Zoning Regulations requires OP to report on the overall impact of the project including the impact on the surrounding environment. The Board finds that the Applicant has implemented tree saving measures that are consistent with the R-1-B Zone District. The Board credits the testimony of OP that the applicant has tried to minimize the removal of trees and be consistent with the R-1-B Zone District.

57. Although OP encouraged the applicant to use pervious material on the driveway, the Board credits the testimony of Mr. Barnes that due to the large gradient changes and the low impermeability of the soil on the Property, the use of pervious materials on the driveways and roadways is not practical or advisable. Moreover, the Board found that the use of pervious materials is not recommended by the Environmental Protection Agency. The EPA's Report recommending against use of porous materials for such a property is marked in the record as Exhibit No. 91.

58. The application also proposes taking steps to protect the parkland surrounding the Property. Specifically, after meeting with the NPS, the Applicant decided to eliminate an interior lot on the northeast corner abutting Glover-Archbold Park. In addition, the Applicant moved all retaining walls back 18 inches from parkland. Moreover, the houses in the Residential Development are setback at least 30 feet from the parkland. Furthermore, a stair leading into the Park was removed.

59. The Board credits the testimony of Mr. David Murphy of the NPS that with the new edge condition restrictions, the houses in the Residential Neighborhood will not create an objectionable impact on the surrounding parkland.

60. ANC 3D conditioned its approval of the Residential Development on the following conditions related to the environmental impact: (1) the Applicant shall establish a nondisturbance buffer area in coordination that shall be protected by a covenant recorded in the land records; (2) the Applicant's arborist shall develop an "approved species list."; (3) the Applicant agrees to treat weed, insect, and disease infestation species within the nondisturbance buffer area by using environmentally friendly products; (4) the Applicant shall implement best management practices and take measures to control soil erosion to protect the natural drainage channels. The Board finds that the Applicant's proposal substantially satisfies all of the ANC's conditions.

61. The Board finds that the Residential Development is in harmony with the Zoning Regulations. The Board further finds that the Residential Development will not adversely impact the use of neighboring property.

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 § 5-424(g)(2)), to grant special exceptions as provided in the Zoning Regulations. The Friends of St. Patrick's Episcopal Day School, LLC and the Vestry of St. Patrick's Parish, on behalf of the St. Patrick's Episcopal Church and Day School applied , as amended, under 11 DCMR § 3104.1 for to construct a middle and high school campus for 440 students and 100

faculty/staff, under Section 206, and a theoretical lot subdivision for 18 homes under Section 2516 in the R-1-B Zone District on the Property at 1801 Foxhall Road, N.W. (Lots 825, 826, and 827 Square 1346). The notice requirements of 11 DCMR § 3113 for a public hearing on the application have been met.

The School – Section 206

In accordance with Section 206.2, 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, but not less than that required in Chapter 21 of the Zoning Regulations, shall be provided to accommodate the students, teachers and visitors likely to come to the site by automobile (11 DCMR § 206.3).

Based upon the Findings of Fact and having given great weight to the OP and ANC recommendations, the Board concludes that the proposed private school, as conditioned by the Board, can be located on Lots 826 and 827 (with Lot 826 remaining as open space) of the subject property so that it is not likely to become objectionable to adjoining nearby property. The Board has imposed numerous, stringent conditions in this order in response to the OP, ANC, DDOT, DOH and National Park Service concerns, with particular emphasis on traffic, stormwater and impacts on the neighboring parkland.

The Board also concludes that the proposed private school would provide ample parking. Under 11 DCMR §2101.1, the School is required by the Zoning Regulations to provide at least 112 parking spaces. The Board concludes the School's provision of 217 parking spaces will meet the needs of its faculty and staff, students and visitors.

The R-1-B District is a low-density residential district that allows for private schools by special exception. The Board concludes that the use of the subject property for a private school, as conditioned by the Board, is in harmony with the Zoning Regulations and Map and the use is not inconsistent with the Comprehensive Plan of the District of Columbia.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof. It is hereby ORDERED that the application for a special exception for a private school for Lots 827 and 826 in Square 1346 is GRANTED, subject to the following CONDITIONS which are applicable to Lots 827 and 826 only:

1. The School shall be constructed in accordance with the plans prepared by Macris, Hendricks and Glascock, P.A. dated June 8, 2006 and marked in the record as Exhibit 94.
2. The School shall be constructed in general accordance with the Illustrative Plans prepared by Barnes Vanze Architects, Inc. and marked in the record as Exhibits No. 93 and 96.
3. The maximum student enrollment shall be 440 students.
4. The maximum number of faculty and staff shall be 100.
5. The Northern Dell, Lot 826, shall remain as open space.
6. The School shall implement, or cause to be implemented, all the changes to the Foxhall Road right-of-way shown on the Revised Foxhall Road Plan (Exhibit No.

