

**FRIENDSHIP PUBLIC CHARTER SCHOOL
REQUEST FOR PROPOSALS
WEB-BASED STUDENT INFORMATION SYSTEM**

Interested parties shall MAIL the response to this RFP by submitting (4 copies, 1 original inclusive) sealed qualification statements and by addressing the specific proposal requirements as requested in this RFP in an envelope clearly marked "**RFP — WEB-BASED STUDENT INFORMATION SYSTEM**" to

Ms. Valerie Holmes
Friendship Public Charter School (FPCS)
120 Q Street, NE
Suite 200
Washington, DC 20003

By no later than **4:00 PM, Friday, March 2, 2007**

Introduction

FPCS is soliciting proposals and qualification statements from providers of web-based student information system. A selection committee will review and evaluate all qualification statements and proposals and may request that the bidders make oral presentations and or provide additional information. The selection committee will rely on the qualification statements and proposal in selection of finalists and, therefore, bidders should emphasize specific information considered pertinent to this solicitation and submit all information requested.

Friendship Public Charter School Inc. ("Friendship") reserves the right to reject any and all qualification statements, to cancel this solicitation, and to waive any informalities or irregularities in procedure.

LSDBE contractors are encouraged to submit proposals.

Project Scope

It is the intent of this Request for Proposal (RFP) to select a qualified vendor to provide Friendship Public Charter School with a comprehensive web-based student information system that will include the following components: student enrollment, student scheduling, daily and period-by-period attendance accounting, grade reporting, student discipline, student testing and assessment, health and report generation. The proposed system will need to interface with other administrative systems including, but not limited to, Lunchbox, SEASWEB, TrueNorth Logic, and Edmin.

The proposed system should be a complete system consisting of software, hardware, installation, data conversion, software customization, training, software support, including standard state, district, and federal reports including No Child Left Behind and charter school accountability reports. The vendor should be a single supplier of systems design, software, installation, training, maintenance, and technical support for all the goods and services described in this RFP.

Proposal Requirements

Proposals shall include, at a minimum, the following information organized as follows:

1. A brief discussion of the company/firm, its history and services offered
2. Names and client information of at least three client references
3. A projected plan for the implementation of the system
4. A proposed unsigned contract, which includes terms, payments and amount contract will not exceed provision

For further information, contact Ms. Valerie Holmes at 202-281-1723

BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCY

The District of Columbia Board of Elections and Ethics hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed.

VACANT: 2B02

Petition Circulation Period: Monday, February 19, 2007 thru Monday, March 12, 2007
Petition Challenge Period: Thursday, March 15, 2007 thru Wednesday, March 21, 2007

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N

For more information, the public may call 727-2525.

FEB 16 2007

DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF THE ENVIRONMENT
PUBLIC NOTICE
NOTICE OF FUNDING AVAILABILITY

Watershed Protection Project Grant

The District of Columbia Department of Environment (DDOE) is soliciting applications from educational institutions, District of Columbia government agencies, and nonprofit organizations to assist DDOE with controlling nonpoint source pollution, protecting the District's watersheds, and meeting the District's commitment to assist with the protection and restoration of the Chesapeake Bay. Approximately \$63,500 in federal funds may be available on a competitive basis for a two year project.

The following project will be available for application:

Implement Schoolyard Conservation Site Program, "Greener Schools, Cleaner Water"

The Request for Applications will be available online at <http://www.opgd.dc.gov> under "District Grants Clearinghouse" and will also be available for pick-up beginning February 12, 2007.

Applications can be obtained from:

Sheila Besse
District Department of the Environment
51 N Street, N.E., Suite 5024
Washington, D.C. 20002

You may also request an email version of the application by writing to Joanne Goodwin at: joanne.goodwin@dc.gov

The deadline for application submission is March 5, 2007 at 5:00 p.m. Five hard copies and one electronic copy of the application must be submitted to the address above. For additional information, please contact Sheila Besse, 202/535-2241 or Joanne Goodwin at 202/724-5349.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF THE ENVIRONMENTNOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 CFR Part 51.161, D.C. Code §2.505, and 20 DCMR § 206, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, N.E., Washington, DC intends to issue a permit to construct and operate two (2) 8 MMBTU/hr gas-fired boilers in the National Defense University's property (Lincoln hall) located at Building 64, Fort Lesley J. McNair, 4th and P Streets, SW., Washington DC.

The application to construct/operate the boilers and the draft permit are all available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olaniyan Tajudeen, at (202) 535-2998.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Stanley C. Tracey, Acting Program Manager, Air Quality Division, District Department of the Environment, 51 N Street, N.E., Washington D.C. 20002. **No written comments postmarked after March 16, 2007 will be accepted.** The written comments must also include the person's name, telephone number, affiliation, if any mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact Olaniyan Tajudeen at (202) 535- 2998.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 CFR Part 51.161, D.C. Code §2.505, and 20 DCMR § 206, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, N.E., Washington, DC intends to issue a permit to construct and operate one (1) 750 kW emergency generator set in the Metro LLC premises located at 1275 K Street NW Washington DC.

The application to construct/operate the boilers and the draft permit are all available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olaniyan Tajudeen, at (202) 535-2998.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Stanley C. Tracey, Acting Program Manager, Air Quality Division, District Department of the Environment, 51 N Street, N.E., Washington D.C. 20002. **No written comments postmarked after March 16, 2007 will be accepted.** The written comments must also include the person's name, telephone number, affiliation, if any mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact Olaniyan Tajudeen at (202) 535-2998.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF THE ENVIRONMENT

NOTICE OF PERMIT ACTION

Notice is hereby given that, pursuant to 40 CFR Part 51.161, D.C. Code §2.505, and 20 DCMR § 206, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, N.E., Washington, DC intends to issue a permit to install and operate one (1) 1500 kW generator and one (1) 25 kW emergency generator set in the District of Columbia Water and Sewer Administration's property located at 1801 Minnesota Avenue S.E. Washington DC.

The application to install/operate the generators and the draft permit are all available for public inspection at AQD and copies may be made between the hours of 8:15 A.M. and 4:45 P.M. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Olaniyan Tajudeen, at (202) 535-2998.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Stanley C. Tracey, Acting Program Manager, Air Quality Division, District Department of the Environment, 51 N Street, N.E., Washington D.C. 20002. **No written comments postmarked after March 16, 2007 will be accepted.** The written comments must also include the person's name, telephone number, affiliation, if any mailing address and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact Olaniyan Tajudeen at (202) 535- 2998.

DISTRICT DEPARTMENT OF THE ENVIRONMENT

**NOTICE OF FILING OF AN APPLICATION
TO PERFORM VOLUNTARY CLEANUP**

Pursuant to § 601 (b) of the Brownfield Revitalization Amendment Act of 2000, effective June 13, 2001 (D.C. Law 13-312; D.C. Official Code § 8-636.01(b) (Supp. 2006)) (Act), the Voluntary Cleanup Program (VCP) in the District Department of the Environment (DDOE), is hereby informing the public that it has received an application to participate in the Voluntary Cleanup Program (VCP). The application, case VCP2007-012, that pertains to certain real property located at 413 Kennedy Street, N.W., was submitted by Gertrude F. Byrd, owner/Principal of E & G Cleaners, L.L.C., 413 Kennedy Street, N.E., Washington, D.C., 20011. The application identifies moderate levels of chlorinated solvent compounds in soil and moderate to elevated levels of chlorinated solvents in groundwater. The subject property is under contract for use as a funeral parlor (adjacent property) located at 411 Kennedy Street, N.W. and no further redevelopment is planned.

Pursuant to § 601(b) of the Act, this notice will also be mailed to the Advisory Neighborhood Commission (ANC) for the area in which the property is located. The application is available for public review at the following location:

Voluntary Cleanup Program
District Department of the Environment (DDOE)
51 N Street, N.E., Room 3024
Washington, DC 20002

Interested parties may also request a copy of the application for a small charge to cover the cost of copying by contacting the Voluntary Cleanup Program at the above address or calling (202) 535-1337.

Written comments on the proposed approval of the application must be received by the VCP program at the address listed above within twenty one (21) days from the date of this publication. DDOE is required to consider all public comments it receives before acting on the application, the cleanup action plan, or a certificate of completion.

Serve DC
EXECUTIVE OFFICE OF THE MAYOR

PUBLIC NOTICE

NOTICE OF FUNDING AVAILABILITY

DISTRICT OF COLUMBIA
COMMISSION ON NATIONAL AND COMMUNITY SERVICE

Freddie Mac National & Global Youth Service Day 2007 Mini Grants

Notice: ATTENDANCE AT AN INFORMATION SESSION IS REQUIRED IN ORDER TO BE ELIGIBLE TO APPLY FOR THIS GRANT. SESSIONS ARE SCHEDULED FOR TUESDAY, FEBRUARY 13, 2007 FROM 6:30PM TO 8:00PM, WEDNESDAY, FEBRUARY 21, 2007 FROM 6:30PM TO 8:00PM AND MONDAY, MARCH 5, 2007 FROM 5:30PM TO 7:00PM AT ONE JUDICIARY SQUARE 441 4TH ST, NW CONFERENCE ROOM 1114 WASHINGTON, DC.

Summary: Serve DC, in partnership with the Freddie Mac Foundation, is offering grants to support community service projects organized for National & Global Youth Service Day 2007, April 20-22, a weekend of service focused on the contributions of youth in the community. **Grants worth up to \$750.00** will be awarded.

Millions of youth will participate in National & Global Youth Service Day, the largest service event in the world, on April 20-22, 2007. They will tutor young children, engage in disaster relief, register new voters, educate their communities about good nutrition, distribute HIV/AIDS prevention materials and meet many more community needs through their service. National & Global Youth Service Day supports youth on a life-long path of service and civic engagement, and educates the public, the media, and elected officials about the role of youth as community leaders.

