

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION OF  
ACTON ACADEMY FOUNDATION  
HEARING DATE: MAY 16, 2018    ANC 2A**

**BZA APPLICATION NO. 19748  
SQUARE 28, LOTS 172 and 846**

**STATEMENT OF THE APPLICANT**

**I.     NATURE OF RELIEF SOUGHT**

This prehearing statement is submitted by the Acton Academy Foundation (“Acton” or the “Applicant”), in support of its application pursuant to 11-U § 203.1(1), and 11-X DCMR § 104, for special exception relief to allow a private school use in the R-17 District in an existing building (“Building”) owned by St Paul’s Parish at 2430 K Street, NW (Square 28, Lots 172 and 846) (the “Property” or “Site”).

**II.    JURISDICTION OF THE BOARD**

The Board has jurisdiction to grant the requested special exception relief pursuant to 11-X DCMR § 104.

**III.   WITNESSES**

An outline of testimony for the Applicant, by cofounder of Acton Academy Foundation, David Kirby, and by a Representative of St. Paul’s Parish, is attached hereto as Exhibit A of the prehearing statement.

**IV.    BACKGROUND OF THE CASE**

**A.     Site and Vicinity Characteristics**

**1.     The Property**

The Property which is the subject of this application is located on the south side of K Street, between 24th Street and 25th Street, near Washington Circle. The Building is a contributing structure to the Foggy Bottom Historic District in Ward 2. The Property is located nearby multiple public transportation options, including the Foggy Bottom-GWU Metro Station, DC Circulator Bus, and

Pennsylvania Avenue Metrobus lines. The Property is zoned R-17 (See attached zoning map, Exhibit B, “DC Zoning Map”) and is located within the boundaries of Advisory Neighborhood Commission 2A.

The Property is currently improved with a church and adjacent row houses for church offices and programs. There are 3 parking spots provided at the rear of the Building. St. Paul’s also has 21 parking spaces on a separate lot within the alley (Lot 846) as shown on the attached Site Plan (Exhibit A, “Site Plan”). St. Paul’s currently uses the Property for regular church services, ministries, fellowship groups, service programs, and occasional special events such as feast days. St. Paul’s currently has a Certificate of Occupancy (Permit Number CO0901409) for “Churches – A-3” and for the parking lot (Permit Number A2110) for “Parking.”

The Property fronts K Street (which is a one-way street from west to east) near the K Street Underpass under Washington Circle. The Property is adjacent to multi-story apartment buildings and two-story row houses. To the immediate west of the Property are nine-story and ten-story residential apartment buildings. Immediately to the east, the Property faces the backyards of two-story row houses. To the immediate south of the property are two-story row houses and multi-story apartment buildings along the alleyway named Snows Court (“Alley”). The only access to the alley system is from 25th Street, which allows for two-way traffic south of the Alley entrance to I Street but only allows one-way traffic north of the Alley entrance to K Street (heading north to K Street). The Alley varies in width from 8 ft. to 30 ft.

**B. Nature of Special Exception Request**

The Applicant seeks to add much-needed educational capacity to the neighborhood, and offer an innovative educational option for families.

Families in Foggy Bottom and nearby neighborhoods struggle to find educational options, with Pre-K programs at nearby public schools overcapacity, and with long waitlists and high prices at private options. In part because of the costs of education, the Economic Policy Institute now ranks Washington, DC as the most expensive city in America to raise a family of four.

The Applicant plans to bring the first Acton Academy to Washington, DC, providing much-needed capacity, as well as a high-quality and innovative option for families. Acton Academy of Washington, DC is an independent affiliate of Acton Academy, a celebrated network of private “micro schools,” Pre-K to 12th grade, founded in Austin, TX in 2009. Today, Acton has over 70 locations around the world and is growing fast. Acton’s mission is to guide children to develop an entrepreneurial mindset and discover a calling.

