

**EAGLE ACADEMY PUBLIC CHARTER SCHOOL
OPEN ENROLLMENT**

Eagle Academy Public Charter School is now accepting applications for open enrollment in Pre-School, Pre-Kindergarten, and Kindergarten until April 3, 2006. All applications must be completed, including Proof of residency. Applications are to be submitted to Eagle Academy Public Charter School, 770 M Street, SE, Washington, DC 20003 by no later than 3:00 p.m. on April 3, 2006. To obtain registration material, please stop by between 10:00 a.m. and 3:00 p.m. Monday thru Friday.

All students whom have been accepted will be notified no later than May 15, 2006. Parents must return signed letters of acceptance no later than May 31, 2006 to complete the enrollment process.

DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS

Certification of Filling a Vacancy
In Advisory Neighborhood Commission

Pursuant to D.C. Official Code §1-309.06 (d)(6)(G) and the resolution transmitted to the District of Columbia Board of Elections and Ethics ("Board") from the affected Advisory Neighborhood Commission, the Board hereby certifies that a vacancy has been filled in the following single-member district by the individual listed below:

Frederick D. Grant
Single Member District 4B03

FRIENDSHIP PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****INSURANCE BROKER**

Interested parties shall respond 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 – INSURANCE COVERAGE FOR FRIENDSHIP PUBLIC CHARTER SCHOOL" to:

Ms. Valerie Holmes
Friendship Public Charter School
701 E Street SE
Washington DC 20003

By no later than: **4:00 PM on April 14, 2006**

Introduction

FPCS is soliciting proposals and qualification statements from brokers of insurance. 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 proposals in selection of finalists and, therefore, bidders should emphasize specific information considered pertinent to this solicitation and submit all information requested.

Project Scope

PROVIDE INSURANCE COVERAGE TO FRIENDSHIP PUBLIC CHARTER SCHOOL – 900 PENNSYLVANIA AVENUE, SE, WASHINGTON, DC.

It is the intent of this RFP to select one or more brokers who can provide insurance coverage as listed below in the section on proposal requirements.

Proposal Requirements

Proposals shall include, at a minimum, the following information organized as follows in their qualification statement:

1. A brief discussion of the insurance broker, its organization, and services offered;
2. Proposed insurance packages as described in the following table

TABLE A: INSURANCE REQUIREMENTS FOR FRIENDSHIP PUBLIC CHARTER SCHOOL		
Type of Insurance	Friendship PCS Minimum Levels required	Annual Premium [BIDDER FILLS IN]
General Liability	\$2 Million	
Automobile Liability	\$1 Million	
Umbrella Liability	\$5 Million	
Directors and Officers Liability	\$3 Million	
Property/Lease Insurance	100% of Replacement Cost	
Boiler and Machinery Insurance	\$1 Million	

Brokers should fill in the above table, even if they also suggest additional or different insurance coverage in section 3.

3. Brokers may suggest alternative forms of coverage in addition to the insurance coverage and prices listed in the matrix.
4. Proposed contract for insurance coverage.

Insurance brokers must meet the following qualifications:

1. Insurance broker's license
2. At least three client references with contact names and phone numbers

Please address the proposal to:

Ms. Catherine Sanwo
Chief Financial Officer
701 E Street SE
Washington, DC 20003

For further information, contact Ms. Valerie Holmes at (202) 675-6935 or e-mail at vholmes@friendshipschools.org

FRIENDSHIP PUBLIC CHARTER SCHOOL**REQUEST FOR PROPOSALS****PERSONNEL BENEFITS**

Interested parties shall respond 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 – PERSONNEL BENEFITS FOR FRIENDSHIP PUBLIC CHARTER SCHOOL" to:

Ms. Valerie Holmes
Friendship Public Charter School
701 E Street SE
Washington DC 20003

By no later than: **4:00 PM on April 14, 2006**

Introduction

FPCS is soliciting proposals and qualification statements from brokers of employee benefits. 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 proposals in selection of finalists and, therefore, bidders should emphasize specific information considered pertinent to this solicitation and submit all information requested.

Project Scope

PROVIDE EMPLOYEE BENEFITSTO FRIENDSHIP PUBLIC CHARTER SCHOOL – 900 PENNSYLVANIA AVENUE, SE, WASHINGTON, DC.

It is the intent of this RFP to select one or more brokers who can provide employee benefits as listed below in the section on proposal requirements.

Proposal Requirements

Proposals shall include, at a minimum, the following information organized as follows in their qualification statement:

1. A brief discussion of the benefits broker, its organization, and services offered;
2. Proposed benefits packages as described in the following table

<p style="text-align: center;">TABLE A EMPLOYEE BENEFIT PLANS To Be Provided to Friendship Public Charter School</p>			
Type of Benefit	Friendship PCS Requirements	Amount of Premium [TO BE FILLED IN BY BIDDER]	Premium structure— Friendship PCS payments and employee payments
Medical Benefits	HMO or equivalent plan plus 2 buy-up levels; Four-tiered— Individual; Individual plus Adult; Adult plus Child(ren); and Family		80% employer/ 20% employee
Vision Benefits	Standard Package		Again 80/20
Dental	Preferred Provider		80/20
Life Insurance and Accidental Death & Dismemberment	Two levels: One times annual salary; Two times annual salary		Fully paid by the School.
Short-term Disability	8/8/12 plan; 60% of weekly pay up to maximum of \$1,500.		Fully paid by the School.
Long-term Disability	90 day elimination period; 60% of monthly pay up to a maximum of \$6500 24 or 36 month within occupation; benefits payable to age 65 or SSNRA.		Fully paid by the School.

Brokers should fill in the premiums in the above table or an equivalent table, even if they also suggest additional or different benefits in section 4.

3. Additional explanation of the Benefits Plans listed in the table.
4. Brokers may suggest alternative forms of benefits in addition to the benefits and prices listed in the table.
5. Proposed contract for employee benefits.

Benefits brokers must meet the following qualifications:

1. Broker's license
2. At least three client references with contact names and phone numbers.

Please address the proposal to:

Ms. Catherine Sanwo
 Chief Financial Officer
 701 E Street SE
 Washington, DC 20003

APR - 7 2006

For further information, contact Ms. Valerie Holmes at (202) 675-6935 or e-mail at vholmes@friendshipschools.org.

FRIENDSHIP PUBLIC CHARTER SCHOOL INC.

REQUEST FOR PROPOSALS

FOR HUMAN RESOURCE SERVICES

Interested parties shall respond to this RFP by submitting sealed qualification statements and by addressing the specific proposal requirements, as requested in this RFP in an envelope clearly marked "RFP- HUMAN RESOURCE SERVICES", and addressed to:

Ms. Valerie Holmes
Friendship Public Charter School Inc.
701 Pennsylvania Avenue, SE
Washington, DC 20003

By no later than: **5:00 PM on April 14 2006**

**HUMAN REOURCES SERVICES FOR THE FRIENDSHIP SOUTHEAST ELEMENTARY ACADEMY
LOCATED AT 645 MILWAUKEE PLACE SE, WASHINGTON DC.**

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.