Awards will be made to nonprofits, schools or universities, community groups, faith-based organizations, corporations, government agencies, or public organizations to support service activities designed for and by youth in the District of Columbia. These activities will enable communities to meet critical needs that include environmental, educational, public safety, homeland security, and other community needs. Additionally, applicants must propose to institute a reflection and celebration activity to promote long term service commitment.

Criteria for eligible applicants: Eligible applicants include nonprofits, schools or universities, community groups, faith-based organizations, corporations, government agencies, or public organizations. An organization described in Section 501 © (4) of the Internal Revenue Code, 26 U.S.C. 501 © (4), that engages in lobbying activities is **not** eligible to apply, serve as a host site for the project, or act in any type of supervisory role in the program. **Individuals are not eligible to apply.**

All eligible applicants must meet all of the applicable requirements contained in the application guidelines and instructions. The Freddie Mac Foundation Youth Service Grant

Application will be released on February 15, 2007 at 9:00am. **The deadline is March 14, 2007 at 12:00 p.m.**

The schedule for information sessions is as follows: One Judiciary Square, 441 4th St, NW Conference Room 1114, Tuesday, February 13, 2007 from 6:30 p.m. to 8:00 p.m., Wednesday, February 21, 2007 from 6:30 p.m. to 8:00 p.m., and Monday, March 5, 2007. **All interested applicants must register and attend one technical assistance session in order to apply for funds.** To RSVP for a training session, please contact Natasha M. Ballentine, Training and Technical Assistance Manager, at (202) 727-7928 or natasha.ballentine@dc.gov.

Serve DC anticipates awarding grants of up to \$750 for Freddie Mac Foundation Youth Service grants. The actual number and dollar amount of the awards will depend upon the number of approved applications received and requested dollar amount.

Applications can be obtained from 441 4th Street NW, Suite 1140N, Washington, DC 20001 or downloaded and printed from our Web site at www.serve.dc.gov. For additional information, please call Natasha M. Ballentine at (202) 727-7928.

DISTRICT OF COLUMBIA REGISTER

DEPARTMENT OF HUMAN SERVICES
INCOME MAINTENANCE ADMINISTRATION

NOTICE OF FUNDING AVAILABILITY

FY 2007 Mini-Subgrants to Small Non-Profit Community-Based Organizations

The Department of Human Services (DHS), Income Maintenance Administration (IMA) is the lead agency in the District of Columbia for implementation of the Temporary Assistance for Needy Families (TANF) program. To facilitate achievement of TANF purposes, the DHS/IMA intends to award grant funds to small community-based and faith-based organizations that directly assist TANF customers and other low-income families and children in the District of Columbia.

DHS/IMA intends to make multiple grant awards of up to \$20,000 each to fund one or more services or activities offered by the eligible organizations for a 90-day period. Eligible organizations include small community-based, faith-based, non-profit organizations located in the District of Columbia with an annual budget not more than \$150,000. The service and activity to be funded through the mini-grant should have an immediate and direct impact on TANF customers or other low-income families with children with household incomes of less than or equal to 200 percent of the federal poverty line.

Faith-based organizations, such as churches, synagogues, mosques, or religiously based social service affiliates of such organizations are encouraged to apply.

The Request for Application (RFA) will be released on February 15, 2007. The RFA may be obtained from DHS/IMA located at 645 H Street, NE, Washington, D.C. 20002. In addition, the RFA will also be available on the Mayor's Office of Partnership and Grants Development website (<http://www.opgd.dc.gov>) under the link to the District Grants Clearinghouse. For additional information, please contact Ms. Priscilla Burnett, Department of Human Services, Office of Grants Management at 202-671-4407.

The deadline for submission is Friday, March 30, 2007 at 4:00 p.m.

Applicants are encouraged to attend the Pre-Application Conference

Monday, February 26, 2007
1:30 p.m. – 3:30 p.m.

Income Maintenance Administration
5th Floor Conference Room,
645 H Street, NE;
Washington, D.C. 20002.

Applicants interested in attending the Conference should RSVP to Marchelle White, DHS/IMA at (202) 698-3942 on or before, Wednesday, February 21, 2007.

D.C. OFFICE OF PERSONNEL

NOTICE CONCERNING COVERAGE UNDER THE PERFORMANCE
MANAGEMENT PROGRAM

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

Sections 1351 through 1353 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-613.51 *et seq.*) (2001), established a comprehensive performance management system for the District government. Chapter 14, *Performance Management*, of Title 6 of the District of Columbia Municipal Regulations, implements the guidelines and procedures for the Performance Management Program pursuant to sections 1351 through 1353 of the CMPA.

As of the date of this notice, the majority of Career Service employees (especially, non-unionized, and non-managerial/non-supervisory) in agencies under the personnel authority of the Mayor are not covered under the Performance Management Program. However, section 1400.1 (e) of Chapter 14 of the regulations provides that the Director of the D.C. Office of Personnel, may, on an agency-by-agency basis, authorize coverage under the Performance Management Program for this category of employees.

Further, section 1400.2 of the regulations provides that, upon authorizing an agency for coverage pursuant to section 1400.1 (e) of the chapter, the Director, D.C. Office of Personnel, shall publish a notice in the *D.C. Register* concerning such authorization.

Accordingly, the purpose of this notice is to announce that on **Friday, February 2, 2007**, Brender L. Gregory, Acting Director, D.C. Office of Personnel, authorized coverage under the Performance Management Program for employees in the Fire and Emergency Medical Services Department occupying the following positions:

Battalion Fire Chief
Deputy Fire Chief
Assistant Fire Chief (Services)
Assistant Fire Chief (Operations)

Coverage for these employees begins on **Friday, February 9, 2007**.

**District of Columbia
Police Officers Standards and Training Board**

NOTICE OF PUBLIC MEETING

The District of Columbia Police Officers Standards and Training (D.C. POST) Board will hold open meetings on the following dates and times during Calendar Year 2007:

- Monday, March 5, 2007, 5 p.m. – 7 p.m.
- Monday, June 4, 2007, 5 p.m. – 7 p.m.
- Monday, September 10, 2007, 5 p.m. – 7 p.m.
- Monday, December 3, 2007, 5 p.m. to 7 p.m.

The meetings will be held in Room 1117 South, 441 4th Street, Northwest, Washington, D.C. 20001 or as otherwise announced in the D.C. Register. Anyone interested in the work of the D.C. POST Board may attend the meetings. Please note that you must present picture identification in order to enter the building.

Copies of the materials to be voted on by the Board at a particular meeting may be obtained in advance beginning ten (10) business days prior to the meeting. Typed written comments on the materials may be submitted to the Office of the Board at least one (1) business day in advance of the meeting. Written comments received or postmarked after this date will not be accepted.

Members of the public who wish to present oral testimony at a particular meeting should contact the Office of the D.C. POST at least one business day prior to the meeting by telephone or by faxing a written copy of the comments to be presented. Public comments will be limited to the last thirty(30) minutes of the meeting. Individual comments will be limited to three (3) minutes. Members of the public will be scheduled on an "first come-first served" basis.

The contact information is as follows:

Office of the D.C. Police Officers Standards and Training Board
300 Indiana Avenue, Northwest, Room 5031
Washington, D.C. 20001
Attn: Lieutenant Will Goodwin

E-Mail: will.goodwin@dc.gov
Fax Number: 202-727-5101
Telephone Number: 202-727-1516

Office of the Secretary of the
District of Columbia

February 2, 2007

Notice is hereby given that the following named persons have been appointed as Notaries Public in and for the District of Columbia, effective on or after March 1, 2007.

Ackerman, Carlton J.	Rpt	4000Cathedral Ave,NW#654B 20016
Barr, Corrine	Rpt	GreenPeace 702 H St,NW#300 20001
Barrow, Valerie A.	Rpt	Taxation w/Representation 1101 30 th St,NW#500 20007
Briggs, Rose M.	Rpt	Howrey LLP 1299 Pa Ave,NW 20004
Brown, Paulette	Rpt	Washington Gas Light 101 Const Ave,NW 20080
Brunot, Teresa M.S.	New	Morrison & Foerster 2000 Pa Ave,NW#5500 20006
Butler, Robin	Rpt	House of Reps/Oversight 2157 Rayburn HOB 20515
Cardea, Laurie-Jo	Rpt	Manelli Denison & Selter 2000 M St,NW#700 20036
Carnegie, Kelly	New	L A D Reporting 1100 Conn Ave,NW#850 20036
Carter, Robin	New	4842 Texas Ave,SE 20019
Cassell, Rosalind	Rpt	McKenna Long Aldridge 1900 K St,NW 20006

Caswell, Wendy S.	New	House of Representatives 1718 Longworth HOB 20515
Childs, Julie A.	New	Gay & Lesbian Task Force 1325 Mass Ave, NW#600 20005
Collins, Ronald R.	Rpt	Council of D.C. 1350 Pa Ave, NW#5 20004
Cornett, Vanessa	New	Vedder Price Kaufman 875 15 th St, NW#725 20005
Criswell, Nathalie B.	New	Harris Wiltshire Grannis 1200 18 th St, NW 20036
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Daniels, Jhonnal	New	Sun Trust Bank 3440 Wis Ave, NW 20016
Davis, Donna	Rpt	F A A 800 Indep Ave, SW#912J 20591
Dickens, Ardis	New	Dept of Commerce F C U Hoover Bldg RmB818 20044
Dolan, Maryanne	Rpt	1705 Lanier Pl, NW#206 20009
Duarte, Deandrea	New	L E C G 1725 I St, NW#800 20006
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Ellison, Danita M.	New	Covad Communications 600 14 th St, NW#750 20005
Ewell, Carolyn L.	New	Northwest Health Care Ctr 3333 Wis Ave, NW 20016
Fauntleroy, Cynthia	Rpt	Public Defender Service 633 Indiana Ave, NW 20001
Feighny, Suzanne L.	Rpt	Amer Inst for Research 1000 ThJeff St, NW 20007
Ferguson, Phyllis	Rpt	Bryan Cave 700 13 th St, NW#700 20005