The Applicant proposes to occupy an approximately 5,061 square foot row house at St. Paul’s, known as the “Carwithen House” (as shown in Exhibit C, “Site Plan Showing Designated Areas for the School”), to open an **Acton Montessori Primary** Pre-K program (ages 3 to 6) and an **Acton Elementary** program (grades 1 to 5). Applicant seeks to open in time to welcome students in September 2018 for the school year. At capacity, Acton anticipates approximately 60 students at the Carwithen House, and approximately 18 students its first year. Students would use the Parish Dining Hall during lunchtime and for indoor play during inclement weather. Additionally, Applicant plans to improve a small green grass area of approximately 3,170 square feet for outdoor play (also shown in Exhibit C). Children would access the green grass area via K Street or Snows Court Improvements would include fencing consistent with the historical character of the Property, minor landscaping, a flower garden, and outdoor tables and benches, in natural materials such as wood. Fencing would be subject to review by the Historic Preservation Office, as part of the building permit process.

The Applicant has already established a record of community service in the city. For the last two years, the Applicant has hosted the Acton Children’s Business Fair of Washington, DC, a one-day showcase of the power of entrepreneurship for even the youngest children. Children ages 6-14 create a business, sell to real customers, and keep the profits. Acton provides outdoor tents and tables. Along the way children learn about entrepreneurship, but more importantly, about themselves and what they are capable of. In May 2017, the Applicant hosted 114 young entrepreneurs and over 2,100 customers in Cleveland Park, earning local and national media coverage. *The Washington Post* quipped, “Forget show and tell: These young entrepreneurs aim to show and sell.”

Additionally, Acton Academy has been featured in *Inc. Magazine*, *Forbes*, and *Fast Company*. Acton has earned praise from education innovators and philanthropists, ranging from former Bill and Melinda Gates Foundation Executive Director of Education, Tom Vander Ark, to author and *Most Likely to Succeed* filmmaker, Ted Dintersmith, to education innovation scholar Bernard Bull, who called Acton a “truly inspiring and exceptional school.”

**V. THE APPLICATION MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF FROM THE ZONING REGULATIONS**

Pursuant to Subtitle U § 203.1(l) and Subtitle X § 104 of the Zoning Regulations private schools are permitted in the R-17 District as a special exception, subject to certain criteria.

Under both 11-U DCMR § 203.1(1) and 11-X DCMR § 104, the proposed 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.” Additionally, 11-U DCMR § 203.1(1)(2) requires “ample parking space, but not less than that required by this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.” Finally, under 11-X DCMR § 901.2, in order to obtain general special exception relief, an applicant must show that the requested relief will be in harmony with the intent and purpose of the Zoning Regulations and Zoning Maps and will not adversely affect neighboring properties. As detailed below, the Project meets these standards for special exception relief.

**A. The private school will be located such that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions**

As indicated above, the Applicant plans a small “micro school” with approximately 60 students at capacity on the Premises (with approximately 18 students in its first year). This is in harmony with the residential nature of the neighborhood and would not tend to adversely affect neighboring properties. As indicated above, the Property is currently used for regular church services, ministries, fellowship, and special events. Most of these activities occur on Sundays, weekends and evenings. Acton would operate on a weekday school schedule, Monday through Friday, 8:00am to 6:00pm, with occasional evening

events for parent meetings such as back-to-school nights and occasional Saturday events such as parent information sessions or open houses.

Given the complementary schedules, and the small number of students, the Applicant's use will not materially add to the noise, traffic, or otherwise objectionable conditions for adjoining or nearby properties. Outdoor play would occur during the school's normal hours and at regular times in the morning, around lunchtime and in the afternoon when many adjoining residents are likely to be away from home.

