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 ("Board") 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 ("NPS") property on both the eastern boundary (Glover Archbold Park) and the northern boundary (Whitehaven Park).

The Board held a public hearing which began on February 28, 2006, and was continued to, and completed on, June 13, 2006. Following the hearing, at its decision meeting on July 11, 2006, the Board voted 4-0-1 to grant the application for the school special exception, subject to conditions, and separately voted 4-0-1 to grant the application for the Residential Development, subject to conditions.

PRELIMINARY MATTERS

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

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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 six. Pursuant to BZA Order 16852, the School opened the grades seven and eight program, whose students now attend classes on the MacArthur Campus at 4925 MacArthur Boulevard, N.W.

Application. The original application requested a special exception under 11 DCMR § 3104.1 to construct a middle and high school campus for 440 students and 100 faculty/staff ("School"), under 11 DCMR § 206, on Lot 827 and Lot 826, and a theoretical lot-subdivision for 19 single-family detached dwellings ("Residential Development") under 11 DCMR § 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.

Amended Application. Before the presentation of the Applicant's case at the June 3, 2006 hearing, the Applicant explained that it had amended its application in response to ANC, neighborhood, and government agency concerns, and the Board accepted these amendments. The amendments include changes to the design of both the School and the Residential Development, as well as one design change which affects the whole site – the relocation of all the retaining walls 18 inches into the Property, away from its boundaries with the surrounding parkland.

The major amendments to the application with regard to the School are as follows: (a) 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, and (b) 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 ("Operations Plan") marked as Exhibit 86 of the record.
The major amendments to the application with regard to the Residential Development are as follows: (a) a decrease in the number of lots for the theoretical lot subdivision from 19 to 18, thus removing a lot in the northeast section of the Property abutting the Glover-Archbold Park to accommodate concerns of the National Park Service, (b) removal of a staircase leading down into Glover-Archbold Park, and (c) 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.

Notice of Application and Notice of Public Hearing. By memoranda dated September 12, 2005, the Office of Zoning ("OZ") advised the D.C. Office of Planning ("OP"), the Zoning Administrator, the District of Columbia Department of Transportation

("DDOT"), the Councilmember for Ward 3, Advisory Neighborhood Commission ("ANC") 3D, the ANC within which the Property is situated, and the Single Member District Commissioner, ANC 3D09, of the application.

Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed the Applicant, the owners of all property within 200 feet of the 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.

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 N.W., 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 hearing 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 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, recognized by the Board as an expert in architecture and land planning, and a principal of Sasaki Associates, the land planners for the Project; Anthony Barnes, recognized by the Board as an expert in architecture, and a principal at Barnes Vanze Architects; 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. Their relevant testimony will be reflected in the Findings of Fact that follow.

The Applicant indicated the 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 over several years.

Government Reports. Office of Planning: By a report dated February 21, 2006, and in testimony at the public hearing, OP recommended approval of both special exceptions requested in 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. OP proposed a separate list of conditions for the School and for the Residential Development, but 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 proposed conditions, thus accomplishing the goals of those conditions.

OP concluded that the proposed School meets the requirements of §§ 206 and 3104. In analyzing the elements of these two sections, OP opined that (1) the number of students and staff, 440 students and 100 faculty/staff, would not be objectionable; (2) 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; (3) the School's TMP would successfully limit its traffic impact on Foxhall Road and the surrounding neighborhood roads; and (4) the 217 on-site parking spaces, 105 more than is required by the Zoning Regulations, will accommodate students, teachers, and visitors to the site.

OP also stated that the Residential Development satisfied the requirements of §§ 2516 and 3104. In particular, OP found that the Residential Development will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will only have a "minimal impact on neighboring properties." OP also opined 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 included in the Homeowners' Association ("HOA") Guidelines; and is planting additional trees and performing landscaping that will help to create a buffer around the houses in the new Residential Development. OP also addressed the specific requirements of § 2516 and found them to be satisfied.

District Department of Transportation: DDOT, 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 agreed that the Applicant's traffic analysis was accurate and that the School's campus circulation is adequate, but recommended 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 its written 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). With regard to the Residential Development, DDOT stated that its traffic impact would not be objectionable.

District Department of Health: 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 review and make its decision on this application following a review and recommendation by the United States Army Corps of Engineers ("ACOE"); and (2) that DOH has no concerns about the Applicant's storm water management system, which meets the District of Columbia standards.

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 the parkland, set back the School buildings 50 feet from the parkland, and eliminate a stairway from the Residential Development into the parkland.