1. Introduction

Friendship is soliciting proposals and qualification statements from firms having specific interest and qualifications in the areas identified in this solicitation. Qualification statements for consideration must contain evidence of the firm's experience and abilities in the specified area and other disciplines directly related to the proposed work. Other information required by Friendship includes the resumes of the staff to be assigned to the projects, references, illustrative examples of similar assignments, and any other requested information which will clearly demonstrate the firm's expertise in the area of this solicitation.

A selection committee will review and evaluate all qualification statements and may request firms to make oral presentations. The selection committee will rely on the qualification statements in selection of finalists and, therefore, firms should emphasize specific information considered pertinent to this solicitation and submit all information requested.

2. Scope of Work

Friendship (www.friendshipschools.org) presently owns and operates five public charter schools serving approximately 3,500 students in DC. Friendship is the largest public charter school system in DC and one of the largest in the U.S.

Friendship Southeast Elementary Academy ("Friendship Southeast") was opened by Friendship in the summer of 2005 at the former Southeast Academy for Scholastic Excellence, located at 645 Milwaukee Place SE. Friendship operates its original four campuses under a management agreement with Edison Schools Inc. (www.edisonschools.com), which provides comprehensive human resources services for those campuses. Edison provides certain limited services to Friendship Southeast -- including payroll and benefits administration, and teacher recruitment -- by mutual agreement between Friendship and Edison.

Friendship Southeast presently has approximately 40 employees.

Friendship Southeast presently has approximately 40 employees.

Friendship is soliciting proposals to supplement the Edison services provided at Friendship Southeast for the 2006-07 school year (i.e., from July 1, 2006 through approximately June 20, 2006). Specifically, the requested services include:

- Assignment of one qualified human resource professional to dedicate approximately one day per week to Friendship Southeast, including a weekly visit to the campus and meeting with the school principal.
- Oversee distribution of Friendship employment manual to all Friendship Southeast employees and retain signed acknowledgements of receipt.
- Periodically audit of personnel records for Friendship Southeast, which are retained at Friendship's financial office at 701 E Street SE. Identify missing documents and work with employees to update files.
- Assist in management of termination procedures, investigation of harassment or discrimination claims by employees, long term leave, and other employment situations that may occur.
- Assist in processing of Workmen's Compensation claims and COBRA applications.
- Assist in recruitment plan, including employment processes, presently being implemented under the direction of the principal and the Friendship central office.
- Ensure employment process is implemented for new hires, including required background checks.
- Conduct orientation for all current employees and new hires.
- Maintain and update benefits guide and employment manual.
- Oversee payroll system implementation using ADP or other selected vendor.
- Oversee all benefits providers and ensure open enrollment processes are conducted timely and properly.
- Recommend improvements to the general human resource management system and policies at Friendship Southeast.
- Assist in transition of central services from Edison to Friendship and participate in strategic plan implementation task force meetings as requested.
- Provide written summary of accomplishments and outstanding issues on a monthly basis.

3. Schedule

Designated staff member should be available on or before July 1, 2006.

4. Proposal Contents

The offer shall provide the following information in their qualification statement:

1. A brief discussion of the firm / team, its organization, and services offered;
2. Information which demonstrates a history of providing services of a similar nature and scope as those required by this solicitation;
3. Client's name, contact person, telephone number, and description of services for at least three (3) similar or related assignments; and
4. Qualifications and experience of proposed designated staff member.
5. Proposed cost of services, including flat weekly fee for one day per week and hourly rate for additional work requested by Friendship.

The selection criteria will be established by the selection committee, and will include (i) qualifications of designated staff member, (ii) firm experience, and (iii) price.

5. Other Considerations

Friendship expressly reserves the right to: (i) cancel this solicitation and/or reject all proposals submitted; (ii) accept any proposal or alternate as submitted without negotiations; (iii) accept or negotiate with all proposals submitted determined to be within the competitive range; (iv) require revisions to, corrections of, or other changes to any proposal submitted as a condition to its being given any further consideration; (v) reject submissions that contain conditions and/or contingencies that in Friendship's sole judgment, make the submission indefinite, incomplete, or otherwise non-responsive or unacceptable for award; (vi) waive minor irregularities in any submission provided such waiver does not result in an unfair advantage to a proposer; (vii) take any other action allowable by applicable law or regulation; or (viii) reject the submission of any proposer that has submitted a false or misleading statement, affidavit or certification in connection with such submission or this Request for Proposals; (ix) select for negotiation the overall best proposal or alternate submitted, in accordance the selection criteria; (x) negotiate with one or more proposers in any manner Friendship deems fit, (such negotiations may be concurrent or sequential as Friendship determines); (xi) solicit Best and Final Offers (BAFO) utilizing an appropriate procedure following the conclusion of any such negotiations specified in (x); or (xii) reopen negotiations after the BAFO procedure, if it is in Friendship's best interest to do so. No proposer shall have any rights against Friendship arising at any stage of the solicitation from any negotiations that take place, or from the fact that the Friendship does not select a proposer for negotiations. Proposers are advised that in no event, including, but not limited to, those events described in items (i) through (xii) of the preceding sentence, will Friendship reimburse the proposer for the cost of bid preparation, lost profits or consequential damages of any kind by virtue of Friendship not selecting an proposer to perform the work under this RFP.

Please address the proposal to:

Catherine Somefun
Chief Financial Officer
701 E Street, SE
Washington, DC 20003
Email: csanwo@friendshipschools.org

For further information, contact Ms. Valerie Holmes at (202) 675-6935 or e-mail at vholmes@friendshipschools.org.

FRIENDSHIP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

FOR PROJECT AND DEVELOPMENT MANAGEMENT SERVICES

DESIGN AND CONSTRUCTION FOR ADDITION TO FRIENDSHIP PUBLIC CHARTER SCHOOL

FRIENDSHIP SOUTHEAST ELEMENTARY ACADEMY

Interested parties shall respond to this RFP by submitting sealed qualification statements and by addressing the specific proposal requirements, as requested in this RFP in an envelope clearly marked "RFP – ADDITION FOR FRIENDSHIP PUBLIC CHARTER SCHOOL – FRIENDSHIP SOUTHEAST ELEMENTARY ACADEMY" to:

Mr. Bill Brodhag (4 copies, 1 original inclusive)
Friendship Public Charter Schools
900 Pennsylvania Ave., SE
Washington, DC 20003

By no later than: **5:00 PM on Monday, April 17, 2006.**

FPCS reserves the right to reject any and all qualification statements, to cancel this solicitation, and to waive any informalities or irregularities in procedure.