Acton plans to stage student drop off and pick up in the rear of the Property (see Exhibit D, "Student Drop Off and Pick Up Plan"). This area includes the Property's private parking lot and parking spaces, which are mostly empty during weekdays. Families would enter Snows Court from 25th Street to reach the Property for drop off and pick up of students at the location indicated. To exit, families would circle counterclockwise through the Property's parking lot, then follow Snows Court back to 25th Street. Acton offers families a window of time from 8:00-8:45am to drop off children, and a window from 3:00-6:00pm to pick up children, effectively staggering traffic. Acton staff would assist with pick up and drop off to coordinate traffic. We also anticipate approximately 20 to 30 percent of families will walk to the Property, or make use of public transportation. With some families dropping off multiple children or carpooling, we anticipate approximately 30 to 35 cars at the school's capacity of 60 students (with fewer cars in our first year, since Acton anticipates starting with approximately 18 students). Consequently, this plan would result in minimal queuing and potential disruption or noise for neighbors. Acton reviewed this plan with DDOT and provided a narrative to accompany Exhibit D.

Finally, as indicated above, the outdoor play area on the east side of the Property faces the backyards of six two-story row houses. Play would occur during the school's normal business hours (Monday through Friday, 8:00am to 6:00pm), in the morning, around lunchtime, and in the afternoon, and always under the supervision of staff. As the school population increases, the playtimes would also be staggered to provide the children with more space to move about and to reduce any potential noise impacts. The backyards of the adjacent row houses are currently improved with fences, minimizing sight

lines and providing a barrier for potential noise. As indicated above, improvements to the outdoor play area would include fencing consistent with the historical character of the Property, minor landscaping, a flower garden, and outdoor tables and benches, in natural materials such as wood. The Applicant does not plan to install any new lighting for the outdoor play area. The Applicant incorporated feedback from nearby neighbors regarding the outdoor play area, and presented preliminary drawings to the adjacent neighbors and at the ANC Meeting (see section below, “Community Support and Outreach”).

For all these reasons, the Applicant’s use will not materially add to the noise, traffic, or otherwise objectionable conditions for adjoining or nearby properties.

**B. Ample parking spaces, but not less than that required by this title shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile**

As indicated above, the Property has 24 parking spaces (3 to the rear of the Building and 21 parking spaces in Lot 846), which are mostly empty on weekdays. At capacity, the Applicant will have eight staff, generating a parking requirement of 4 spaces (2 spaces are required for every 3 teachers and other employees). St. Paul’s has allocated up to 8 parking spots for Acton. However, pursuant to Subtitle C Section 705.3, as a contributing historic property, the proposed “change” in use will not generate an additional parking requirement given that there is no expansion to the Property. The Property also includes a small rack for bicycle parking. The Property is in close proximity to the Foggy Bottom-GWU Metro Station and public transportation options. Parents who are driving their children to and from school will use the pick up/drop off arrangements. Occasional visits to the school by parents or other visitors which require parking can be accommodated on the existing lot which is mostly empty on weekdays. Based on all of the forgoing, the existing parking facilities will be adequate to accommodate the students, teachers and visitors likely to come to the site by vehicle.

**VI. APPLICANT MEETS THE GENERAL SPECIAL EXCEPTION REVIEW STANDARDS UNDER 11 DCMR SUBTITLE X § 901.2**

The proposed private school use meets all of the criteria for the special exception and, as such, is in harmony with the general purpose and intent of the Zoning Regulations and Maps. The proposed use is

small in scale and largely confined to the interior of an existing church building which, for the most part, is empty and under-utilized during the weekdays when the school is in session. As a result, the proposed use will not tend to affect adversely the use of neighboring property.

## **VII. COMMUNITY SUPPORT AND OUTREACH**

The Site is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 2A. Prior to submitting the application, the Applicant met individually with the ANC Single Member District representative for the Site, Marco Guzman, to discuss the proposed use including the pick up and drop off arrangements and playground use and improvements. Mr. Guzman toured the Site with the Applicant and offered guidance about outreach to neighbors.