U.S. Army Corps of Engineers: 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 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).

ANC 3D: On February 16, 2006, the ANC voted 6-1-0, at a regularly scheduled meeting with a quorum present, to recommend approval of the special exception for the School, subject to conditions, and, by a vote of 7-0-0, to recommend approval of the special exception for the Residential Development, also subject to conditions. Later, during a special meeting on May 28, 2006, the ANC voted to request that certain 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 is marked in the record as Exhibit No. 86. All of the ANC's proposed conditions have been addressed throughout the course of the proceedings before the Board, and they have all been substantially met.

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 parties 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 Nos. 86 and 87 of the record, and urged their adoption into the BZA Order. Camille Cameau and Jay Hebert also testified that the Applicant's redesign of, and DDOT's support for, the Revised Foxhall Road Plan (Exhibit No. 84) was critical to them.

In addition, the Foxhall Community Citizens' Association ("FCCA") 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, and 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. The record contains letters of opposition to the application, but the concerns cited in those letters are effectively addressed by the Applicants' submissions at the June 13, 2006 hearing and by 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 an 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 in 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 dwellings on the south. The German Embassy complex is located across Foxhall Road from the Property.

3. The Property has been undeveloped for several years and is highly vegetated. It 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. There are two prominent knolls on the Property, one near its center, and one on the northern portion of the Property. Generally, the

Property slopes from a high along Foxhall Road, with an elevation of 240 feet above sea level, toward Glover-Archbold Park, with an elevation of 150 feet, and from the Whitehaven Park down toward Hoban Road. Notwithstanding past uses of the Property, many of the natural contours and slopes still exist.

5. The Property contains two natural drainage areas, the "Northern Dell" located at the north of the Property, which is well-preserved in a natural state, and the more heavily-manipulated "Southern Swale," located near the southern edge of the Property.

6. The Southern Swale contains an ephemeral stream, which the ACOE determined constitutes a "Waters of the United States," and over which it took jurisdiction.

7. Other than the ephemeral stream, the ACOE determined that there are no other areas on the Property which are subject to its jurisdiction.

8. There are many mature trees on the Property, approximately 293 of which are designated as "special" trees under District of Columbia law, with a circumference of 55 inches or greater.

9. 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.

10. 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 Property had been extensively farmed and/or landscaped during the 19th and 20th centuries. Thus, although it appears in a natural, unlandscaped state, the entire Property, but most markedly the Southern Swale, was likely disturbed by farming or landscaping in the past.

11. The Property is also encompassed within the upper reaches of a larger 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 of the Potomac River.

12. DOH has decided to take jurisdiction over an isolated wetland located in the highly manipulated Southern Swale and has requested that the Applicant file a Wetlands Application to the D.C. DOH and ACOE for mitigation of the impact on this isolated wetland. The Applicant filed the Wetlands Application on May 10, 2006.

The Applicant's Proposed Project

13. The Applicant proposes to divide the Property into three separate parcels, each with a different use.

14. One parcel will be used for a new private middle and high school, one will remain undeveloped, and one will be developed with multiple single-family dwellings.

15. The northwest corner of the Property, currently Lot 827, consisting of 7.72 acres, will be developed with a new middle school and high school, with attendant accessory buildings, such as a gymnasium, and a playing field.

16. The playing field is to be located to the south of the school campus and runs lengthwise parallel to Foxhall Road. It is bordered by a tree buffer between it and the new single-family dwellings to be built to its south and east.

17. Beginning as a strip to the north of the playing field, widening as it curves to the east and north, and ending at Whitehaven Park, is the second parcel, known as the "Northern Dell." It is currently Lot 826, consists of 1.53 acres, and will remain undeveloped except for a pedestrian path. The Dell will remain under the School's control.

18. The third and last parcel, consisting of 8.05 acres, currently Lot 825, occupies a strip of the Property south of the playing field and, essentially the eastern half of the Property, ending at Hoban Road to the south and Glover-Archbold Park to the east.

19. Lot 825 is to be subdivided into 27 lots for single-family dwellings, nine of which will front Hoban Road and are matter-of–right for zoning purposes. The remaining 18 lots will be theoretical lots for zoning purposes, and will be serviced by an internal private road.

<u>The Proposed Private School Use</u>

20. 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 eight and is located at 4700 Whitehaven Parkway and 4925 MacArthur Boulevard, NW.

21. The new middle and high school will have a total enrollment of 440 students in grades seven through twelve and 100 faculty and staff.

22. The School campus will be constructed on the northern portion of the Property so as to be closest to the existing elementary school on Whitehaven Parkway.