Flores, Marleny	Rpt	Multi Servicios Latinos 3535 14 th St, NW 20010
Frenyea, Shannon E.	New	Homeland Security 245 Murray Dr 20528
Gaither, Barbara J.	Rpt	Latham & Watkins 555 11 th St, NW#1000 20004
George, Sharon A.	New	Grant Plant Mooty 2600 Va Ave, NW 20037
Gilliard-Gunter, Gail	Rpt	Arent Fox 1050 Conn Ave, NW 20036
Goodwyn, Davora	Rpt	Hessel & Aluise 1050 17 th St, NW#900 20036
Grandstaff, Amy M.	New	SK&A Structural Engineers 1709 N St, NW 20036
Greene, Rochelle N.	New	Monarch Title 1015 31 st St, NW#300 20007
Hames, Melissa A.	Rpt	LeBeouf Lamb et al 1875 Conn Ave, NW 20009
Hanks, Pamela R.	New	Green Door 1221 Taylor St, NW 20011
Harris, Anita M.	Rpt	Olsson Frank Weeda 1400 16 th St, NW#400 20036
Harris, Britni	New	Amer Univ of Rome 1730 R I Ave, NW#409 20036
Hauser, Mark T.	New	Skadden Arps et al 1440 N Y Ave, NW 20005
Higginbothan, Francine	Rpt	Mckenna Long Aldridge 1900 K St, NW#100 20006
Hoyos, Yanet	New	Bank Fund Staff F C U 1818 H St, NdW 20433

Huls, Carol	Rpt	Danaher Corporation 2099 Pa Ave, NW12thF1 20006
Jackson, Jr., Brian	New	Capitol Concierge 1400 I St, NW#750 20005
Klotzman, Emily Miriam	New	Barker Foundation 1066 30 th St, NW 20007
Korb, Linda L.	New	Civil War Preservation 1331 H St, NW#1001 20005
LaPrade, India	New	Commerce Bank 1753 Conn Ave, NW 20009
Legesse, Selamawit	New	1321 Kenon St, NW#208 20012
Lemlih, Hanane	New	Wachovia Bank 1300 I St, NW 20005
Lewis, Sr., Harvey L.	Rpt	Star of Bethlehem Church 5331 Colorado Ave, NW 20011
Lewis, Monique A.	Rpt	HQ Global Workplaces 2300 M St, NW#800 20037
Liddell, Brenda	Rpt	G T University Hospital 3800 Reservoir Rd, NW 20007
McIntosh, Madelen A.	New	Total Management 1339 Green Ct, NW4thF1 20005
Makell, Stacey A.	Rpt	Transportation F C U 400 7 th St, SW 20590
Marshall, Dale A.	New	Dept of Mental Health 2700 MLK Ave, SE 20032
Martin, Lakeda R.	New	Carey International 4530 Wis Ave, NW 20016
Mitchell, Bucky J.	New	P N C Bank 1101 15 th St, NW 20005

Montano, Karina	New	O'Riordan Bethel Law Firm 1314 19 th St,NW 20036
New, Myra	Rpt	Edgewood Mgt 1438 Cedar St,SE 20020
Newton, Jeremy	New	Wachovia Bank 1150 K St,NW 20005
Pagano, Maura	New	London & Mead 1225 19 th St,NW 20036
Payne, Susan	Rpt	Dept of Navy/N C I S 716Sicard St,SE#2000 20388
Price, Carlana	Rpt	American Legion 1608 K St,NW 20006
Prince, Tommi L.	Rpt	Lexis Nexis 1150 18 th St,NW#600 20036
Ramirez, Elisa F.	New	OAG/Child Support 441 4 th St,NW 20001
Rea, Karen	Rpt	PADCO 1025 ThJeff St,NW#170 20007
Reid, Natalie A.	New	Bank Fund Staff F C U 1818 H St,NW#C2-300 20433
Reta, Fetawork B.	New	1346 T St,NW 20009
Rockwood, Leslie	New	Esquire Deposition Serv 1020 19 th St,NW#620 20036
Ross, Angela V.	New	Ross Notary & Title Serv 5514 Central Ave,SE 20019
Rosser, Shannon	New	Ka Poe Hana 1718 M St,NW#700 20036
Salhi, Nazha	New	Old Town Trolley Tours 2640 Reed St,NE 20018

Sanders, Katrina	Rpt	Law Off/Joel Finkelstein 1740 N St,NW#1 20036
Sauter, Allison L.	New	Art Miller & Associates 1050 Conn Ave,NW 20036
Schultes, Jacqueline	New	Capital Reporting 1000 Conn Ave,NW#505 20006
Scott, Dolores	New	Mt. Olivet Cemetery 1300Bladensburg Rd,NE 20002
Slitor, Abbey T.	New	Monarch Title 1015 31 st St,NW 20007
Smith, Susan F.	New	Corbin & Hook Reporting 1100 H St,NW#450 20005
Suber, Jennifer	New	CitiBank 3800 12 th St,NE 20017
Sykes, Ethel M.	Rpt	1318 Spring Rd,NW 20010
Thompson, Artisha	New	A C H P 1100 Pa Ave,NW#803 20004
Toney, Jeffrey J.	New	Universal Settlements 1350 Conn Ave,NW#1020 20036
Tsegai, Bethlehem	New	Bank Fund Staff F C U 1818 H St,NW 20433
Ukwu, Lloyd F.	New	Ukwu & Associates 1108 K St,NW#200 20005
Walker, Kisha M.	New	FedEx Kinko's 2400 M St,NW 20037
Wells, Ronald	New	412 Division Ave,NE 20019
White, Anthony L.	Rpt	G W Univ/School of Med 900 23 rd St,NW#6178 20037

DISTRICT OF COLUMBIA REGISTER

FEB 16 2007

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Williams, Roselyn	Rpt	Catholic Community Serv 1438 R I Ave, NE 20018
Winingham, Heather Jo	New	Cornerstone Research 1875 K St, NW#600 20006
Yeung, Thomasine Jean	New	Ruesch International 700 11 th St, NW 20001
Young, Sharon E.	Rpt	Parsons 1133 15 th St, NW 20005
Zdelar, Denise L.	Rpt	Williams & Connolly 725 12 th St, NW 20005

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

FEB 16 2007

Application No. 17383-A of The Lab School of Washington, pursuant to 11 DCMR § 3104.1 for a special exception under § 206 to allow an increase in student enrollment from 310 to 330, an increase in faculty and staff from 95 to 182, a special exception under § 206 to permit the use of nearby property at 4749 Whitehaven Parkway, NW (Square 1374, Lot 840) for administrative offices for the School, and a special exception under § 2116 to locate accessory parking spaces elsewhere than on the lot served, at an existing private school located at premises 4759 Reservoir Road, NW (Square 1372, Lot 25) in the R-1-B zone.

Note: On January 9, 2007, the Board at a regularly scheduled public meeting, voted to approve Applicant's timely filed motion for reconsideration requesting that the Board clarify the conditions set forth in its December 12, 2006 Decision and Order in the following respects: 1) that the five-year term set forth in the conditions of this order applies only to the relief granted with respect to the faculty and staff and student limits; 2) that in the event the Applicant does not return to the Board prior to the end of the five-year term, that the increase in faculty and staff and students will lapse and revert to the limits set forth in previous order # 16273; and 3) that the Board correct a technical inaccuracy in Condition 6, substituting a reference to Exhibit 56, the updated plans, for Exhibit 9, earlier plans. The ANC supported the motion and requested that the Board also delete footnote 3 that indicated that the conditions in this order supercede all other orders. The Board concurred with the parties that these were proper clarifications in accord with the Board's intent in the order. Finally, the Board denied the ANC's request that the Board add the word "only" after its grant of special exception relief for use of the building located at 4749 Whitehaven Parkway for administrative purposes; i.e. ~~requesting that the language be changed to state "for administrative purposes only."~~ The Board determined that no clarification was necessary. The conditions set forth in this order have been revised accordingly.

HEARING DATES: November 22, 2005, and April 4, 2006
DECISION DATES: March 7, 2006, May 2, 2006, May 16, 2006
and January 9, 2007

REVISED DECISION AND ORDER

On June 16, 2005, the Lab School of Washington (the School or the Applicant), filed an application with the Board of Zoning Adjustment (the Board) for special exceptions under Section 206 of the Zoning Regulations asking the Board to authorize an increase in the student enrollment and faculty and staff above the limits established in BZA Order No. 16273. Although the prior order limited student enrollment to 310 students, the

School has exceeded that limitation and allowed its student enrollment to grow to 330 students. Similarly, the School has exceeded the cap imposed on faculty and staff by 82 employees. The School has explained that these increases were due to a good faith misunderstanding of the Board's prior order with respect to calculating students and faculty who are at the campus on a part-time basis.

The Applicant also seeks approval to use the property located at 4749 Whitehaven Parkway (the "nearby property") for administrative offices for the School. The nearby property is located at Square 1374, Lot 840, on a record lot that is separate from the rest of the School. Finally, the School requested permission to satisfy a portion of its parking requirement through the use of 43 new angled parking spaces it would construct along Whitehaven Parkway in the public right-of-way.

Following a public hearing, the Board deliberated at its Decision Meetings held on May 2, 2006 and May 16, 2006. At the May 16 Decision Meeting, the Board voted to approve the special exception requests under § 206. The Board did not approve special exception relief for parking pursuant to § 2116. Instead, the Board found that special exception relief for parking would not be necessary provided that 43 angled public parking spaces along Whitehaven Parkway were created as presented to the Board, but not dedicated to the exclusive use of the school. Such spaces would need to be in place within 9 months of the effective date of this Decision and Order.