Introduction

FPCS is soliciting proposals from offerors having specific interest and qualifications in the areas identified in this solicitation. Qualification statements and proposals for consideration must contain evidence of the offeror's experience and abilities in the specified area and other disciplines directly related to the proposed work. Other information required by FPCS includes the submission of profiles and resumes of the staff to be assigned to the projects, references, illustrative examples of similar work performed, and any other requested information which will clearly demonstrate the offeror's expertise in the area of this solicitation.

A selection committee will review and evaluate all qualification statements and may request offerors to make oral presentations. The selection committee will rely on the qualification statements in the selection of finalists and, therefore, offerors should emphasize specific information considered pertinent to this solicitation and submit all information requested.

Project Description

Friendship Southeast Elementary Academy is located at 645 Milwaukee Place SE. The project site/s consists of Lot 815, Parcel 234/31, Lot 812, Lot 822, Parcel 234/10 (non-contiguous w/ other lots), Lot 47, and Lot 821. The combined area for all sites is +/-126,706 SF. The zoning for most of the lots is C-2-A with a portion of Lot 821 zoned R5A. The main school facility is a 22,000 SF building (renovated from a former Safeway grocery store) that presently houses 350 students in grades K-6. The parcels are not contiguous and are located on both sides of Milwaukee Place. Classroom size is 26-28 students per classroom.

FPCS is currently leasing the property with an option to purchase. The proposed development program includes additional classrooms to accommodate a total of approximately 570 students in grades K-6, administrative space, computer lab, cafeteria, library, and gymnasium. Frontage on Martin Luther King Jr. Ave is desired. Total preliminary gross building area for the addition is anticipated to be approximately 40,000 gsf.

Classes in the existing building will continue through construction phase, therefore planning and logistics must incorporate staging strategies to segregate construction activities from education activities to provide a safe and secure environment students, parents and teachers. FPCS has engaged the services of an architect to provide preliminary planning and feasibility studies in advance of this solicitation.

The expected construction budget is estimated to be \$6.2 million to \$6.4 million. Compliance with OLBD LSDBE and First Source goals shall be required for all successful offerors.

All offerors should understand that the project schedule is aggressive. FPCS desires to have the school open for the August 2007 school year.

Qualification Statement Requirements

The offeror shall provide the following information organized as follows in their qualification statement:

1. A brief discussion of the firm, its organization, and services offered;
2. Information which demonstrates a history of providing real estate, development, programming, design management and project management services with single and multi-facility end-users. Experience on fast-track and/or design-build projects of similar nature and scope as those required by this solicitation; knowledge and experience on design and construction of pre-engineered building structures.
3. Owner/Client's name, contact person, telephone number, project description, project value, and prime contractor's name and address for at least three (3) similar construction projects completed by the offeror during the past three (3) years.
4. Proposed team and qualifications and experience of team members; knowledge and experience of team members with education, public school or charter school projects. Knowledge of education facilities start-up, operations, and facilities maintenance requirements
5. Description of successfully completed fast track and/or design-build projects of similar program and complexity in the District of Columbia or surrounding local jurisdictions.
6. Experience and history of the offeror with local building and regulatory requirements, OLBD, LSDBE, and First Source and publicly financed projects. A participation plan for Local and Small Disadvantaged Business Enterprises (LSDBE) shall be required for the successful bidder. For more information on LSDBE certified firms see <http://olbd.dc.gov/>.

Proposal Requirements

Offerors shall submit the following in addition to qualifications:

1. Proposed scope of services
2. Detailed description of proposed development strategy and development issues and anticipated hurdles that the project must deal with to meet the schedule.
3. Proposed Fee and Fee Structure
4. Hourly billing rates for assigned team members
5. Budget hours and cost by day, week, month

Please address the proposal to::

Bill Brodhag
Friendship Public Charter Schools
900 Pennsylvania Ave. SE
Washington, DC 20003
Tel. (202) 675-9060
Email: bbrodhag@friendshipschools.org

For further information, contact Ms. Valerie Holmes at (202) 675-6935 or e-mail at vholmes@friendshipschools.org

D.C. DEPARTMENT OF HEALTH
Primary Care and Prevention Administration
Preventive Health and Health Services
Block Grant Advisory Committee

Announces

REQUEST FOR APPLICATIONS
Preventive Health and Health Services Block Grant

Release Date: April 12, 2006
Deadline for Applications: May 19, 2006

PRE-APPLICATION CONFERENCE

April 19, 2006
10:00 a.m.

D.C. Department of Health
825 North Capitol Street, NE
4th Floor Conference Room (4131)

The D.C. Department of Health (DOH), Primary Care and Prevention Administration (PCPA) and the Preventive Health and Health Services Block Grant Advisory Committee will release a Request for Applications (RFA) for funding of community-based organizations to provide navigation services to assist residents to access health care for prevention and treatment of chronic and communicable diseases, and primary care at neighborhood clinics; and train-the-trainer workshops for school nurses and administrators regarding in-school management of asthma.

RFAs will be available for pickup April 12, 2006 to May 12, 2006 at 825 North Capitol Street, NE, Third Floor (Room 3141); Washington, D.C. 20002. The deadline for submission and receipt of completed RFAs is May 19, 2006 by 4:45 p.m. Late submissions will not be accepted. Applications may be downloaded on opgd@dc.gov/info/grant/funding-grants. Applicants are encouraged to e-mail, mail or fax their questions to charles.nichols@dc.gov prior to the Pre-Application Conference scheduled for April 19, 2006 at 10:00 a.m. Send e-mail requests to patricia.greenaway@dc.gov. For assistance, call Carolyn Bothuel at (202) 442-9142.

Health Professional Licensing Administration
Scheduled Meetings of Boards, Commissions and Committees
April 2006

The Department of Health – Health Professional Licensing Administration will hold public meetings on the following dates during the month of April 2006. All meetings will be held at 717 14th Street, NW, 10 Floor, Washington, D.C. 20005. The meeting dates and times are as follows:

624 6th Floor Conference Room – 1035 Large Conference Room – 1009 Small Conference Room

Board	Date	Time	Location
Acupuncture	N/A	2:00-3:00	1035
Chiropractic	13	1:30-3:00	1035
COIN	21	9:00-11:00	624
COIN Support Group	21	12:00-2:00	624
Dentistry	12	1:30-4:45	1035
Dietetics/Nutrition	N/A	9:00-11:30	1009
Marriage/Family	7	8:30-11:30	1035
Massage Therapy	21	1:30-2:30	1009
Medicine/PA	26	9:00-1:00	1035
NHA Exam	20	9:00-11:00	1009
Nursing	5	8:30-4:00	1035
Nursing Home Administrator	13	1:00-3:30	1035
Nutrition Exam	18	9:00-11:00	1009
Occupational Therapy	N/A	3:30-4:45	1035
Optometry	N/A	9:30-11:00	1035
Pharmacy	6	9:30-1:30	1035
Physical Therapy	18	3:30-4:45	1035
Podiatry	19	1:30-3:30	1009
Professional Counseling	14	10:00-1:00	1035
Psychology	21	9:00-3:00	1035
Psychology Exam	27	9:00-1:00	1035
Respiratory Care	10	9:00-1:00	1035
Social Work	12	9:00-12:30	1035
TME Quarterly Meeting	N/A	1:30-3:30	624
TME Testing	25	11:00-1:00	624