23. The School will be constructed as two separate campus quadrangles, one for the high school and one for the middle school. In addition to the academic quadrangles, the campus will include separate accessory buildings/uses -- a(n) administrative building,

gymnasium, athletic field, and school theater/auditorium – as well as a 170-car underground parking structure.

24. The buildings are designed to be tucked into the Property's topography to limit the School's visual impact. The campus as a whole 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 Whitehaven Park and will include stepped, planted retaining wall/bank areas.

25. The School campus is designed to meet and/or exceed the zoning requirements of the R-1-B zone district. Specifically, the buildings will not exceed 40 feet in height and they 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 total of 217 parking spaces are being provided, in excess of the 112 parking spaces required by the Zoning Regulations. *See,* respectively, 11 DCMR §§ 400.1, 405.9, 404.1, 403.2, 206.3, and 2101.1.

26. As will be discussed in greater detail in Finding of Fact Nos. 32 and 33, the School has adopted an Operations Plan, marked as Exhibit No. 86, and attached hereto as an addendum to this Order, which the School must fully implement and comply with as a condition of this Order. The Plan addresses various aspects of the School's operations, both day-to-day, such as traffic and parking, use of the playing field, and deliveries, and more out-of-the-ordinary operations, such as use of the School's facilities for "events" outside the normal school routine.

27. Highlights of the Operations Plan include: (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 or adult education programs or classes.

28. The School has also adopted a "Six Point Travel Management Plan" ("TMP"), marked as Exhibit No. 35, Attachment I, and attached hereto as an addendum to this Order, which the School must fully implement and comply with as a condition of this Order. The Plan will be discuss in greater detail in Finding of Fact 46, but essentially it sets forth six initiatives to alleviate any potential traffic or parking impacts which the School's operations would otherwise have: (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.

A. Noise Impacts

29. Due to the School's relative isolation, bordered to the north by Whitehaven Park, to the east and south largely by the undeveloped Northern Dell, and to the west by Foxhall Road, no excessive noise is likely to spill beyond the campus boundaries.

30. The School buildings are 640 feet from the existing neighbors to the south, 350 feet from a single neighbor to the north, and more than 250 feet from the German ambassador's residence across Foxhall Road.

31. The School buildings and playing fields are tucked into the topography, further reducing any noise impact from the School.

32. As noted in Finding of Fact No. 26, the School has submitted the St. Patrick's Operations Plan, attached hereto, which establishes policies and specific constraints to assure that the School's operations will not create an adverse noise impact on neighboring properties.

33. The Operations Plan includes the following limitations with respect to athletic events:

(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 7:00 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) Sound systems or any amplified sound on or near the field will not be permitted, although a temporary amplification system may be used for special events no more than three times per year; and

(d) The athletic field may not be rented or use outside individuals or groups.

34. With respect to non-athletic events, the Operation Plan provides that, within any given year, the School may hold no more than:

(a) Ten "major" non-athletic events, all of which must conclude by either 10:00 p.m. (Sunday through Thursday) or 11:00 p.m. (Friday and Saturday) except for a limited number of late evening events;

(b) Five 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;

(c) Five events during the summer that conclude after 7:00 p.m. 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;

(d) Six indoor (non-athletic) evening events per year that conclude after either 10:00 p.m. (Sunday through Thursday) or 11:00 p.m. (Friday and Saturday); and

(e) Four outdoor (non-athletic) evening events that conclude after 8:00 p.m. which will conclude by either 10:00 p.m. (Sunday through Thursday) or 11:00 p.m. (Friday and Saturday). Only two of these four events may conclude after either 10:00 p.m. (Sunday through Thursday) or 11:00 p.m. (Friday and Saturday) and these events will not be held on the athletic field.

B. Traffic Impacts

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

36. The Applicant is working with DDOT to improve the Foxhall Road right-of-way in the vicinity of the School to avoid adverse traffic impacts from the existence of the School. The Applicant will provide a full-movement, signalized intersection on Foxhall Road at the School's entrance. This intersection will feature a demand-activated traffic signal, approximately 700 feet south of Whitehaven Parkway and 1100 feet north of Reservoir Road.

37. The Applicant, working with DDOT, will also add a dedicated southbound left-turn lane on Foxhall Road leading to the School's entrance, enabling the two existing southbound lanes to remain as unimpeded through lanes.

38. The Applicant, working with DDOT, will also add a right-turn lane on Foxhall Road leading to the School's entrance, enabling the two existing northbound lanes to remain as unimpeded through lanes.