PRELIMINARY MATTERS

Self-Certification The zoning relief requested in this application is self-certified pursuant to 11 DCMR § 3113.2 (Exhibit 5).

Notice of Public Hearing Pursuant to 11 DCMR 3113.3, notice of the hearing was sent to the Applicant, all entities owning property within 200 feet of the Applicant's site, the Advisory Neighborhood Commission (ANC) 3D, and the Office of Planning (OP). The Applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect (Exhibit 24).

ANC 3D The subject site is located within the area served by Advisory Neighborhood Commission 3D (the ANC), which is automatically a party to this application. The ANC filed a report indicating that at regular public meetings on September 7, October 5, and November 2, 2005, with a quorum present, it met to consider the requested relief. The ANC voted to "maintain the present student cap of 310", "increase the faculty and staff from 95 to 150 based on the current number of on-site parking spaces available", "oppose the request [to provide parking in the] public space", and support the use of nearby property for administrative offices (See, Exhibit 26, and Exhibits 27 and 30 noting a correction in the ANC vote). At a subsequent meeting on March 16, 2005, the ANC discussed the Department of Transportation's report and the School's Traffic

Management Plan (TMP). Although the ANC voted to endorse the TMP, it also recommended "the formation of a timely implementation schedule for the stated parking and transportation management goals, and a meaningful enforcement and reporting mechanism for the TMP." (Exhibit 74). The ANC representative, Alma Gates, testified at the April 4, 2006 hearing and also submitted her testimony in writing (Exhibit 78). In its final report, the ANC recommended that the Board set benchmarks and/or goals to measure the success of the School's TMP. In particular, the ANC recommended that the number of vehicle trips generated by the School be reduced over time (Exhibit 83).

Office of Planning (OP) Report OP filed a report supporting the request for the administrative offices, and night school operations, but opposing the request for an increase in enrollment and faculty/staff at the School (Exhibit 31). OP also requested additional information regarding the School's proposal to build angled parking spaces (Exhibit 31). In its supplemental report, OP reiterated its position that the School should reduce its student enrollment by attrition by the end of the 2008 academic year (from 330 to 310), and also recommended that a faculty increase from 94 to 182 should be only temporary, ending in 2009. (Exhibit 67) OP's representative testified that the enrollment and faculty increases had led to adverse impacts on neighborhood streets due to increased traffic and overflow parking on neighborhood streets.

Department of Transportation (DDOT) Report DDOT initially indicated that the proposed parking spaces were acceptable from a technical standpoint, but later wrote that it did not support the Applicant's proposal for spaces in the public right-of-way (Exhibits 28 and 63). DDOT also offered to assist the Applicant in developing a revised TMP (Exhibit 63). Prior to the Board's Decision Meeting in March, 2006, DDOT submitted a report noting that the School's parking demand far exceeded the available supply, and ~~that the School needed to mitigate the use of parking in the neighborhood through the use of transit, van shuttle services, and carpools (Exhibit 71).~~ Ken Laden, a representative of DDOT, testified before the Board and noted his objection to public space being dedicated to a private use. He supported the creation of the angled parking spaces, provided they were available to the public and not dedicated to the exclusive use of the school. He also acknowledged that the demand for parking in the area where the angled spaces are proposed to be located is largely limited to employees and visitors to the Lab School and Our Lady of Victory School.

Requests for Party Status. ANC 3D was automatically a party to this proceeding. The Board received a request for party status from the Reverend Milton Jordan, Pastor of Our Lady of Victory Church, located across Whitehaven Parkway from the property and across from the proposed angled parking spaces (Exhibit 29). The Board granted Reverend Jordan's request for party status, and the Reverend testified at the public hearing regarding safety concerns at the Church school. However, by letter dated February 20, 2006, Reverend Jordan withdrew his opposition to the Application, and

wrote that his concerns had been addressed by the Applicant (appended to Applicant's Exhibit 66).

Persons in Opposition to the Application The Board received letters in opposition to the application from neighboring property owners Vicki Hicks, Katie Harvey, and Brendan Reilly (Exhibits 32 and 21). The letters in opposition asserted generally that the proposed enrollment and faculty/staff increase would create objectionable traffic and parking conditions in the neighborhood. Ms. Hicks, who wrote one of the letters, testified at the public hearing, and stated that the traffic situation in the neighborhood is objectionable, and that the granting of the application would result in more traffic. She also stated that the proposed angled spaces would encourage more traffic in the neighborhood.

Persons in Support of the Application The Board also received several letters in support of the application (Exhibits 33-48, and 65). The letters generally cited the excellent education that the School offers and the many benefits the School provides to its neighbors. In addition, the letters stated that the new sidewalk proposed in conjunction with the angled spaces would greatly increase pedestrian safety on Whitehaven Parkway. A nearby homeowner, Anne Davis, testified in support of the application, asserting that the proposed angled spaces and sidewalk would be an amenity for the neighborhood.

Applicant's Case Sally Smith, the Founder and Director of the School, testified on behalf of the Applicant, as did Peter Braun, Director of Operations for the School. The Applicant also presented testimony and evidence from experts in civil engineering (Allyn Kilsheimer of KCE Structural Engineers) and traffic management (Martin Wells of Wells & Associates) (~~See, Exhibit 73, TMP appended to Exhibit 66, and revised TMP appended to Exhibit 76).~~

Closing of the Record. The Board conducted a public hearing on November 22, 2005, but kept the record open to receive several submissions, including supplemental reports by OP and DDOT, and an ANC response to the Applicant's oral motion to strike the ANC report. The Board set the matter for a Decision Meeting on March 7, 2006. Prior to that meeting, the Board received several submissions, including most significantly, a report from DDOT. Because that report raised additional questions regarding traffic and parking issues, the Board re-opened the record to accept all of the submissions and to conduct an additional hearing. The hearing was limited to the traffic and parking issues, in particular, those issues raised by the TMP and DDOT reports. The hearing was conducted on April 4, 2006, and the record was held open until April 25, 2006, to allow proposed Findings of Fact and Conclusions of Law from all the parties. A Decision Meeting was held on May 2, 2006, and, again on May 16, 2006.

FINDINGS OF FACT

Background

1. The School is a private school for children with special needs in grades kindergarten through twelve.

2. It has been located at the property since the School acquired it in 1982, and currently enrolls 330 students.

3. The School also offers educational programs for adults, and currently enrolls about 60 learning-disabled adult students during the evenings. The "night school" teaches essential life skills such as reading, writing, spelling, and basic math. Classes meet only on Tuesdays and Thursdays, for a total of only 24 evenings per semester, and are held between 5:50 and 9:30 p.m. Class size is limited to five students.

4. The Applicant proposes to continue its night school use, which it asserts is a reasonable accessory use to the private school use.

5. In 1992, the Board approved the private school use in BZA Order No. 15642, granting the School's application to add additional property to the School and to convert a single-family home into administrative offices.

6. The private school use of the property was most recently approved in 1997 in BZA Order No. 16273, when the Board approved a maximum student enrollment of 310 students (Condition no. 1) and a faculty/staff cap of 95 (Condition no. 2).

7. Notwithstanding these limitations, the School currently enrolls 330 students and employs 182 faculty and staff, including teachers (of which 78 are full-time), administrative employees, speech therapists, occupational therapists, and physical therapists.

8. The number of employees at the school at the same time between the hours of 7:00 a.m. and 4:00 p.m. varies, but ranges between 170 and 179 employees.

The Property and Surrounding Area

9. The property is located in the R-1-B zone district near the intersection of Whitehaven Parkway and Reservoir Road. It has frontage on both streets and consists of approximately 163,567 square feet of land area located at premises 4759 Reservoir Road, NW (Square 1372, Lot 25).

10. The property is improved with a prominent administration building known as the "castle", a gymnasium, a carriage house, an arts building, two classroom buildings, and two houses. There is also a protected wetlands on site.

11. There are currently 87 parking spaces located at the property, but the property can accommodate 107 cars with stacked parking.

12. The School also owns the nearby property located at 4749 Whitehaven Parkway, NW (Square 1374, Lot 840) (the nearby property). The nearby property is located across Whitehaven Parkway from the subject property, contains 5,003 square feet of land area, and is improved with a single-family home.

13. The surrounding area is characterized by a mixture of residential and institutional uses. The property abuts St. Patrick's Episcopal Day School to the east and Fire Engine House No. 29 to the west. Both sides of Reservoir Road, which is located south and east of the property, are devoted primarily to use as single-family homes. The Embassy of the Federal Republic of Germany and an underground reservoir are located further east of the property. St. Patrick's Episcopal Day School's gymnasium, The George Washington University Mount Vernon campus, and Our Lady of Victory Church and School are located across Whitehaven Parkway from the School.

Traffic

14. The transportation firm of Wells & Associates studied the traffic of the area in which the property is located and conducted a "Traffic Impact Analysis" (the traffic study) of the conditions of the School (Exhibit 25, Tab H).

15. ~~Because the school has already increased its enrollment and staff to the level for~~ which approval is sought, the traffic study attempted to extrapolate the extent to which the increases have already impacted neighborhood traffic.

16. According to the traffic study, traffic is heavy at the intersection of MacArthur Boulevard and Whitehaven Parkway, the location where the School is located. However, this is attributable primarily to commuter traffic.

17. The traffic study shows that the additional faculty and staff have not adversely affected traffic patterns in the vicinity of the site nor had an adverse impact on the road network. The traffic study measured the traffic with the School's additional enrollment and faculty/staff (330 students and 182 faculty/staff) and compared traffic that would result from enrollment and faculty/staff cap actually authorized (310 students and 95 faculty/staff). According to the study, the additional students and faculty/staff have caused some delay at the intersection of MacArthur Boulevard and Whitehaven

Parkway – but only a two second delay – during the AM peak hour. The additional students and faculty/staff have had virtually no effect on traffic during the PM traffic.