*The Department of Health – Health Professional Licensing Administration
717 14th Street, N.W., Suite 1000
Washington, D.C. 20005
(202) 724-8800 (phone)
(202) 724-8471 (fax)
www.dchealth.dc.gov*

**DISTRICT OF COLUMBIA COMMISSION ON JUDICIAL
DISABILITIES AND TENURE****Judicial Tenure Commission Begins Reviews
of Judges For Senior Status**

This is to notify members of the bar and the general public that the Commission is reviewing the qualifications of Judge Frank E. Schwelb of the District of Columbia Court of Appeals who is retiring and has requested a recommendation for appointment as a Senior Judge. In addition, the Commission is reviewing the qualifications of Senior Judge Leonard Braman of the Superior Court of the District of Columbia who has requested a recommendation for reappointment as a Senior Judge.

The District of Columbia Retired Judge Service Act P.L. 98-598, 98 Stat. 3142, as amended by the District of Columbia Judicial Efficiency and Improvement Act, P.L. 99-573, 100 Stat. 3233, §13(1) provides in part as follows:

"...A retired judge willing to perform judicial duties may request a recommendation as a senior judge from the Commission. Such judge shall submit to the Commission such information as the Commission considers necessary to a recommendation under this subsection.

(2) The Commission shall submit a written report of its recommendation and findings to the appropriate chief judge of the judge requesting appointment within 180 days of the date of the request for recommendation. The Commission, under such criteria as it considers appropriate, shall make a favorable or unfavorable recommendation to the appropriate chief judge regarding an appointment as senior judge. The recommendation of the Commission shall be final.

(3) The appropriate chief judge shall notify the Commission and the judge requesting appointment of such chief judge's decision regarding appointment within 30 days after receipt of the Commission's recommendation and findings. The decision of such chief judge regarding such appointment shall be final."

The Commission hereby requests members of the bar, litigants, former jurors, interested organizations and members of the public to submit any information bearing on the qualifications of Judges Schwelb and Braman which it is believed will aid the Commission. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting materials will be kept confidential unless expressly authorized by the person submitting the information.

All communications should be mailed, or faxed, by **May 8, 2006**, and addressed to:

District of Columbia Commission on Judicial
Disabilities and Tenure
Building A, Room 312
515 Fifth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 727-1363
FAX: (202) 727-9718

The members of the Commission are:

William P. Lightfoot, Esquire, Chairperson
Hon. Gladys Kessler, Vice Chairperson
Gary C. Dennis, M.D.
Eric H. Holder, Jr., Esquire
Ronald Richardson
Claudia A. Withers, Esq.

BY: /s/ William P. Lightfoot
Chairperson

2803

DISTRICT OF COLUMBIA PUBLIC LIBRARY

NOTICE TO THE PUBLIC

NOTICE OF CHANGE OF LOCATION & DATE OF
DCPL BOARD OF LIBRARY TRUSTEES MEETING

Notice is hereby given that the regularly scheduled District of Columbia Public Library ("DCPL") Board of Library Trustees Meeting of Wednesday, April 12, 2006 has been rescheduled to Wednesday, April 19, 2006 at 6:00 p.m. This meeting will be held at the Juanita E. Thornton/Shepherd Park Branch located at 7420 Georgia Ave., N.W., Washington, D.C. 20012. The telephone number for the Juanita E. Thornton/Shepherd Park Branch is (202) 541-6025 if there are any questions.

**DISTRICT OF COLUMBIA COMMISSION ON SELECTION AND TENURE OF
ADMINISTRATIVE LAW JUDGES OF THE OFFICE OF ADMINISTRATIVE
HEARINGS**

REQUEST FOR COMMENTS

The Commission on Selection and Tenure of Administrative Law Judges (Commission) seeks comments regarding the potential reappointment of Administrative Law Judges William L. England, Jr., Paul Handy, Beverly Sherman Nash, and Ann Yahner.

This is to notify members of the bar and the general public that the Commission has begun review of the qualifications for reappointment of Administrative Law Judges William L. England, Jr., Paul Handy, Beverly Sherman Nash, and Ann Yahner of the District of Columbia Office of Administrative Hearings. Administrative Law Judges Handy and Yahner have filed statements with the Commission requesting reappointment to ten-year terms upon the expiration of their initial two-year terms on July 26, 2006, and Administrative Law Judges England and Nash have filed statements with the Commission requesting reappointment to ten-year terms upon the expiration of their initial two-year terms on August 9, 2006.

Section 3705.21 of Title 6 of the District of Columbia Municipal Regulations (DCMR) provides:

In deciding whether to reappoint an Administrative Law Judge, the Commission shall consider all information it has received concerning the reappointment, and the voting members shall give significant weight to the recommendation of the Chief Administrative Law Judge, unless they determine that the recommendation is not founded on substantial evidence. The Commission shall reappoint the Administrative Law Judge if it finds that the Administrative Law Judge has satisfactorily performed the responsibilities of his or her office and is likely to continue to do so.

In addition to the specific qualifications applicable to all Administrative Law Judges contained in section 3703 of Title 6 of the DCMR (*Appointment, Reappointment, Discipline, and Removal of Administrative Law Judges by the Commission on Selection and Tenure of Administrative Law Judges*), section 3703.5 of Title 6 of the DCMR states that “[a]n Administrative Law Judge shall possess judicial temperament, judgment, expertise and analytical and other skills necessary and desirable for an Administrative Law Judge.”

The Commission hereby requests members of the bar and other attorneys, litigants, interested organizations, and members of the public to submit any information bearing on the qualifications of Administrative Law Judges England, Handy, Nash, and Yahner which it is believed will aid the Commission in deciding whether to reappoint any of these Administrative Law Judges. The cooperation of the community at an early stage

will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting information shall be kept confidential unless expressly authorized by the person submitting the information.