39. The Applicant, working with DDOT, will construct a six-foot sidewalk along Foxhall Road to ensure easy pedestrian access to the School and to permit students to safely walk from the existing lower school campus to the proposed middle and high school campus.

40. The School campus includes an internal circulation system with a 1,175-foot two lane loop road, operated counterclockwise, that will accept vehicles entering the site from Foxhall Road, and on which all student drop-offs and pick-ups will occur.

41. The School's loading requirements will also be serviced on-site on the loop road and attendant areas, used as needed.

42. The campus' internal road system provides queuing space for 47 cars in one lane, and 94 cars in both lanes. The projected demand for queuing spaces is 24 cars; therefore, the design more than adequately addresses the need for on-site vehicular queuing.

43. The School will generate 262 vehicle trips during its morning peak hour, but has agreed to "cap" in-bound morning peak hour trips to 146 to mitigate any effect on morning rush-hour traffic.

44. The School will generate 175 vehicle trips during its afternoon peak hour, and 189 vehicle trips during the peak p.m. commuter hour, but the Board credits the testimony of DDOT and the Applicant's traffic expert that these peak-hour increases will be kept within reasonable limits by the installation of the new left-turn lane and signal and by the implementation of the Traffic Management Plan.

45. The School has submitted the TMP attached hereto, which establishes policies and specific constraints to assure that the School's operations will not create an adverse impact on traffic and parking in the neighborhood. The TMP includes the following measures:

(a) A carpool initiative with a goal of achieving an average vehicle occupancy of 1.75. The carpool program will be closely monitored, and incentives, such as an "express lane" for cars with high vehicle occupancies, may be implemented;

(b) A shuttle bus service between the School and appropriate locations, such as Metro stations; the School is also exploring the possibility of a joint shuttle bus service with other neighborhood institution. The School will provide the number of shuttle buses necessary to operate the program;

(c) The School will provide a total of 217 parking spaces on-site and will create, implement, and enforce a strict set of guidelines relating to student drivers and where they are permitted to park;

(d) A student driving plan mandating that student drivers must apply for permission to drive to the School, must park on campus, must carpool, and must park in designated spaces. Students will not be permitted to drive off-campus for lunch;

(e) A walk/bicycle initiative to encourage students to arrive at School other than by car, including requiring any student whose sibling is dropped off at the School's Whitehaven campus to walk to the Foxhall campus; and

(f) A staggered arrival and dismissal time plan, with at least a 20-minute difference between the middle and upper school start and dismissal times and a requirement that faculty report before 7:30 a.m.

46. The TMP will be part of the enrollment contract between the School and the students' families and compliance with it will be required for continued enrollment at the School.

47. The School will observe and monitor on-site traffic, driveway use, queuing, parking, and arrival and dismissal of students, and any students violating parking policies will be subject to revocation of driving privileges or eventual suspension or expulsion from the School.

48. 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 implementation of School's access and circulation plan, its TMP, and the Revised Foxhall Road Plan (Exhibit No. 84) will ensure that the School will not create any adverse impact due to traffic.

C. Parking

49. For middle schools, the Zoning Regulations require two parking 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. 11 DCMR § 2101.1.

50. As a private school use, the School is also required to have "ample" parking, 11 DCMR 206.

51. The Zoning Regulations therefore require that a minimum of 112 parking spaces be provided by the School. The School is providing a total of 217 on-site parking spaces, 170 underground spaces and 47 above-ground spaces.

52. In the event more parking is required, perhaps it will be provided on the Whitehaven campus. If parking need exceeds even this capacity, the School will arrange for satellite parking and shuttle buses.

53. The School will also carefully monitor all parking on the campus and is attempting to prevent any off-campus or street parking by anyone involved with the School to avoid any impact on the neighborhood.

D. Other Potentially Objectionable Conditions

54. The Applicant will take several precautions to avoid any immediate objectionable impact on the surrounding parkland, including moving all the retaining walls at the perimeter of the Property 18 inches inside the property line and away from the parkland, and removing a staircase that was originally planned to descend to Glover Archbold Park.

The maximum height of the retaining walls will also be capped at five feet and if the grade requires a higher wall, a planted slope bank and second retaining wall further away will be constructed.

55. The Applicant will plant evergreen and deciduous trees to screen the school buildings and the playing field from Foxhall Road.