- 84) including the southbound left turn lane, northbound right turn lane, two northbound through lanes and traffic signal.
7. The School shall fully implement and comply with the St. Patrick's Operations Plan, marked in the record as Exhibit 86.
 8. The School shall fully implement and comply with the 1801 Foxhall Road Six-Point Travel Management Plan ("TMP"), which is Exhibit I to the Applicant's Pre-Hearing Submission, marked in the record as Exhibit No. 35.
 9. The School shall submit its final St. Patrick's Travel Management Plan to DDOT and ANC 3D prior to the opening of the 1801 Foxhall Road campus;
 10. The School shall construct a six-foot sidewalk along Foxhall Road pursuant to DDOT recommendations and approval.
 11. The School shall provide an annual report of the TMP including a report on the inbound peak hour traffic count to the BZA, DDOT and ANC 3D.
 12. The School shall construct its stormwater management system in accordance with the Conceptual Storm Drain and SWM Plan, marked as Exhibit 94. The School's stormwater detention facilities will be designed in accordance with the District's requirements for storm water management and, in addition, will provide 24 hour extended detention of the one year storm. Further, discharge rates from these facilities will not exceed 2 cubic feet per second for the one and two year storm events.

13. The School shall generally conform to the Illustrative Parkland Edge Conditions restrictions, marked in the record at Exhibit 93.
14. The School may be constructed in phases over the course of seven years.

Theoretical Lot Subdivision – Section 2516

In accordance with Section 2516, the Board can grant a special exception for a theoretical lot subdivision provided that the Applicant meets its burden of proof under Subsection 3104.1, and demonstrates that the proposed theoretical lot subdivision would meet the conditions listed in Section 2516; that it would be in harmony with the general purpose and intent of the Zoning Regulations and Maps; and that it would not adversely affect use of neighboring property. In pertinent parts, under Subsection 2516.4, “The number of principal buildings permitted by this section shall not be limited; provided that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter... and §§3202.1 and 3202.2 are met.” Under Subsection 2516.6(b) “Notwithstanding any other provisions of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five feet (25 ft.) in width, but need not be paved for its entire width.” Under Section 2516.9, “The proposed development shall comply with the substantive provisions of this title and shall not likely have an adverse effect on the present character and future development of the neighborhood.

Based upon the Findings of Fact and having given great weight to the OP and ANC recommendations, the Board concludes that the theoretical lot subdivision of 18 houses, as conditioned by this Order, can be located at the subject property so that it is not be likely to become objectionable to adjoining nearby property. The Board has

imposed numerous, stringent conditions in this order in response to the OP, ANC, DDOT, DOH and National Park Service concerns.

The R-1-B District is a low-density residential district that allows for theoretical lot subdivisions by special exception. The Board concludes that the use of the subject property for as a theoretical lot subdivision as conditioned by the Board, is in harmony with the Zoning Regulations and Map and the use is not inconsistent with the Comprehensive Plan of the District of Columbia.

For the reasons stated above, the Board concludes that the applicant has met its burden of proof. It is hereby ORDERED that the application for the special exception for a theoretical subdivision for Lot 825, Square 1346 is GRANTED, subject to the following CONDITIONS which are applicable to Lot 825 only:

1. The Residential Development shall be constructed in accordance with the plans prepared by Macris, Hendricks and Glascock, P.A. dated June 8, 2006 and marked in the record as Exhibit No. 94.
2. The design of the Residential Development shall be constructed in general accordance with the Illustrative Plans prepared by Barnes Vanze Architects, Inc. and marked in the record as Exhibit No. 96.
3. The Applicant shall fully implement and comply with the Architectural Agreements, marked in the record as Exhibit No. 87.
4. The Applicant shall construct its stormwater management system in accordance with the Conceptual Storm Drain and SWM Plan, marked as Exhibit No. 94. The

Residential Development's stormwater detention facilities will be designed in accordance with the District's requirements for stormwater management and, in addition, will provide 24 hour extended detention of the one year storm. Further, discharge rates from these facilities will not exceed 2 cubic feet per second for the one and two year storm events.

5. The Residential Development shall be constructed in accordance with the illustrative Tree Preservation Plan marked in the record in Exhibit No. 96.
6. The Residential Development shall generally conform to the Illustrative Parkland Edge Conditions restrictions marked in the record at Exhibit No. 93.

VOTE:

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

Each concurring member has approved the issuance of this Decision and Order.

ATTESTED BY: _____

JERRILY R. KRESS, FAIA

Director, Office of Zoning

FINAL DATE OF ORDER: _____

UNDER 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6 OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE AND UPON ITS FILING IN THE RECORD AND SERVICE ON THE PARTIES.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

PURSUANT TO D.C. CODE § 1-2531 (1999), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. TITLE 1, CHAPTER 25(1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

Certificate of Service

I hereby certify that on July 5, 2006, a copy of the foregoing letter and enclosures was sent via first class mail to the following:

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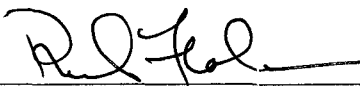
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Phil Feola