All communications should be received by the Commission on or before May 8, 2006 and should be mailed or delivered in a sealed envelope, marked "Confidential - ALJ Reappointments", addressed to:

Commission on Selection and Tenure of Administrative Law Judges
Office of the Administrative Hearings
District of Columbia Government
825 North Capitol Street, NE
Suite 4150
Washington, DC 20002-4210

The members of the Commission are:

Honorable Robert R. Rigsby, Chairperson
Henry W. Lavine
Peter M. Willner
Honorable Tyrone T. Butler, *ex officio*
Honorable Robert J. Spagnoletti, *ex officio*

BY : /s/ Robert R. Rigsby
Chairperson

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

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

HEARING DATES: June 14, 2005 and July 26, 2005

DECISION DATE: September 13, 2005

DECISION AND ORDER

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

Procedural Matters

Application. St. Albans School ("St. Albans" or "Applicant") filed an application pursuant to 11 DCMR § 3104 for a special exception under 11 DCMR § 206 to permit additional facilities for a private school located in the R-1-B zone at 3101 Wisconsin Avenue, N.W., on a portion of the parcel known as the Washington National Cathedral Close (Square 1944, portion of Lot 25). The zoning relief requested in this application was self-certified pursuant to 11 DCMR § 3113.2.

Notice of Application and Notice of Public Hearing. By memoranda dated March 11, 2005, the Office of Zoning sent notice of the application to the Office of Planning; the Department of Transportation; the Councilmember for Ward 3; Advisory Neighborhood Commission ("ANC") 3C, the ANC for the area within which the subject property is located; and the single-member district ANC 3C07.

A public hearing on the application was scheduled June 14, 2005. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on April 4, 2005 mailed notice of the hearing to the Applicant, the owners of property within 200 feet of the subject property, and ANC 3C. Notice was also published in the D.C. Register on April 8, 2005 (52 D.C.R. 3585) and April 15, 2005 (52 D.C.R. 3810).

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

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Applicant's Case. The Applicant provided testimony and evidence from Stephen Rippe, chief executive officer and executive vice president of the Protestant Episcopal Cathedral Foundation ("Foundation"); Jean Duff, chairman of St. Albans' community relations subcommittee; Vance Wilson, St. Albans' headmaster; Roger Duffy of Skidmore Owings & Merrill LLP, an expert in architecture; Richard Burck and Richard Arentz, experts in landscape architecture; Louis Slade of Gorove/Slade Associates, an expert on transportation, traffic, and parking; Coleen Meehan, the school's director of planning; David Baad, its director of athletics; Stephen McGregor, chairman of the school's governing board; and Kate Cullen, the Foundation's director of human resources. The Applicant also submitted a report prepared by Arup Acoustics concerning the likely noise impacts of the Applicant's use of proposed athletic fields on the subject property.

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

- (a) renovation of the Upper School and extension of the existing New Wing to include additional classrooms and offices and social spaces;
- (b) modification of the existing Satterlee-Henderson athletic field into three tiered fields containing a regulation track, two full-sized fields, a practice area, and eight tennis courts; and
- (c) construction of a new underground performing arts center to house a new theater, classrooms, practice rooms, and storage.

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

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

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

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

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

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

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

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

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

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

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

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

- (a) all parking related to events at the new performing arts center should be accommodated in the new garage or in surface spaces located on the Close;
- (b) access from the garage should be limited to the Wisconsin Avenue exit for events scheduled to end after 10:00 p.m. to minimize late evening traffic on residential streets; and
- (c) the schedule for events – including performances, recreation activities, and other events within the Close during after-school hours – should be coordinated so that major traffic-generating events are not concentrated on the same evening.

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

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

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

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

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

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. St. Albans School, a private school founded in 1909 for boys in lower school (grades 4 through 8) and upper school (grades 9 through 12), is located on a portion of the Washington National Cathedral Close in Northwest Washington, D.C. (Ward 3).
2. The Washington National Cathedral Close is a single lot (Lot 25) containing approximately 56 acres and comprising almost the entire Square 1944. The Close is bounded by Wisconsin Avenue, Massachusetts Avenue, Woodley Road, 34th Street, and

Garfield Street. The topography of the Close is highest at the Cathedral and slopes down toward Garfield Street with a difference of 85 feet.

3. The Cathedral Close is an individual landmark listed in the D.C. Inventory of Historic Places and on the National Register of Historic Places. In addition to the National Cathedral and St. Albans School, the Close is also the location of St. Albans Church, the College of Preachers, the National Cathedral School for Girls, Beauvoir Elementary School, residences, and accessory buildings.
4. The portion of the Close used by St. Albans is approximately 781,000 square feet and is located at the southern edge of the subject property, abutting Massachusetts Avenue, Garfield Street, and 34th Street.
5. The subject property is zoned R-1-B. The area surrounding the subject property is characterized by residential uses. Apartment buildings are located across Wisconsin Avenue, while single-family detached dwellings are located along Garfield Street and 34th Street. St. Sophia's Greek Orthodox Church is located on Garfield Street across from the subject property.
6. The subject property currently contains several buildings and facilities devoted to the Applicant's private school use, including the Lane-Johnston Building, the True-Lucas Building, Little Sanctuary, the Steuart Building, the New Wing, the Activities Building, the Lawrence Pool, and the Martin Gymnasium. The site also contains one non-regulation athletic field used by the Applicant.
7. By order issued November 5, 1976 (BZA Application No. 12174), the Applicant received special exception approval to renovate its Activities Building and to construct a new wing addition to an existing gymnasium as well as a new academic building, subject to conditions limiting maximum attendance for any school event to 1,300 persons and requiring a minimum of 130 parking spaces.

Proposed Expansion of the Private School Use

8. The Applicant proposed to construct an extension to the existing New Wing designed to connect and unify buildings used by the upper school. The new construction, which will extend the New Wing at its current height and width, will contain approximately 18,000 square feet of space used for classrooms, faculty and administrative offices, student social space, and a student bookstore. The New Wing Extension will also bridge and suppress a service road, so that all truck delivery and loading will take place underground, directly beneath their current operations. The existing loading dock will be converted into a terrace or green space for circulation and passive social activities.
9. The Applicant proposed to reconfigure the existing athletic field, located at the southeast corner of the Close, into three separate tiers. The upper level will contain a regulation competition and practice field for football, soccer, and lacrosse, surrounded by a regulation six-lane track, with seating for approximately 600 people built into the hillside on the north face of the site. The lower tier, located approximately 18 feet below the

upper tier, will provide a regulation baseball field that can be converted into two practice fields, as well as an additional half-field for practice. The third tier, located at the corner of the intersection of 34th and Garfield Streets, will contain eight tennis courts and a support building built into a hillside.