56. To manage storm water 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 storm water standards of both Maryland and Virginia. The storm water management system adopted by the Applicant will provide detention for the two- and 15-year storms and storm water quality management as required by the District of Columbia. The storm water management system will limit discharge rates to two cubic feet per second ("CFS") at each of the four proposed storm water facilities for the one-, two-, and 15-year storm events, but not for larger events. Existing, pre-development, storm water flows for larger storm events also exceed two CFS.

57. Storm water fall-out will be directed into the Northern Dell, but the School's storm water management system also incorporates a special overflow mechanism that, in the case of an extreme storm event, will share the overflow between both the Northern Dell and the Southern Swale drainage systems. There are also two smaller storm water release locations, one in the northeast of the Property, and one in the southwest corner.

58. The storm water management facilities will have sand, cartridge, or similar filters to filter out suspended solids and consideration will be given to using natural features, such as plunge pools, bio-retention areas, and natural grasses, to enhance filtering capabilities.

59. A system of pedestrian paths through the School site will use, at least in some portions, porous paving materials, further enhancing storm water control and management.

60. The Applicant has adopted a tree preservation plan and intends to save at least 50% of the healthy special tree candidates and to plant many other new trees on the site. A Special Tree removal permit must be obtained for each special tree to be removed.

61. The Applicant will retain the Northern Dell as undeveloped, open space with no fence between it and Whitehaven Park. The School's landscape plan includes three open space areas – a nature amphitheatre, a large campus green, and a smaller courtyard. The landscape design also preserves valuable viewsheds.

62. The School will have a closed campus, with no students driving or walking off campus, except for emergencies or scheduled appointments.

E. Harmony with the Zoning Regulations and Map

63. The Comprehensive Plan Generalized Land Use Map designates the site as low-density residential and many residential neighborhoods include institutional uses, such as schools.

64. The Board credits the report and testimony of OP, which stated specifically that "the [School] proposal fulfills the intent of the Zoning Regulations."

The Residential Development/Theoretical Lot Subdivision

65. The Applicant is proposing to subdivide the remainder of the Property into 27 lots, each to contain a single-family dwelling.

66. The lots will vary in size, but all will meet the minimum lot size and lot width required for this R-1-B zone district. *See,* 11 DCMR §401.3. The minimum lot width will be 50 feet and the lot sizes will be between 7,800 square feet and 20,780 square feet, with an average size of 10,363 square feet.

67. Nine of the lots will be matter-of-right lots for zoning purposes, with street frontage on Hoban Road and vehicular access provided by a rear alley.

68. The other 18 lots will be theoretical lots for zoning purposes, and will be created pursuant to 11 DCMR § 2516. An internal, private road to be constructed by the Applicant will provide street frontage and access to these 18 lots.

69. All of the single-family dwellings to be constructed on these 27 lots will meet all the dimensional requirements of the R-1-B zone district. Each will have a maximum of 40% lot occupancy, a maximum height of 40 feet and three stories, a rear yard of (at least) 25 feet and side yards of (at least) eight feet. *See,* 11 DCMR §§ 400.1, 403.2, 404.1, 405.9, and 2516.9.

70. As required by § 2516.5(b), the theoretical lots are also designed to leave an (at least) 25-foot front yard (front porticos excepted). Although not required of the matter-of-right lots on Hoban Road, the Applicant is setting back the dwellings on those lots (at least) 25 feet from Hoban Road (front porticos excepted).

71. The internal, private access road is a loop road and is a northward extension of existing 45th Street, N.W., which currently ends at Hoban Road. No part of the area to

be used for the loop road is part of any of the theoretical lots or their yards. *See,* 11 DCMR § 2516.6(a).

72. The internal loop road will have sidewalks on one side to provide a safer, more "walkable" neighborhood.

73. For most of its length, the internal loop road is 28 feet wide, with two 10-foot travel lanes and one eight-foot parking lane. In some areas, however, the road narrows to 22 feet (within a 25-foot right-of-way), with two 11 foot travel lanes and no parking lane.

74. The Zoning Regulations require that the loop road be 25-feet wide for its entire length (11 DCMR § 2516.6(b)), and that if there is only one entrance or exit from the internal loop road to roads outside the theoretical subdivision, a turning area of not less than 60 feet in diameter must be provided. 11 DCMR § 2516.6(c). Section 2516.6(d), however, permits the Board to modify these requirements if the modification will not have an adverse effect on the present character and future development of the neighborhood. The Board must specifically consider building spacing and parking requirements.

75. The Board finds that even at 22 feet at some points, the internal loop road adequately provides safe access to the theoretical lots and that the reduced width is necessary due to the topography of the site and the preservation of trees.