Following this guidance, the Applicant knocked on doors of the houses nearby St. Paul’s Parish to introduce Acton, share its plans, and get feedback. The Applicant hand delivered letters to nearby neighbors. The Applicant toured the site with neighbors. The Applicant exchanged dozens of emails with various neighbors. The Applicant hosted two meetings for neighbors at the West End Library to share plans and get feedback on Monday April 2, 2018 and Monday April 9, 2018. The Applicant incorporated nearby neighbors’ feedback on the plans and followed up to share preliminary architectural drawings. The Applicant met face to face with neighbors in their living rooms and in their backyards.

Overall, the Applicant has been extremely grateful for the nearby neighbors’ warm welcome. There are six row houses adjacent to the outdoor play area, as shown in Exhibit B to the prehearing statement. Three of these row houses are rental units. Three of the houses are owner occupied. The renters did not participate extensively in the process. The owner-occupied homeowners did participate extensively in the process and even attended the ANC 2A Meeting on April 18 to voice their support for the project and the Applicant’s plans for the outdoor play area. These neighbors also expressed their appreciation for the Applicant’s efforts to reach out and engage with them.

Additionally, the Applicant reached out to two civic groups in the area, the Foggy Bottom Association and the West End Citizens Association. The Applicant met individually with Marina Streznewski, President of the Foggy Bottom Association, on March 16. The Applicant and a

representative from St. Paul's Parish presented to members of the Foggy Bottom Association at its monthly meeting on March 27. The Applicant met with Barbara Kahlow and Sara Maddux of the West End Citizens Association on March 23. Ms. Kahlow and Ms. Maddux expressed concerns at this meeting, but noted that it would ultimately come down to what the neighbors who live nearby think about Acton's plans.

On April 18, 2018, ANC 2A entertained a presentation for the Applicant at the ANC's regularly scheduled, duly noticed, monthly meeting. Five neighbors who live adjacent to the outdoor play area attended the meeting and voiced their support for the Application. Other neighbors who live in Foggy Bottom also attended to voice their support, including one member with a Montessori-aged child who hopes to send his daughter to Acton. Three representatives from St. Paul's Parish who live in Foggy Bottom also attended to support.

The only opposition raised at the ANC meeting was by Ms. Kahlow. She raised concerns about the noise impacts of the children playing. She asked if the Applicant would consider other areas for outdoor play and asked if the Applicant was aware of the recent noise-related objections to an application by a Foggy Bottom restaurant for outdoor patio seating. The Applicant explained that traveling to and from nearby parks was not practical, especially for the youngest Montessori-aged children who will be 3 years old. As shown in Exhibit C to the prehearing statement, the largest nearby public park at Francis Field would require children to walk 10 minutes each way, crossing busy K Street and Pennsylvania Avenue. There is a small public playground on 26<sup>th</sup> and I Street. Of course, these parks and playgrounds would make for nice excursions for Acton children for occasional use. But exclusive use of these parks and playgrounds would not be practical or desirable for daily, three-times-a-day play.

Other neighbors attending the ANC Meeting disagreed with Ms. Kahlow's concerns. Ms. Streznewski with the Foggy Bottom Association pointed out that the noise of children playing during the day is different from the noise of adults at a restaurant having drinks or dinner on an outdoor patio at night. The adjacent neighbors who attended the ANC Meeting said they are not concerned about the noise and they live adjacent to the outdoor play area.



The ANC 2A unanimously voted to support the Application.

For your convenience, the table below provides a summary of the Applicant’s community outreach:

<b><u>DATE</u></b>	<b><u>TYPE OF OUTREACH</u></b>
Monday, March 12, 2018	Applicant meets with ANC 2A03 Commissioner Marco Guzman to share plans, tour the Property, and get guidance on outreach to neighbors.
Wednesday, March 14, 2018	Applicant reaches out to ANC 2A Chair, Commissioner Will Smith to share plans.
Friday, March 16, 2018	Applicant meets with Marina Streznewski, President of the Foggy Bottom Association, to share plans, get feedback, and tour the Property.
Friday, March 23, 2018	Applicant meets with Barbara Kahlow and Sara Maddux of the West End Citizens Association to share plans and get feedback.
Sunday, March 25, 2018	Applicant knocks on doors of nearby neighbors of St. Paul’s to introduce Acton, share plans, and offer impromptu tours of the Property. Applicant hand delivers letters introducing Acton and inviting neighbors to two meetings for nearby neighbors at the West End Library.
Week of March 26, 2018	Applicant follows up on door knocking, reaches out to neighbors, and invites neighbors to join neighbors’ meetings at West End Library.
Tuesday, March 27, 2018	Applicant updates ANC2A03 Commissioner Marco Guzman on progress with neighbor outreach.
Tuesday, March 27, 2018	Applicant and a representative of St. Paul’s Parish present plans to members of the Foggy Bottom Association at their monthly meeting. Applicant invites members of the Foggy Bottom Association to attend neighbors’ meetings at West End Library.
Monday, April 2, 2018	Applicant hosts first meeting for neighbors at West End Library to share plans and get feedback.
Monday, April 9, 2018	Applicant hosts second meeting for neighbors at West End Library to share preliminary architectural drawings of outdoor area, incorporating neighbors’ feedback.
Week of April 9, 2018	Applicant follows up with adjacent neighbors to share preliminary architectural drawings of outdoor area, incorporating neighbors’

	feedback.
Friday, April 12, 2018	Applicant updates ANC2A03 Commissioner Marco Guzman on progress and meetings with neighbors at West End Library.
Sunday, April 14, 2018	Applicant meets again with adjacent neighbors to share preliminary architectural drawings and tour Property.
Wednesday, April 18, 2018	Applicant presents to the ANC 2A Meeting. Adjacent neighbors and members of Foggy Bottom community attend to voice their support for Applicant and appreciation for the outreach efforts. The ANC 2A unanimously votes to approve the Application.

**VIII. TIMELY APPROVAL AND ORDER ISSUANCE IS REQUIRED TO MEET THE APPLICANT'S TIMELINE TO OPEN FOR FIRST DAY OF SCHOOL ON SEPTEMBER 4, 2018**

A key aspect of the case is the timeline. The Applicant plans to open the school to serve families this fall, with its first day of school after Labor Day, on Tuesday, September 4, 2018. The Applicant has many families who are counting on Acton for their children. Indeed, the Applicant's cofounders are counting on Acton for their own 4-year-old daughter.

Thankfully, Mr. Guzman and the ANC 2A Commissioners have been willing to work with the Applicant's timeline, approving Acton's use at the April 18 ANC Meeting. The Applicant appreciates the efforts of the Office of Planning and DC Department of Transportation to do so as well. Indeed, the neighbors who live nearby the Site have been gracious and accommodating of our timeline. The Applicant has paid the required fees for a preliminary screening meeting with the City permitting office at which the Applicant's architects, contractors and engineers presented the architectural plans for the minor work required to update the Property to get it ready for the first day of school. The feedback provided will help expedite the final review of the plans upon application of the required building permits. The BZA hearing date for this case on May 16 works well with this timeline. On all these fronts, the timeline is proceeding smoothly.

The only remaining challenge with this timeline is, after the BZA hearing, the time required to issue the formal order. A summary order will meet the Applicant's timeline but due to the current backlog

of full orders, if a full order is required in this case, a delay in issuing an order would jeopardize the Applicant's ability to open for the first day of school and serve the families who are counting on Acton for their children. Further, once those families have enrolled their children elsewhere, they will be reluctant to uproot them and enroll them at Acton regardless of their strong interest and support for Acton's program.

The Applicant wishes to thank the BZA in advance for any consideration of the Applicant's timeline in this case. The Applicant would be happy to prepare a preliminary draft order for the BZA's review or otherwise assist with this process, as necessary.

## **IX. CONCLUSION**

For the reasons stated above, the requested relief meets the applicable standards of the Zoning Regulations and can be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Applicant therefore requests that the Board grant this application.

Respectfully submitted,

SAUL EWING LLP

By 

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