10. The reconfigured athletic facility will include practice and game venues for the Applicant's interscholastic teams in baseball, cross country, football, lacrosse, soccer, tennis, and track and field. The fields will be used primarily during the fall and spring athletic seasons; *i.e.* from September 1 to November 15 and from March 1 to May 15, respectively. One or two interscholastic games will likely be played on the fields virtually every day, with multiple games generally played "back to back" rather than simultaneously. The Applicant indicated that the number of games played would remain unchanged from the current schedule, consistent with the limit allowed by rules of the Intercollegiate Athletic Conference.
11. The proposed performing arts center will consist of a new auditorium and support space for the performing arts programs of St. Albans and the National Cathedral School, and will provide a venue for some programs of the Cathedral. The Applicant stated that neither St. Albans nor the National Cathedral School intended to modify their current programs of theater, music, and other performing arts activities.
12. The new performing arts center will be located directly under the circular drive at the front of the school, with no visible change in grade at the upper-campus level. The performing arts center will contain 39,000 square feet of space, with 650 seats in the auditorium. The lowest level of the facility will consist of a proscenium stage, orchestra pit, and seating for 350 people. The above-grade component of the performing arts center, known as the Library Addition, will contain three classrooms, an art studio, and two music ensemble rooms.
13. The new performing arts center will be an accessory building devoted to the expanded private school use of the subject property.
14. The Applicant requested a 10-year period of approval of the application, through the summer of 2015. As planned, both the construction of the New Wing Extension and reconfiguration of the athletic fields would be completed by Fall 2007, while construction of the performing arts center would begin by 2010.
15. The Applicant did not propose to increase the intensity of use of its athletic facilities, with the exception of hosting additional track meets, and did not propose to increase the number of performances held in the new performing arts center compared to the number of performances currently held in other venues at the subject property.
16. The Applicant permits some use of its facilities by "outside users"; that is, persons using the Applicant's indoor and outdoor facilities who are not affiliated with St. Albans or with the Foundation. The Board credits the Applicant's testimony that use of St. Albans

facilities by unaffiliated users is relatively small in scope and creates minimal traffic or parking impacts on neighboring property.

Noise Impacts

17. The Board credits the Applicant's testimony that the proposed changes in its campus will not have any perceptible increase in noise levels on adjacent or adjoining properties, in part because the number of students and the intensity of activities will not increase over the current levels. The New Wing Extension will not generate noise but might buffer existing noise by creating an underground location for the service road and loading facilities. The performing arts center will be constructed underground using acoustical standards appropriate for performing arts. The Board credits the conclusion of the Applicant's sound consultant that the proposed expansion and reconfiguration of athletic fields on the subject property will not create adverse noise impacts on neighboring residences on Garfield or 34th Street.
18. The Board also credits the testimony of the Office of Planning that the New Wing Extension and performing arts center will not create any additional noise that would affect the adjacent community, and that any increase in noise associated with the new athletic facilities will not be noticeable at nearby residences.
19. The Board finds that the requested special exception will not create adverse noise impacts on neighboring property. The new buildings will be internal to the property, not adjacent to any residential structures; the performing arts center will be mostly underground and enclosed; and no amplification will be used at the athletic facilities except for an announcer calling games.

Traffic Impacts

20. The Applicant presently employs 143 faculty and staff at the subject property (128 full-time and 15 part-time employees, described by the Applicant as 133 full-time equivalent employees). The Applicant proposed to increase the number of full-time equivalent employees over a 10-year period in conjunction with the construction of the New Wing Expansion, for a new total of 143 full-time equivalent employees.
21. The Applicant proposed to implement a transportation management plan designed to mitigate any adverse traffic and parking impacts associated with the private school use. Elements of the plan will encourage persons driving to the subject property – including students, employees, and persons using the Applicant's facilities – to park on the Close rather than using on-street parking in the surrounding neighborhoods; encourage employees to participate in a "Commuter Rewards" program offering incentives to commute by means other than driving; and impose limits on the use of the Applicant's athletic fields so as to limit traffic and parking impacts generated by the use of the facilities.
22. The Board credits the testimony of the Applicant's traffic expert that the Applicant's proposed increase in its number of employees would likely increase the number of vehicle trips both to and from the subject property by six per weekday, and increase the

demand for parking by six spaces, and thus would have an insignificant impact on traffic and parking conditions in the vicinity of the Close.

23. The proposed reconfiguration of the athletic fields will not alter the Applicant's current athletic programs, and thus will not affect day-to-day traffic conditions. Because the new athletic facilities will meet league standards, the reconfiguration will permit St. Albans to host track and field events at the subject property, including a league meet once every six years and up to two meets each year. While track and field events do not attract significant spectator traffic, the events will generate additional trips to the subject property by buses. Parking for the buses will be provided within the Close.
24. Events at the new performing arts center will likely draw a maximum of approximately 750 people, including the audience, cast, and crew members.
25. Currently, persons attending performing arts events at St. Albans park primarily on Pilgrim Road on the Close, on Garfield Street, and on nearby neighborhood streets. Performances start as early as 6:00 p.m., so that traffic to the subject property coincides with weekday evening traffic. However, except for events involving the younger students, most performances are scheduled to begin later in the evening.
26. Parking for events held at the performing arts center will be accommodated in the new garage, which will have two entrances. The Wisconsin Avenue entrance, the most congested point around the Close, will have a traffic signal synchronized with other traffic signals along Wisconsin Avenue. The Board credits the testimony of the Applicant's traffic expert that the new garage, and its entrance at a signalized intersection, will improve traffic safety and traffic conditions on Wisconsin Avenue.
27. The Board also credits the testimony of the Applicant's traffic expert that the larger capacity of the new performing arts center will generate significant additional traffic arriving at the Close, but will not likely create adverse traffic impacts, primarily because of the times that performances will be scheduled and because the new parking garage will increase the supply of parking available on the Close, so that persons driving to a performance would not likely seek parking on nearby residential streets. The traffic expert concluded that 150 new trips would likely be generated a few times per year on Friday evenings before a performance; however, those vehicles will use the entrance to the parking garage at a signalized intersection at Wisconsin Avenue, thereby mitigating any potential objectionable conditions due to traffic or parking associated with the additional traffic generated by events held at the performing arts center.
28. The Board credits the testimony of DDOT that the proposed expansion of the existing private school use would have a minimal effect on the surrounding street system, except during evenings when the performing arts center was in use, because the application did not propose to increase student enrollment and contemplated an increase in faculty and staff of nine persons.