76. Even with a somewhat reduced road width, the building spacing leaves ample open space between and around the single-family dwellings, and there is still sufficient room for parking in the parking lanes provided in the wider portions of the road, in the garages provided with the dwellings, and, if necessary, in the driveways also provided.

77. There is only one entrance/exit from the internal loop road to outside the theoretical lots – at the intersection of Hoban Road and 45th Street, N.W. There is no turning area provided, however, the fact that the road is designed as a loop obviates the need for a turning area, which would be necessary if the single access roadway ended in a cul-de-sac.

78. The Board credits OP's testimony that "the modification from cul-de-sac to loop road is preferable" 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."

79. The development of 27 single-family dwellings is not overly dense for the neighborhood and each dwelling will provide off-street parking.

80. The Development will generate between approximately 17 and 28 peak hour trips, less than one every two minutes, therefore, no objectionable increase in local traffic or street parking on currently-existing roadways is anticipated.

81. Vehicular access to all the new dwellings, including those fronting on Hoban Road, will be from the interior of the site, either directly off the internal loop road or from an alley system connecting to the loop road. Therefore, no curb cuts will need to be made along Hoban Road and traffic will not be hindered by vehicles entering or exiting driveways onto Hoban Road.

82. The combined traffic from the School and the Residential Development will have a minimal impact on Foxhall Road because it will only increase northbound peak hour traffic on Foxhall as little as five, but not more than 14%, and it will only increase southbound peak hour traffic by between one and four per cent.

83. In terms of delays, the combined traffic would add about 12 seconds of delay for vehicles entering the Foxhall/Whitehaven intersection at the a.m. peak hour and no measurable delay during the p.m. peak hour. At the intersection of Foxhall and Reservoir, 3-8 seconds of delay would be experienced.

84. In order to ensure that the Residential Development does not have an adverse effect on the present character and future development of the neighborhood, the Applicant has agreed to implement, three documents containing restrictions and constraints on various aspects of the Residential Development.

85. These three documents, called the Architectural Agreements, marked as Exhibit No. 87, and attached hereto as an addendum to this Order, must be fully implemented and complied with by the Applicant as a condition of this Order.

86. The first of the Architectural Agreements sets forth guidelines, covenants, conditions, and restrictions applicable to all the dwellings in the Development. The guidelines cover general site and building elements, such as fences, retaining walls, leadwalks and steps, mailboxes, fenestration, chimneys, stoops, and porches and porticos. Examples of the covenants, conditions and restrictions are also set forth, and are those that are generally applicable to residential developments with homeowners' associations, such as no billboards or signs may be displayed, trash must be regularly removed, and no noxious or offensive activities can be carried on. The last part of the first Agreement sets forth a simplified set of architectural restrictions to apply only to the new dwellings fronting on Hoban Road.

87. The second of the Architectural Agreements sets out, in great detail, specific architectural restrictions relating to the initial construction of the dwellings fronting on

Hoban Road. These restrictions control many aspects of the appearance of the dwellings, including the percentage of the façade which must be fenestrated, the size and orientation of window openings, the materials to be used to cover the exterior walls, and whether or not shutters will be used.

88. The last of the Architectural Agreements explains how the Applicant and the builder(s) will comply with, and enforce, the Hoban Road restrictions, including an explanation of dispute resolution mechanisms to be used if a dispute arises with the neighborhood, specifically with the Colony Hill Neighborhood Association.

89. The Applicant will plant many new trees throughout the Residential Development and has designed the Development, including the internal loop road, so as to save as many existing trees as possible.

90. The Residential Development will include three pocket parks, two of which feature important, mature trees, and one of which contains an ephemeral stream. The ACOE took jurisdiction over a 400-foot stretch of the stream and the Applicant is preserving a 25-foot buffer around it.

91. The design of the Development has also been altered from its original in order to enhance protection of adjoining parkland. Specifically, to achieve this goal, the number of dwellings to be constructed was reduced by one and the Applicant has designed the project to create appropriate and attractive park edge conditions. All the dwellings are set back 30 feet from the parkland and a staircase planned to descend to the Glover-Archbold Park was removed. All retaining walls were moved 18 inches back from the parkland and their maximum height will be capped at five feet. If the grade change requires a higher wall, a planted slope bank and second retaining wall further away will be constructed.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized to grant a special exception where, in its judgment, the 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." 11 DCMR § 3104.1. Certain special exceptions must also meet the conditions enumerated in the particular sections pertaining to them. In this case, the Applicant had to meet both the requirements of § 3104 and § 206 (Private Schools and Staff Residences) with respect to the School, and had to meet the requirements of both § 3104 and § 2516 (Exceptions to Building Lot Control, *i.e.*, Theoretical Lot Subdivisions) with respect to the Residential Development.