18. Anthony McElwee, of the Metropolitan Police Department, testified that he performed a survey of traffic on Whitehaven Parkway at the request of the ANC, and found that Whitehaven Parkway is heavily traveled during peak hours. He also found that parents stop and park their cars while picking up and dropping off students, and that children frequently cross Whitehaven Parkway.

Parking

19. As a private school use, the School is required to have “ample” parking, but not less than that required in Chapter 21 of the Regulations. 11 DCMR 206. Based on 182 employees and the School’s assembly space, the School is required to have 130 parking spaces pursuant to the parking schedule set forth at 11 DCMR 2101.¹

20. Pursuant to 11 DCMR 2108 the Board is authorized to reduce the number of parking spaces required under 11 DCMR 2101 by up to 25% upon consideration of the factors set forth therein, including the availability of parking in the neighborhood.

21. A 25 % reduction pursuant to 11 DCMR 2101 would thereby require the School to provide 98 spaces on site.

22. As stated in Finding of Fact No. 9, there are currently 87 parking spaces that meet the technical requirements under the Zoning Regulations, but the School can accommodate a total of 107 cars within its property, including unmarked spaces and stacked parking.

23. The School cannot locate additional parking spaces on site because of the existence of wetlands on its property as well as existing improvements.

¹ Because many of the employees are part-time and not all at the school at the same time, the parking requirement may actually be less than that amount. See, 11 DCMR 2118.3. The School stated at the hearing that the number of employees at the school at the same time between the hours of 7:00 a.m. and 4:00 p.m. varies, but ranges between 170 and 179 employees, less than the 182 figure used to calculate the required parking. The Board need not resolve whether fewer spaces are required because the difference in numbers is not significant enough to affect the Board’s analysis in this case.

24. According to the traffic study, the School's current parking demand is for 175 parking spaces. The school intends to reduce that demand to 130 parking spaces through the use of car pooling and a free shuttle service in accordance with its TMP.

25. The Applicant's long term parking solution is to either construct a garage or acquire off-site spaces, and the School plans to acquire additional property for this purpose. However, it will take approximately five years for the School to locate and acquire an appropriate site or to raise the funds for the garage.

26. In the interim, the School has developed a Traffic Management Plan ("TMP") that offers solutions to parking and traffic concerns. (Attachment to Exhibit 66).

27. The TMP posits that the School's weekday parking demand currently exceeds the School's on-site parking supply. The stated goal of the TMP is to "bring peak weekday parking demand and supply into balance by "(1) increasing parking supply and (2) decreasing overall parking demand".

28. The TMP proposes measures to increase parking supply through re-striping existing spaces to gain more spaces, and providing stacked parking spaces.

29. The TMP proposes measures to reduce peak parking demands through increased use of public transportation, carpools, school bus service, bicycles, car sharing, and limitations on high school drivers.

30. The TMP also addresses typical weekday arrival and dismissal, evening, and ~~event traffic management.~~

31. If the TMP is successfully implemented, the AM peak hour vehicle trips will be reduced from 196 to 165 (Exhibit 82).

Angled Parking on Whitehaven Parkway

32. The School initially proposed as a solution to its parking needs the construction of 43 angled parking spaces along Whitehaven Parkway, a public right-of-way, that would be dedicated exclusively to the School. The School proposed to lease these spaces from the District of Columbia and sought special exception relief under § 2116.

33. The school designed a parking plan for the angled spaces that complies with the provisions of Chapter 23 of the Zoning Regulations, and will be paved in accordance with DDOT requirements. Two of the parking spaces will be handicapped-accessible. There will be no structures or lighting related to the parking spaces.

34. The parking design has met with DDOT's approval, but not the dedication of the spaces to exclusive use by the School. The plan is subject to final approval by the Public Space Committee.

35. Construction of the 43 spaces will replace 17 existing spaces, resulting in a net increase of 26 public parking spaces.

36. The demand for parking in the area where the angled spaces are proposed to be located is largely limited to employees and visitors to the Lab School and Our Lady of Victory School.

37. The 107 parking spaces on site, together with the 26 additional parking spaces that would be created by the construction of the angled parking, would provide ample parking to meet the parking demand for 130 spaces set forth in the TMP.

38. Pursuant to its TMP, if the School does not demonstrate a balance between supply and demand within 30 days after the beginning of the school year in the fall of 2007, the School will be required to lease additional off-site spaces to meet the excess demand.

Other Objectionable Conditions

39. The additional faculty and staff (reflecting current employment) do not cause objectionable noise and have little effect on neighboring properties. The faculty and staff generally work inside the School buildings and, as a result, cause no adverse noise impacts. Most of the School's immediate neighbors are institutional uses, and the School's buildings are well-buffered from nearby residential properties. Likewise, the increase in student enrollment (20 additional students) has had little impact on neighboring properties.

Impact of Administrative Office Building

40. The proposed building will house administrative functions that are integral to the private school use. These functions are an essential adjunct to the educational mission of the School.

41. The proposed building will be extremely close in proximity to the existing School buildings – it will be located only 120 feet away and will be separated only by Whitehaven Parkway. Approximately 15 of the existing school employees will use the building on a regular basis, and the building will have a negligible impact on traffic.

CONCLUSIONS OF LAW

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 § 5-524(g)(2)), to grant special exceptions as provided in the Zoning Regulations. The Applicant applied under 11 DCMR § 3104.1 for a special exception pursuant to 11 DCMR § 206 to allow an increase in its student enrollment and faculty and staff, and for approval for administrative offices at a nearby property. It also sought permission to locate accessory parking elsewhere than on the lot of the buildings the spaces are intended to serve. 11 DCMR § 2116.5.

The Board may grant a special exception where, in its judgment, two general tests are met, and, the special conditions for the particular exception are met. First, the requested special exception must “be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.” 11 DCMR § 3104.1. Second, it must “not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.” 11 DCMR §3104.1.

Under Section 206.1 of the Zoning Regulations, the Board may permit the use of private schools subject to the provisions set forth in 206.2 and 206.3:

206.2 - The private school shall 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.

This application is similar to *Application No. 17081 of St. Patrick's Episcopal Day School*, 51 DCR. 10277 (2004) with respect to its request for an increase in faculty and staff. ~~Like the Lab School, the Applicant in that case was requesting the Board to ratify an unauthorized increase in staff that had grown in large part with part-time employees.~~ In both cases, there was confusion as to how to count these employees. In that case, as here the Board found that “the increase requested ...[would] not result in an actual increase, but rather [would] modify the Board's condition to comport with reality”, 51 DCR 10882. In granting that application, the Board noted that “the Applicant has admitted its error, is not seeking to add more faculty or staff, and has demonstrated that the increase, although unauthorized, did not result in adverse impacts.” *Id.* The Board makes the same findings with respect to this application. The School has been operating at the site since 1982. Since that time, the School has operated without significant objectionable impacts on neighboring properties from noise, traffic, or number of students. While the evidence in the record shows that there has been some increase in traffic in the neighborhood, that increase is minor and primarily attributable to commuter traffic (Findings of Fact 15 and 16). Furthermore, the TMP, upon which this Order is conditioned, will insure that any traffic impacts will be mitigated. The Board is persuaded that, even with the additional students and employees, the School will continue

to have only minimal impact on the noise and traffic conditions in the area. The primary objectionable impact has been on parking in the neighborhood. The Board finds that the objectionable parking impacts will be mitigated by the additional parking that will be provided as set forth below and by the decrease in the demand from parking resulting from the School's TMP.

206.3 – Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

Based upon the School's figure of 182 employees, under the parking schedule set forth in 11 DCMR 2101, the School is required to provide 130 spaces on site. The Board finds that a reduction in this requirement is justified, reducing that number to 107 spaces on site, including unmarked spaces and stacked parking.² This reduction is less than the 25% authorized under Section 2108.3 which in this case would allow a reduction in the required number of spaces to 98. In making this determination the Board has considered the following factors set forth in Subsection 2108.3:

- (a) Nature and location of the structure;
- (b) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;
- (c) Amount of traffic congestion existing or that the building or structure can reasonably be expected to use the proposed building or structure at one time;
- (d) ~~Quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the building or structure is in use; and~~
- (e) Proximity to public transportation, particularly Metrorail stations, and the availability of public transportation service in the area or a ride-sharing program approved by the D.C. Department of Transportation.

The Board finds that because of the topography of the site, including the presence of wetlands and existing improvements, the School cannot provide any more than the 107 on-site parking spaces. However, the Board finds that these 107 on-site spaces will provide ample parking for students, teachers and visitors provided that the 43 angled

² While the Applicant has only 87 parking spaces that meet the technical specifications of the regulations, the Board concludes that the words in Section 206, "but not less than that required in Chapter 21," modifying the phrase "ample parking," applies to the number of spaces required on site by the parking schedule. Accordingly, the Board applies the special exception standards in its evaluation of other parking space criteria.

parking spaces are constructed on Whitehaven Parkway as presented to the Board. The 107 on-site spaces together with the 26 additional public parking spaces that will be created in the neighborhood with the construction of the angled parking will net a total of 133 parking spaces for an estimated demand of 130 spaces. Although, the School will not have exclusive control over the angled parking, the record reflects that that parking is primarily accessible to the Lab School and Our Lady of Victory and would primarily serve the School's population. Use of these spaces by the School will diminish parking by the School on neighboring streets. Finally, the School's extensive TMP contains various mechanisms, including the use of shuttle buses and public transportation, and monitoring to bring into balance the parking supply and demand. Taken together, the increase in parking availability for both the School and the general public and the decrease in parking demand allow the Board to conclude that 107 on-site parking spaces are ample.