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

Adequate Parking

30. The Close currently contains 532 parking spaces, which serve all uses located on the Close. Of these parking spaces, 154 spaces are allocated to the Applicant's private school use.
31. The underground parking garage currently under construction is expected to be completed in late 2006. The garage will contain 414 parking spaces and will result in the elimination of some existing spaces, resulting in a net increase of 307 parking spaces on the Close. Approximately 180 spaces in the garage will not be reserved for any particular use but will be generally available for any vehicles driven to the Close.
32. After completion of the garage, the Close will have a total of approximately 835 parking spaces.
33. The Board credits the testimony of the Applicant's traffic expert that the peak demand for parking on the Close is a total of 826 vehicles. Currently the shortfall between parking supply on the Close and peak demand is 294 vehicles, leading to spillover parking on neighborhood streets in the vicinity of the Close. After completion of the garage, which will increase the number of parking spaces by 307, the total supply of parking available on the Close will exceed the estimated peak demand for parking.
34. After completion of the garage, 163 parking spaces on the Close will be designated for use by vehicles associated with the Applicant's private school use.
35. The Board credits the testimony of the Applicant's traffic expert that the peak demand for parking created by the Applicant's private school use is approximately 210 to 230 vehicles, in excess of the 154 spaces currently designated for St. Albans as well as the 163 spaces that will be designated after completion of the garage. Thus, parking demand generated by the private school use occasionally causes spillover parking on nearby neighborhood streets. At times the parking spaces designated for use by St. Albans are improperly used by other users on the Close, or drivers may opt to park on-street in a location more convenient to St. Albans than a designated space within the Close.
36. The Board credits the testimony of the Applicant's traffic expert that spillover parking associated with the Applicant's private school use will likely diminish after completion of the parking garage. The number of spaces designated to the Applicant will increase by nine, and any demand for parking in excess of 163 spaces will likely be satisfied by the

- new garage, which will offer approximately 180 unreserved spaces available for vehicles parking on the Close.
37. Bus parking associated with events at St. Albans, including events held on the athletic fields, will be accommodated on the Close. Ten parking spaces located on Pilgrim Road will be designated for use by school buses, and will provide parking for three buses.
 38. The Board credits the Applicant's testimony that the need for parking generated by the new performing arts center will be served by the parking garage.
 39. The Applicant proposed to increase the number of its employees at the subject property from 143 actual to 143 full-time equivalent employees, which the Applicant describes as an increase of nine full-time equivalent employees. After completion of the Applicant's proposal, the largest assembly space will be the new performing arts center, with a seating capacity of 650. Thus, the parking requirement under chapter 21 of the Zoning Regulations for the proposed expanded public school use will be at least 160 spaces (two parking spaces for every three employees, or 95, and one space for every 10 seats in the largest assembly space, or 65).¹
 40. The Board finds that the proposed expansion of the private school use is not likely to become objectionable to adjoining and nearby property because of parking, and that approval of the application will provide for ample parking space to accommodate the students, teachers, and visitors likely to come to the site by automobile. The Applicant's proposal includes several elements – including an increase in the number of surface parking spaces on the Close allocated to the Applicant; the ability to use parking spaces in the new garage; the implementation of new parking policies applicable to students, teachers, and visitors driving to the subject property; and limitations on the use of its facilities – that will substantially mitigate the likelihood of spillover parking on neighborhood streets surrounding the Close.

Number of Students

41. The Applicant presently has an enrollment of 568 students. The Applicant proposed to maintain the current level of enrollment, with a two-percent variance permitted in light of the need for flexibility with respect to the number of students admitted. The two-percent variance would permit enrollment of up to 11 students over the "target" enrollment of 568, for a maximum total enrollment of 579.
42. The Board finds that no objectionable conditions are likely to result from the number of students associated with the requested special exception. The Board does not find that the current enrollment of 568 students has created objectionable conditions or adversely affected the use of neighboring property. The Board credits the Applicant's testimony that its intention is to maintain the current enrollment, subject to a maximum potential

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

increase of 11 students, to 579, depending on the number of students who accept admission to St. Albans.

Harmony with Zoning

43. The purposes of the R-1 district include to stabilize and protect quiet residential areas developed with one-family detached dwellings, and to promote a suitable environment for family life. 11 DCMR §§ 200.1-200.2. The R-1-B zone provides for districts of higher density than the R-1-A zone. 11 DCMR § 200.3.
44. The development proposed by the Application will conform to requirements of the R-1-B district with respect to height. The heights of the New Wing Extension and the performing arts center will be 34 feet, four inches and 23 feet, four inches, respectively. As a result of the proposed new construction, the lot occupancy on the St. Albans portion of the Close will increase from 10.7 percent to 11.6 percent.
45. The Board credits the testimony of the Office of Planning that the proposed expansion of the private school use will fulfill the intent of the Zoning Regulations and Map to allow uses that are compatible with single-family residential areas.
46. The Board finds that the requested special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (2001) to grant special exceptions, as provided in the Zoning Regulations. Uses listed under 11 DCMR § 3104, including private schools or expansions thereto, may be permitted by the Board if in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and if the use or expansion will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map, subject to specific conditions, including the applicable requirements of 11 DCMR § 206. The Applicant seeks a special exception pursuant to 11 DCMR § 3104.1 to construct a new building and an addition to an existing building, and to reconfigure its athletic facilities, in an expansion of an existing private school use under the conditions specified in § 206 in the R-1-B district at 3101 Wisconsin Avenue, N.W. (Square 1944, Lot 25).

In accordance with § 206, a private school must be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions. 11 DCMR § 206.2. Ample parking space must be provided "to accommodate the students, teachers, and visitors likely to come to the site by automobile." 11 DCMR § 206.3. The Applicant must also demonstrate that the proposed private school use will be in harmony with the general purpose and intent of the Zoning Regulations and Map. 11 DCMR § 3104.1.

Based on the findings of fact, and having given great weight to the recommendations of the Office of Planning and to the issues and concerns of ANC 3C, the Board concludes that the proposed expansion of the existing private school use, as conditioned by the Board, can be located at the subject property so that it is not likely to become objectionable to adjoining and nearby property. The Board has imposed conditions in this order in response to the Applicant's proposal, recommendations of OP, and issues and concerns raised by ANC 3C to set parameters for operation of the expanded private school use that will ensure that no objectionable or adverse condition will be created.

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

Phasing. Generally, no order of the Board authorizing the erection or alteration of a structure is valid for a period longer than two years unless, within that period, the plans for the erection or alteration are filed for the purposes of securing a building permit. 11 DCMR § 3130.1. The erection or alteration approved in the permit must be started within six months after the date of the issuance of the permit, and must proceed to completion in accordance with its terms. 11 DCMR § 3130.3. If the work is not started within the six-month period, the permit will expire and will not be renewed. *Id.* However, those provisions may be waived by the Board, for good cause shown, when, in the judgment of the Board, the waiver will not prejudice the rights of any party and is not otherwise prohibited by law. 11 DCMR § 3100.5.

The Board finds good cause for a waiver of the two-year requirement with respect to this application. The Applicant proposed a 10-year, multi-phase development comprising three major components and requested approval through mid-2015, indicating that two elements would be undertaken within two years but that the schedule for construction of the performing arts center would depend on funding. In approving the requested phasing plan, the Board notes that the Applicant has enumerated the changes to the existing private school use that will be undertaken as part of the requested special exception, and that the Board has found that the proposed expansion of the existing private school use, as conditioned in this Order, will be consistent with the requirements of § 206 and § 3104 of the Zoning Regulations.