The School Special Exception

Section 206.2 of the Zoning Regulations mandates that the School be located so as not to become objectionable to surrounding properties due to noise, traffic, number of students, or other objectionable conditions. 11 DCMR § 206.2. Section 206.3 states that ample parking must be provided, but not less than that required by Chapter 21, to accommodate students, teachers, and visitors. 11 DCMR § 206.3. Similarly, § 3104 stipulates that the special exception use not tend to affect adversely neighboring properties, and further, that it be in harmony with the Zoning Regulations and Map.

The Board finds that the School use will not adversely affect, or be objectionable to, the surrounding properties. The School buildings will be situated within the topography so as not to cause any particular visible or audible (noise) impact on the surrounding neighborhood. To further mitigate any such impacts, the Applicant has agreed to be bound by an Operations Plan, controlling various aspects of the School's use, particularly the use of the athletic field. To alleviate any potential impacts on local traffic, the School is both implementing a strict Travel Management Plan and is working with DDOT, and paying for, improvements to Foxhall Road and its intersection with the School's entrance.

The size of the School, at 440 students and 100 faculty members, is manageable on the site and within the community. The enrollment maximum permits all the School's current elementary students to remain enrolled at the School while allowing for some natural expansion at grades seven and nine as is the practice at many schools. The School will be providing ample on-site parking, and significantly more than is required by Chapter 21. The 217 spaces provided will be more than sufficient to accommodate the needs of students, teachers, and visitors. Parking is also addressed in the TMP and the Applicant has been sensitive to the needs of the community regarding parking, as well as student drop-offs and pick-ups.

The Applicant has also worked with the neighborhood and the National Park Service to strike a balance between the needs of development and the preservation of the most valuable natural resources of the Property and the adjoining parkland.

The Applicant's proposal for the School is in harmony with the purpose and intent of the Zoning Regulations and Map. The School buildings will be constructed within all the dimensional requirements of the R-1-B zone district and the use is consistent with the designation of low-density residential on the Comprehensive Land Use Map, particularly at its location at the confluence of two larger streets – Whitehaven Parkway and Foxhall Road.

The Applicant has requested that it be permitted to construct the various School buildings in phases, over a multi-year period. This Order is conditioned to allow the Applicant to do so.

The Residential Development Special Exception

Section 2516 permits the construction of two or more principal buildings on a single subdivided lot in a residence zone, including private schools. The Applicant intends to subdivide Lot 825 into 27 individual lots and construct a new single-family dwelling on each one. In order to be permitted to do this, the Applicant must meet certain provisions set forth in § 2516. As set forth in the Findings of Fact and briefly discussed below, the Applicant's proposed Residential Development meets all the applicable provisions of § 2516, as well as the requirements of § 3104.

Each of the new dwellings will meet all the dimensional requirements of the R-1-B zone district and/or the special requirements of § 2516, and each will provide an off-street parking space. Each of the dwellings will have street frontage, either on Hoban Road or on an internal, private loop road. No part of the road will also comprise a part of any of the theoretical lots or yards. Although the road will not be 25 feet wide for its entire length and there is no turning area provided, which are requirements of § 2516.6(b) and (c), respectively, the Board is permitted to modify these requirements pursuant to § 2516.6(d).

Modification of the street width and turning area requirements necessitates that the Board consider whether such modification is likely to have an adverse effect on the present character and future development of the neighborhood, taking into account the spacing of buildings and the availability of parking. The Residential Development was designed to provide ample open space around the dwellings, with trees and other landscaping. The parking provided along the loop road, in the garages, and in the driveways, as necessary, is sufficient to meet the needs of residents, guests and service/deliverymen. The loop road is two-way and circles the development, providing easy ingress and egress. Because it is a *loop* road, and does not end in a cul-de-sac, as is often the case in theoretical lot developments, there is no need for a turning area. The Board concludes that the street width and turning area modifications are not likely to have an adverse effect on the present character or future development of the neighborhood.

Pursuant to § 2516.9, the entire Residential Development must meet the same standard – no likely adverse effect on the present character and future development of the neighborhood. Similarly, § 3104.1 mandates that the Development must not tend to affect adversely the use of neighboring property and that it must be in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board concludes that these requirements are clearly met by this application. The Development is

consistent with the type of development envisioned in an R-1-B zone district. In fact, with lot sizes substantially larger than required by the Zoning Regulations, the density of the Development is significantly less than that permitted. There is no evidence that the Development will likely have any adverse effect on the neighborhood or on the use of neighboring property.