While the School initially sought a special exception for use of the angled parking as accessory parking pursuant to 2116 to count towards its required 130 spaces, DDOT as well as the ANC opposed the dedication of public space to private use. Accordingly, in granting the Application, the Board does not grant this special exception. Instead, the Board finds that with the construction of the 43 angled spaces that will be available to the general public there will be ample parking for the School.

Finally, the School has presented its parking solutions as temporary; that it is seeking to acquire additional property for a new garage. Accordingly, as set forth in the conditions, the Board is imposing a five-year term on this order in light of the changes expected to occur in that time period.

Night School Use

An "accessory use" is defined under the Zoning Regulations as "a use customarily incidental and subordinate to the principal use, and located on the same lot as the principal use". 11 DCMR 199. The Board concurs with the Applicant that the night school, as it is currently operated, is a reasonable accessory use to the School (Findings of Fact 3 and 14).

Administrative Office Building

As stated above, the proposed building will house administrative functions which can be reasonably characterized as an extension of the principal school use. As such, the administrative offices will not serve as an accessory "use", but the proposed building is an accessory "building". Thus, the Board considered whether approval of the structure would run afoul of § 2500.1 of the Zoning Regulations. Section 2500.1 allows an "accessory building", but only if it is "located on the same lot with the use or building to

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which it is accessory". Here, the proposed office building will be located directly across the street from the School. As the School has purchased the property, the building is located on the School's property, but on a lot and square that is separate from the main campus of the School.

This fact notwithstanding, the Board has never read this section to require that accessory buildings for school uses be located on the same record lot. The District of Columbia Court of Appeals has affirmed the Board's broad reading of this requirement to apply to a School's property in general, not to a specific record lot and square.

The Court of Appeals' discussion, though with respect to accessory uses, in *Georgetown Residents Alliance v. D.C. Bd. of Zoning Adjustment*, 816 A.2d 41 (D.C. 2003) is specifically on point to the question presented in this case. The Court stated as follows:

The GRA argues nevertheless that this particular child care center is not an accessory use because it fails the "same lot" test set forth in the zoning regulations. See 11 DCMR § 199 ("a use customarily incidental and subordinate to the principal use, and located on the same lot with the principal use"); *Hilton Hotels, supra* note 13, 363 A.2d at 671 (facility not on same lot is not an accessory use). Specifically, because Poulton Hall stands on lot 835, in a residential neighborhood and not on Georgetown's main campus, which bears a different lot number in the District of Columbia land records (it is directly across the street), the GRA claims it cannot be deemed an accessory use to the University. This argument is unavailing. Both the Acting Zoning Administrator and the BZA interpreted "lot" in this context to mean the entire University, not just the record lot, for the purpose of its consideration as an accessory use. We uphold the BZA's ruling on this issue, since it is consistent with both the zoning regulations and our case law. See 11 DCMR § 199 ("A lot may or may not be the land so recorded on the records of the Surveyor of the District of Columbia"); *Citizens Coalition*, 619 A.2d at 955 (holding that, because the proposed power plant was on a remote part of the University campus, the "same lot" requirement for accessory uses was satisfied); see also *Georgetown Residents Alliance v. District of Columbia Board of Zoning Adjustment*, 802 A.2d 359, 366 (D.C. 2002) (distinguishing between "lot" and "lot of record.")

In accordance with the past BZA and Court of Appeals decisions referenced above, § 2500.1 does not preclude the location of the administrative building across the street from the main campus. Further, in light of the limited use of this building -15 employees performing administrative functions - and its location next to other institutional uses, the Board finds that there will be no likely adverse impact from the proposed location of the offices.

OP's Issues and Concerns

The Board is required, under D.C. Code § 6-623.04, to give "great weight" to OP recommendations. In its report, OP stated that neither student enrollment nor faculty/staff should be increased as was requested. However, the Board finds that neither OP's report nor its testimony during the hearing, identified specific, quantifiable impacts that would justify limiting the enrollment or faculty and staff. The School has demonstrated that the additional 20 students have had little effect on noise and traffic and is likely to continue to have minimal impact. Thus, the Board does not find OP's recommendations regarding an enrollment staff cap to be persuasive. The Board has given great weight to OP's concerns about the impact on parking in the neighborhood from the additional staff and is persuaded that the additional parking and the implementation of the School's TMP will redress the parking problems. The Board also has been persuaded by OP's (and DDOT's) policy concerns with respect to the dedication of public parking to private uses and has accordingly, declined to grant special exception relief for that purpose.

The ANC Issues and Concerns

The Board is also required, under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21, as amended; now codified at D.C. Code § 1-309.10, to give "great weight" to the issues and concerns raised in the affected ANC's recommendations. To give great weight the Board must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances, articulating specific findings and conclusions with respect to each of the ANC's issues and concerns.

In order for the ANC to be granted great weight, it must comply with the provisions set forth in 11 DCMR 3115.1 and the statute referenced above. Such provisions include proper notice, and the holding of a public meeting. During the hearing, the Applicant made an oral motion to strike the ANC Report on grounds that the ANC had conducted its deliberation in private. The Board interprets this motion as a motion to deny the ANC great weight in this case. In a written response, the ANC explained that it did not conduct any substantive deliberations regarding the issues in this case in private. The Board is persuaded that the ANC's actions did not rise to the level of denying the ANC its great weight and accordingly addresses its issues and concerns as follows:

1. Student Enrollment and Faculty/Staff Increases

For the reasons already set forth, the Board finds that the student and faculty / staff increases are not likely to have an adverse impact on neighboring properties because of

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the additional parking that will be provided and because of the extensive mechanisms in the School's TMP to redress parking and traffic concerns.

2. Angled Parking on Whitehaven Parkway

The Board was persuaded by the ANC's and DDOT's concerns regarding the exclusive dedication of public parking spaces for private use. However, the Board does not agree that the parking spaces on Whitehaven Parkway will encourage future staff growth, or that fire trucks will have difficulty traversing the right-of-way. The Board finds that the provision of the angled parking will benefit the public. The design as presented to the Board not only will add parking spaces to the neighborhood, but also will add sidewalks, and improve the safety and aesthetics of the area.

For the reasons stated herein, the Board concludes that the Applicant has met its burden of proof and **GRANTS** the special exception relief under § 206 to allow the School's use of the building located at 4749 Whitehaven Parkway for administrative purposes.

The Board further concludes that the Applicant has met its burden of proof and **GRANTS** the School Special Exception Relief under § 206 to increase the enrollment and the faculty and staff limits **SUBJECT** to the following **CONDITIONS**:

1. The maximum enrollment shall be 330 students.
2. The maximum number of faculty, staff, and administrative personnel, including part-time employees, shall be 182.
3. Within 30 days of the beginning of each academic year, the School shall provide to ANC 3D a report indicating current student enrollment and the number of faculty/staff.
4. The School shall fully implement and comply with Plan A of the Traffic Management Plan (TMP) (Exhibit 66).
5. Within 45 days of each traffic monitoring survey required by the TMP, the School shall provide to DDOT and ANC 3D a report indicating its compliance with the TMP. Compliance with the TMP will be measured by the School's progress in reducing its AM traffic generation rate from 196 to 165, as described in its Traffic Study (Exhibit 25, Tab H) and its letter of May 5, 2006 (Exhibit 82) and by its balancing of its parking supply with its parking demand.
6. Forty-three (43) new angled parking spaces must be in place along Whitehaven Parkway within 9 months of the effective date of this order for the School to be in

compliance with § 206.3's requirement of ample parking. These spaces must be consistent with the plans prepared by VIKA Engineers (Exhibit 56), and with the provisions of Chapter 23 of the Zoning Regulations. There will be no structures or lighting relating to the parking spaces and the area will be paved in accordance with DDOT requirements.

7. This approval of the increase in enrollment and faculty and staff limits is limited to a **FIVE YEAR TERM** from the effective date of this Decision and Order. In the event that this approval lapses, the enrollment and faculty and staff limits will revert to those imposed in BZA Order No. 16273, specifically 310 students and 95 faculty and staff.

VOTE: **5-0-0** (Geoffrey H. Griffis, Ruthanne G. Miller, Curtis L. Etherly, Jr., John A. Mann II, and Carol J. Mitten, all in favor of the motion)

VOTE TAKEN ON MAY 16, 2006

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

FINAL DATE OF ORDER: **FEB 02 2007**

PURSUANT TO 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

BZA APPLICATION NO. 17383-A

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THERE TO) 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.

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.

SG

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17515 of Abdul Kamara, pursuant to 11 DCMR § 3104.1, for a special exception to construct a four (4) unit apartment building under § 353, in the R-5-A District, at premises 5031 B Street, S.E. (Square 5325, Lot 10).

HEARING DATE: September 26, 2006
DECISION DATE: October 3, 2006

DECISION AND ORDER

This application was submitted by Abdul Kamara ("Applicant") on May 1, 2006, the owner of the property that is the subject of the application ("subject property"). This self-certified application requested special exception approval pursuant to §§ 353 and 3104 of the Zoning Regulations in order to construct a 4-unit apartment building in an R-5-A District.

The Board heard the case on September 26, 2006, and decided, 5-0-0, to grant the special exception at its October 3, 2006 decision meeting.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated May 8, 2006, the Office of Zoning ("OZ") gave notice of the filing of the application to the Office of Planning ("OP"), the D.C. Board of Education, the D.C. Departments of Transportation ("DDOT") and Housing and Community Development ("DHCD"), Advisory Neighborhood Commission ("ANC") 7E, the Single Member for Single Member District 7E05, and the Council Member for Ward 5. Pursuant to 11 DCMR § 3113.13, OZ published notice of the hearing in the *D.C. Register* and on June 20, 2006, mailed notice to ANC 7E, the Applicant, and all owners of property within 200 feet of the subject property, advising them of the date of the hearing.

Requests for Party Status. ANC 7E was automatically a party to this proceeding, but there were no other requests for party status.

Applicant's Case. The project architect presented the Applicant's case and explained how the project was compatible with the area and satisfied the Zoning Regulations.

Government Reports. The Office of Planning submitted a report to the Board dated September 19, 2006 recommending approval of the relief requested. OP opined that the

building is compatible with the character of the neighborhood and that it would not impact the neighbors' light and air. OP did, however, request a landscaping plan and recommended several changes to the project, *to wit*: additional fenestration, architectural window treatments, and a lower retaining wall.

The Department of Housing and Community Development ("DHCD") submitted a report dated July 28, 2006 in support of granting the requested relief. DHCD agreed with OP that the building is compatible with the character of the neighborhood, and also pointed out that the building meets all the dimensional requirements of the Zoning Regulations while providing 2-bedroom units that will better house families.

ANC Report. ANC 7E submitted a report to the Board dated August 22, 2006 recommending denial of the requested relief. The ANC report stated that the site was too small for the use proposed and that the ANC members did not desire another apartment building on the block where the subject property is located. At the hearing, however, the ANC representatives explained that the ANC was actually opposed to rental units, and that the ANC was not opposed to the building if it offered for-sale units.

FINDINGS OF FACT

1. The subject property is located at address 5031 B Street, S.E., at Square 5325, Lot 10, in an R-5-A zone district.
2. The property is 40 feet wide and 100 feet deep, with an area of 4,000 square feet, and is currently vacant and wooded, with a slope of approximately 4 feet from west to east.
3. The property is an interior lot with no rear alley access.
4. Just to the west of the property is an empty, boarded-up, 12-unit apartment building whose entrance and parking lot face the subject property. Immediately to the east is a single-story single-family dwelling.
5. The neighborhood exhibits a mixture of small apartment buildings, single-family dwellings, and vacant, wooded lots.
6. The Applicant proposes to construct a 3-story plus basement apartment building with one two-bedroom unit on each floor, including in the basement, for a total of four units.
7. The four units will not be rental units, but will be for-sale condominiums offered so as to be affordable to persons with incomes within the range of 60 to 80% of the average median income for the area.

8. The building will be 37 feet tall and will be set back from B Street approximately six feet.
9. Four 2.5-foot high mechanical enclosures will be located on the roof.
10. The only front entrance to the building will face B Street and there will be no rear or service entrance abutting a street or front yard.
11. There will be no exterior stairway on the building.
12. The building will be conforming in all respects to the area requirements of the R-5-A zone district, with side yards of 9 feet each, and a rear yard thirty-six feet deep, where 4 on-site parking spaces will be located.
13. The 4 rear parking spaces will be accessed by a driveway leading from a curb cut on B Street and running along the east side of the building to its rear.
14. The building's height is typical of apartment buildings in the neighborhood, and the building will not impede the flow of light or air to any nearby property.
15. Because the building will be constructed within all the dimensional parameters required by the Zoning Regulations, there is sufficient open space around the building, and even with the addition of windows on the west side of the building per OP's recommendation, there will be no impingement on the privacy of adjacent buildings.
16. The grassy swale on the western side of the building will be landscaped and planted with a variety of ornamental trees and shrubs.
17. The Applicant will be re-grading the property and, with a combination of underground and above-ground flow, will capture water and direct it toward B Street, where it will run downhill toward 51st Street, S.E.
18. Along with the re-grading, the Applicant will be using retaining walls, which will be 12 inches wide, four feet high at the highest point, and constructed of split-face blocks, providing a more attractive surface than commonly-used cinderblocks.
19. There will be a 4-foot tall pre-fabricated trash enclosure located near the front of the building and accessed by a path of concrete pavers. The enclosure will be screened by the ornamental plantings and will stand on posts above the ground so as not to impede drainage.

20. Lighting for the front of the building will be placed on the exterior of the building, but pole-mounted lighting directed toward the interior of the property will be used to illuminate the side and rear yards and parking area.

CONCLUSIONS OF LAW

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 section pertaining to them. In this case, the Applicant had to meet both the requirements of § 3104.1 and § 353 of the Zoning Regulations. Section 353 further requires compliance with the standards set forth in § 410.¹

Both § 3104.1 and § 353 set forth general compatibility parameters for special exceptions to which they apply. Section 3104 speaks to harmony with the Zoning Regulations and no adverse impact on nearby properties. Section 353 speaks to the relationship of the project with local public services, such as schools, public streets, and public recreation facilities. Section 353 further requires the Board to refer the application to OP for a recommendation on "the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading" as they relate to the project itself and the surrounding neighborhood. *See*, 11 DCMR § 353.4.

The proposed project meets all the requirements of both §§ 3104.1 and 353. The density of the project is in harmony with its R-5-A zoning and meets all the dimensional requirements of the zone district. Proper building height, side, and rear yards are to be provided, ensuring the unimpeded flow of light and air around the building and surrounding buildings. With 9-foot side yards, there will be no infringement on the privacy of the buildings on either side. Sufficient off-street parking is to be provided in the rear yard, helping to avoid any parking impacts from the project. No significant traffic impact is expected from the project's modest number of units. The small apartment house nature of the use is compatible with other uses on the street and the scale and massing of the building is in character with the surrounding neighborhood.

Pursuant to §§ 353.3 and 353.4, the Board referred the application to the D.C. Departments of Transportation, Housing and Community Development, and Planning. DDOT did not file a report with the Board, but DHCD filed a report dated July 28, 2006, fully supporting the project. DHCD notes that the units will be sold as affordable

¹Since the decision in this case, § 410 has been repealed by the Zoning Commission, but it was in force at the time of the hearing on this application.

condominium units. OP, after having examined and analyzed all the aspects of the project set forth in § 353.4, filed a report recommending approval of the special exception, with several suggestions to the Applicant and the Board for project improvements. The Applicant took all of OP's suggestions, and has, therefore, added more fenestration and new architectural window treatments, and has lowered its retaining wall height to a maximum of four feet. The Applicant has also provided an appropriate trash enclosure and inward-directed pole-mounted lighting around the perimeter of the property. The perimeter placement and inward direction of the lighting will prevent spill-over into adjacent properties.

Section 410 was intended to apply to, as its title implies, "groups of residential buildings in R-5" districts. Therefore, most of its provisions do not apply to the Applicant's project. Those that do, however, are satisfied by the project.

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations made by 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. OP recommended approval of the special exception and the Board agrees.

ANC 7E, however, in its written report, recommended against approval of the special exception. The ANC report, dated August 22, 2006, stated that the Applicant's site was too small for a 4-unit apartment building and that the ANC was against any more apartment buildings on this particular block. At the hearing, however, the ANC representatives explained that the ANC was specifically opposed to a building with rental apartment units, but was not opposed to a building with for-sale condominium units. The Applicant assured the Board and the ANC that the project will be offering four for-sale condominiums, and not rental units. Therefore, the Board concludes that the ANC's opposition as stated in its written report, is, in effect, moot.

Based on the record before the Board and for the reasons stated above, the Board concludes that the Applicant has satisfied the burden of proof with respect to the application for a special exception to construct a 4-unit apartment building pursuant to 11 DCMR § 353. It is therefore **ORDERED** that the application is hereby **GRANTED**.

VOTE: 5-0-0 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., John A. Mann II
Ruthanne G. Miller and Michael G. Turnbull to approve.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT.
Each concurring Board member has approved the issuance of this order.

FEB 16 2007

FINAL DATE OF ORDER: FEB 05 2007

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.

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.

SG

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

Application No. 17524 of Andrew and Suk Yang Johnson, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements of § 771.2, to establish a dry cleaners (drop-off and pick-up only) in the C-1 District at premise 1425 27th Street, N.W. (Square 1262, Lot 76).

HEARING DATE: October 17, 2006
DECISION DATE: November 14, 2006

DECISION AND ORDER

This application was filed on May 17, 2006 by Andrew and Suk Yang Johnson (collectively, "Applicant"), the owners of the property which is the subject of the application ("subject property"). The self-certified application requested variance relief from the maximum permitted floor area ratio ("FAR") of 1.0 for any use, in order to allow the whole of the subject property, with a nonconforming FAR of 2.1, to be used as a dry cleaning establishment.

The Board of Zoning Adjustment ("Board") held a hearing on the application on October 17, 2006 and set a decision date of November 14, 2006. The Board kept the record open for further submissions from both the Applicant and the opposition, which were received prior to the decision date. On November 14, 2006, the Board denied the application by a vote of 4-1-0.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memorandum dated May 22, 2006, the Office of Zoning ("OZ") gave notice of the filing of the application to the D.C. Office of Planning ("OP"), the D.C. Department of Transportation ("DDOT"), Advisory Neighborhood Commission ("ANC") 2E, the ANC within which the subject property is located, the Single Member District member for 2E06, and the Councilmember for Ward 2. Pursuant to 11 DCMR § 3113.13, OZ published notice of the hearing in the *District of Columbia Register* and on August 1, 2006, mailed such notice to the Applicant, ANC 2E, and all owners of property within 200 feet of the subject property.

Requests for Party Status. There were 5 requests for opposition party status from nearby neighbors, 2 of which were granted. Opposition party status was granted to Ms. Courtney

Hagner and Mr. Thomas Alexander, who decided to consolidate into a single opposition party. There were also other letters in opposition, as well as a petition.

Government Reports. The Office of Planning submitted a report to the Board dated October 3, 2006 recommending denial of the variance relief requested by the Applicant. OP opined that granting the variance request would substantially impair the intent, purpose, and integrity of the zone plan, but suggested that it "could support" the application if the Applicant reduced the amount of square footage put to the dry cleaning use and put some of the property to a more neighborhood-compatible residential use.