Great Weight

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations of the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001). Great weight means acknowledgement of the issues and concerns of these two entities and an explanation of why the Board did or did not find their views persuasive.

The School Special Exception

ANC 3D recommended conditional approval of the School special exception. The Board agrees with the ANC's recommendation of approval. The ANC's recommendation included conditions regarding noise, traffic, parking, enrollment, and environmental protection. Although each of the ANC's requested conditions may not be met to the degree to which the ANC would perhaps like, the Board concludes that all of the ANC's concerns are adequately recognized, addressed, and dealt with in the conditions to this Order and by the provisions of the Applicant's Operations and Travel Management Plans. The Office of Planning likewise recommended conditional approval of the School special exception and the Board likewise agrees with this recommendation. OP recommended a list of 11 conditions, addressing various aspects of the School's operations. The Board concludes that all of OP's concerns are adequately recognized, addressed, and dealt with in the conditions to this Order and by the provisions of the Applicant's Operations and Travel Management Plans.

The Residential Development Special Exception

The ANC recommended conditional approval of the Residential Development special exception. The Board agrees with the ANC's recommendation of approval. The ANC's conditions included implementation and recordation of the Architectural Agreements, as well as conditions dealing with traffic and environmental issues. The Board concludes that the ANC's concerns have been adequately recognized, addressed, and dealt with by the Applicant and by the conditions to this Order. The ANC's proffered conditions concerning environmental issues are more detailed than the Board feels is necessary, but overall, the Board concludes that even these detailed conditions have been met substantially by the Applicant and the conditions to this Order.

The Office of Planning also recommended conditional approval of the Residential Development special exception. The Board, again, agrees with this recommendation of approval. OP recommended 13 conditions, all of which, the Board concludes, have been adequately addressed and substantially met by the Applicant and the conditions to this Order.

One of OP's recommendations merits a brief mention here. OP encouraged the Applicant to use pervious materials on the driveways in the Residential Development. The Board credits the testimony of the Applicant's architect that due to the large gradient changes, the low impermeability of the soil on the Property, and the high failure rate when traversed by heavy vehicles, the use of pervious materials on the driveways and roadways is not practical or advisable. Moreover, the Environmental Protection Agency recommends against the use of porous materials for this type of property. *See,* Exhibit No. 91.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof with respect to an application for a special exception pursuant to §§ 3104 and 206 to construct a middle and high school campus, and with respect to an application for a special exception pursuant to §§ 3104 and 2516 to construct a residential development of 27 new single-family dwellings, including an 18-lot theoretical lot subdivision. **THEREFORE**, it is hereby **ORDERED** that the application for a special exception for a private school for Lots 826 and 827 in Square 1346 is **GRANTED**, **SUBJECT** to the following **CONDITIONS, NUMBERED 1 THROUGH 14,** which are applicable to **Lots 826 and 827 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 accordance with the Illustrative Plans prepared by Barnes Vanze Architects, Inc. and marked in the record as Exhibits Nos. 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. With the consent and approval of DDOT, 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. With the consent and approval of DDOT, 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 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 two cubic feet per second for one-, two-, and 15-year storm events.

13. The School shall conform to the Illustrative Parkland Edge Conditions restrictions, marked in the record as Exhibit No. 93.

14. The School may be constructed in phases over the course of seven years.

FURTHER, it is hereby **ORDERED** that the application for the special exception for a theoretical lot subdivision for Lot 825, Square 1346 is **GRANTED**, subject to the following **CONDITIONS, NUMBERED 1 THROUGH 6,** 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 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 two cubic feet per second for one-, two-, and 15-year storm events.

5. The Residential Development shall be constructed in accordance with the Illustrative Tree Preservation Plan marked in the record as Exhibit No. 96.

6. The Residential Development shall generally conform to the Illustrative Parkland Edge Conditions restrictions marked in the record as Exhibit No. 93.

VOTE ON THE SCHOOL SPECIAL EXCEPTION: 4-0-1	(Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II, and John G. Parsons to grant; Ruthanne G. Miller abstaining, not having participated in deliberations.)
VOTE ON THE RESIDENTIAL DEVELOPMENT SPECIAL EXCEPTION: 4-0-1	(Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II, and John G. Parsons to grant; Ruthanne G. Miller abstaining, not having participated in deliberations.)

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: NOV 16 2006

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

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.

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.

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, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. LM