Although the subject property is located within the Georgetown Historic District, the Applicant had not presented his proposal to the Historic Preservation Office therefore, there was no report in the record from that office.

ANC Report. ANC 2E, in a report dated October 6, 2006, indicated that, at a regularly-scheduled, properly-noticed meeting, with a quorum present, it voted unanimously, 7-0, to oppose the application. In its report, the ANC expressed particular concern with the potential parking and traffic impacts from the Applicant's proposed use.

FINDINGS OF FACT

The Subject Property and the Surrounding Area

1. The subject property is located in Square 1262, Lot 76, at 1425 27th Street, N.W., in a C-1 zone district, and within the Georgetown Historic District.
2. The subject property is improved with a 2-story plus basement row dwelling constructed in 1914, which has always been used as a residence except for a period between 1985 and 1994, when it housed a commercial real estate office.
3. There is no rear alley behind the property; therefore, the only access to the property is from 27th Street, N.W.
4. The property is within a small pocket of commercial zoning surrounded on 3 sides by R-5-B and R-3 residential zoning, and on the fourth side by Rose Park, which is government-owned property and unzoned.
5. All of Square 1262 is designated for moderate density residential uses on the Generalized Land Use Map of the District of Columbia Comprehensive Plan, resulting in a conflict between this designation and the C-1 zoning of the northern portion of the Square, where the subject property is located.
6. All the current non-residential uses within this small pocket of C-1 zoning front on P Street, N.W. At the corner of P and 27th Streets, immediately adjacent to the north of the subject property, is a commercial use. Attached to the subject

row dwelling on its south runs a row of 7 attached row dwellings, all fronting on 27th Street and all currently used as residences.

7. The area of the subject lot is 685 square feet and the footprint of the row dwelling is 480 square feet, resulting in a FAR of approximately 0.7 square feet of gross floor area per floor and a total FAR of approximately 2.1.
8. The subject row dwelling is nonconforming for FAR because in a C-1 zone, the maximum permitted FAR for any use is 1.0. 11 DCMR § 771.2.

The Applicant's Proposal

9. The Applicant proposes to use the first floor and the basement, specifically the bathroom located in the basement, for a dry cleaning drop-off and pick-up business.¹
10. Use of only the first floor and basement would result in a use of approximately 1.4 FAR, assuming the whole of the basement is included in the FAR calculation.
11. The Applicant proposes to seal off the second floor of the row dwelling and the rear egress from the basement, and not allow any access to either.
12. No actual dry cleaning would occur on the premises, only drop-off and pick-up therefore, on the first floor, there would be a customer service counter and a large, elliptically-shaped, rotating dry-cleaning conveyor belt rack.
13. The delivery and pick-up of the dry-cleaning would be done by a step-van, with pick-up likely occurring between 7:30 and 8:00 a.m., and delivery likely occurring around 4:30 to 5:00 p.m.
14. Such delivery and pick-up would require the delivery van to stop and/or park in front of, or near, the subject property for approximately thirty minutes each time.
15. The business would operate from approximately 7:00 a.m. to 7:00 p.m. Monday through Saturday.
16. It was unclear in the record whether there would be any change to the exterior of the property with lighting, signage, or other accoutrements of a commercial establishment.
17. Customers would be expected to walk or drive to the business.

¹The Applicant originally proposed to use all three floors of the subject row dwelling for the dry cleaning establishment, with the same configuration on the first floor as described here, but with offices and storage space on the second floor, and a bathroom and more storage space in the basement. During the proceedings on the application, this original proposal was modified to the final proposal set forth in these Findings of Fact.

18. Although the building is a nonconforming structure and the use proposed is conforming, the proposal to increase the non-residential use from 1.0 FAR to 1.4 FAR requires area variance relief.

The Variance Test

19. The lot is a regularly-shaped rectangle and is approximately the same size as the other lots in the neighborhood.
20. The subject row dwelling, although nonconforming for FAR, appears to be of a similar FAR to other row dwellings in the neighborhood.
21. The row dwelling is currently being used as a residence and can continue to be so used.
22. Use of the row dwelling as a dry cleaning establishment would likely increase noise coming from the dwelling, due to increased foot traffic and associated commercial activity.
23. Use of the row dwelling as a dry cleaning establishment would likely increase the amount of vehicular traffic coming to the address.
24. The subject property has no off-street parking space, garage, or driveway associated with it.
25. Because a maximum of 1.0 FAR for any use is permitted in this C-1 zone, the Applicant may, as a matter-of-right, use up to 1.0 FAR within the row dwelling for a commercial use.

CONCLUSIONS OF LAW

The Board is authorized to grant variances from the strict application of the Zoning Regulations to relieve difficulties or hardship where "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition" of the property, the strict application of the Zoning Regulations would "result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property." D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2. The "exceptional situation or condition" of a property can arise out of structures existing on the property itself. *See, e.g., Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 293-294 (D.C. 1974). Relief can only be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map." D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2.

An applicant for area variances must make the lesser showing of "practical difficulties," as opposed to the more difficult showing of "undue hardship," which applies in use variance cases. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The Applicant in this case, therefore, had to make three showings: exceptional condition of the property, that such exceptional condition results in "practical difficulties" to the Applicant, and that the granting of the variance will not impair the public good or the intent or integrity of the Zone Plan and Regulations.

The subject property has no extraordinary or exceptional situation or condition. It is a regularly-shaped rectangle improved with an ordinary-type row dwelling, which is currently being used as a residence. The FAR of the row dwelling is nonconforming, but does not appear to be out of character for the neighborhood. Although there is no rear alley access to the property, this actually militates against granting the variance because it would result in all traffic, including delivery van drop-offs and pick-ups, occurring on 27th Street.

Because the subject property is in a C-1 zone, the Applicant can use up to 1.0 FAR of the property for a commercial use, and has not demonstrated an inability to do so. The Board concludes that granting a variance to allow an even greater density of commercial use would be a substantial detriment to the public good, and would substantially impair the intent, purpose, and integrity of the zone plan. The row dwelling fronts on a residential street and is flanked by a row of 7 similar row dwellings to its south, all of which are currently being used as residences. The subject property is located in a small pocket of commercial zoning, which includes both sides of P Street, N.W., a more major street than 27th Street. This strip of commercial zoning extends off P Street to the north approximately the length of a row dwelling, but extends off P Street to the South much further, thereby capturing within it the subject property and several other row dwellings fronting not on P Street, but on the narrower and more residential 27th Street.

The use of extra FAR to permit a dry-cleaning establishment would harm the public good by negatively altering the residential character of 27th Street and increasing the amount of traffic in the neighborhood. As there is no off-street parking associated with the property and on-street parking is already quite tight, the delivery van, and perhaps customers, might well end up double-parking on 27th Street. This would be dangerous and detrimental to the public good.

The C-1 zone where the subject property is located is inconsistent with the designation of moderate density residential use slated for this property on the Generalized Land Use Map. The Board concludes that granting the variance to permit an extra-dense commercial use on the subject property would run afoul of the clear public policy enunciated in the Plan.

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. ANC 2E opposed the granting of the requested variance and the Board agrees with its position. OP also opposed the granting of the variance to 2.1 FAR, stating that it would substantially impair the intent and integrity of the Zoning Regulations and Map. OP, however, also stated in its report that it "could support" a variance request to go from the matter-of-right permitted 1.0 FAR to 1.4 FAR of commercial use. The Board disagrees with this, and concludes that, under the facts presented, anything more than a matter-of-right density of non-residential use would substantially impair the intent and integrity of the Zoning Regulations and Map and, for the reasons stated by the affected ANC, would substantially impair the public interest.

For the reasons stated above, the Board concludes that the Applicant has not satisfied the burden of proof with respect to an application for a variance from the FAR requirements of § 772.1. Accordingly, it is hereby **ORDERED** that the application be **DENIED**.

VOTE: 4-1-0 (Geoffrey H. Griffis, Ruthanne G. Miller, and John A. Mann II to deny; Michael G. Turnbull to deny by absentee ballot; Curtis L. Etherly, Jr. to approve by absentee vote)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

FINAL DATE OF ORDER: FEB 02 2007

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."

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

Application No. 17559 of GIBG YL Partners LLC, pursuant to 11 DCMR § 3104.1, for a special exception from the uniform height requirements of the roof structure provisions under subsection 411.5 (section 411.11), to allow the rehabilitation and expansion of an existing commercial building (Yale Steam Laundry) into a residential condominium building, in the DD/C-2-C District at premises 425-437 New York Avenue, N.W. (Square 514, Lot 87).

HEARING DATE: February 6, 2007
DECISION DATE: February 6, 2007 (Bench Decision)

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) 2C, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2C. ANC 2C did not participate in the application. Adjacent ANC 6C submitted a letter in support of the application. The Mount Vernon Square Neighborhood Association submitted a letter in support of the application.

The OP also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2 and 411.5 (section 411.11). No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 411.5 (section 411.11), that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, 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. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 4-0-1 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller, Jr., and John A. Mann II to approve. The Zoning Commission member not present, not voting).

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

Each concurring Board member has approved the issuance of this order.

FINAL DATE OF ORDER: February 7, 2007

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 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,

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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. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17563 of Richard F. Little, pursuant to 11 DCMR § 3104.1, for a special exception to allow a rear addition to an existing flat (two-family dwelling) under section 223, not meeting the lot occupancy requirements (section 403), in the DC/R-5-B District at premises 1618 Riggs Place, N.W. (Square 178, Lot 26).

HEARING DATE: February 6, 2006
DECISION DATE: February 6, 2006 (Bench Decision)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2B, which is automatically a party to this application. ANC 2B submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for a special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 17563

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Pursuant to 11 DCMR § 3101.6, 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. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II and Curtis L. Etherly, Jr. to approve; No Zoning Commission Member participating)

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

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: FEB 08 2007

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.

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

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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.

TWR

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