ANC's issues and concerns. The Board accorded the issues and concerns raised by ANC 3C the "great weight" to which they are entitled. In doing so, the Board fully credited the unique vantage point that ANC 3C holds with respect to the impact of the proposed expansion of the existing private school use on the ANCs' constituents. The Applicant proposed several conditions, which the Board adopts in this Order, addressing concerns raised by the ANC,

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

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof. It is hereby **ORDERED** that the application is **GRANTED** subject to the following **CONDITIONS**:

1. The Project shall be constructed in accordance with the plans prepared by Skidmore, Owings and Merrill; Richard Burck Associates Landscape Architects; and Arentz Landscape Architects, marked in the record as Exhibit No. 36. The Applicant shall have flexibility to modify the design in accordance with the recommendations of the Historic Preservation Review Board. The Applicant may construct the project in two phases. Phase I, consisting of the reconfigured athletic fields and New Wing Extension, shall commence within two years of the issuance of this Order. Phase II, encompassing the Performing Arts Center, shall start within 10 years of the issuance of this Order.
2. The Applicant's maximum enrollment shall not exceed 579 students. The Applicant may employ up to 143 full-time equivalent faculty and staff. No later than November 1 of each year, the Applicant shall submit to the ANC the total number of students, faculty, and staff for that academic year.
3. The Applicant shall require faculty, staff and students who drive to school and who do not have valid Zone 3 Residential Parking Permits ("RPP") to park on the Close (including in the parking garage to be located under the Cathedral lawn), in designated off-street parking, or on areas of streets not restricted to Zone 3 parking. The Applicant shall direct faculty, staff, and students with Zone 3 RPPs to park on the Close before resorting to on-street parking.
4. The Applicant shall maintain its current allotment of 154 parking spaces during construction of the Protestant Episcopal Cathedral Foundation garage. As a result of the lost surface parking spaces during construction, the Applicant shall lease 40 spaces from a nearby church or other location and shall construct 12 parking spaces on Pilgrim Road until completion of the Foundation parking garage. The Applicant shall make available 210-230 parking spaces after completion of the garage.
5. The Applicant shall encourage its employees to participate in the Foundation's "Commuter Rewards" program to reduce parking demand generated by faculty and staff.
6. The Applicant shall establish a parking policy for its faculty, staff, and students that will be consistent with Conditions No. 3 and 4. The parking policy shall require any student, staff, or faculty member who drives to school to register his or her vehicle with the Applicant and to display an identifying sticker on his or her vehicle that will facilitate compliance with the parking policy.

7. The Applicant shall require each student's parent or legal guardian to agree to the parking policy when the parent or legal guardian signs each year's enrollment contract. Students who violate the parking policy will be subject to disciplinary action as set forth in the enrollment contract.
8. The Applicant shall inform all visitor schools in writing of the designated visitor parking and shall direct visitors from such schools to park in those areas identified in Condition No. 3 to the extent that parking is available. The Applicant shall provide adequate parking for buses on the Close and shall require buses to park in the designated spaces.
9. The Applicant shall limit the hours of its outdoor summer programs from 8:00 a.m. to 7:00 p.m., and shall provide vehicular pick-up and drop-off locations on the Close for participants in the summer programs.
10. The Applicant shall limit hours of events at the performing arts center from 8:00 a.m. to 11:00 p.m. Sunday through Thursday and 8:00 a.m. to midnight on Friday and Saturday. Performances at the performing arts center (not including rehearsals and practices) shall be held on no more than 100 days during any calendar year. The Applicant shall permit use of the performing arts center only by Foundation institutions and shall not rent out or otherwise use the performing arts center for commercial purposes, except that in rare circumstances the performing arts center may be made available on a limited basis to a non-Foundation not-for-profit institution or a community organization that has a compelling need for use of the performing arts center or that has suffered the loss of use of a similar facility and requires temporary relief from such loss.
11. The Applicant shall not schedule simultaneous varsity scrimmages or games with other schools on its athletic fields, with the exception of tennis matches and make-up games. The Applicant shall not schedule more than five athletic tournaments involving more than one visiting school per year on its athletic fields.
12. The Applicant may offer the use of its athletic fields to schools, organizations, or individuals unaffiliated with the Applicant or the Foundation ("unaffiliated users") during the academic year. The Applicant shall direct any unaffiliated users who do not have valid Zone 3 parking permits to park in those areas identified in Condition No. 3. Unaffiliated users shall not be permitted to use the athletic fields before or after the school day, or on weekends, during the school year, except as follows:
 - (a) Except as provided in Condition No. 12(c), the Applicant may choose to provide a single field space for a single unaffiliated user on each weekend day, if there is no scheduled St. Albans or Foundation activity on the fields on that weekend day.
 - (b) Any vehicular pick-up or drop-off will be directed to occur on the Close.

- (c) Use of the athletic fields during the academic year by teams coached by a St. Albans coach or parent and consisting predominantly of St. Albans students shall be limited to no more than four days per week. Such events shall not last more than six hours.
 - (d) Unless being used by St. Albans, the track may be offered for public use subject to any restrictions placed on such use by the Applicant.
 - (e) The Applicant shall require each unaffiliated user to agree to its parking policy when the unaffiliated user signs a use agreement. Unaffiliated users who violate the parking policy will be subject to penalties as set forth in the use agreement.
13. The Applicant may offer the use of its fields to unaffiliated users during the summer when school is not in session as follows:
- (a) The Applicant shall direct unaffiliated users who do not have valid Zone 3 parking permits to park in those areas identified in Condition No. 3.
 - (b) A single field may be used on a weekday when there is no summer camp activity or St. Albans or Foundation activity on that day. The field may be used for up to seven hours, beginning no earlier than 9:00 a.m. and ending no later than 6:00 p.m.
 - (c) A single field may be used four weekday evenings per week; provided, however, that the activity ends no later than 9:00 p.m.
 - (d) A single field may be used each weekend day by a single user either during the day or in the evening if there is no St. Albans or Foundation activity on the weekend day. The field may be used for up to six hours, beginning no earlier than 9:00 a.m. and ending no later than 9:00 p.m.
 - (e) Any vehicular pick-up or drop-off will be directed to occur on the Close.
 - (f) Unless being used by St. Albans, the track may be offered for public use subject to any restrictions placed on such use by the Applicant.
14. The Applicant shall not use lighting on the athletic fields at any time, except for safety lighting along pathways, as necessary.
15. The Applicant shall direct members and require staff and employees of its tennis club who do not have valid Zone 3 parking permits to park in those areas identified in Condition No. 3 when they drive to the St. Albans tennis courts.
16. The Applicant shall establish a neighborhood liaison committee for the purpose of coordinating and discussing uses of the athletic fields and parking for St. Albans as provided in this Order. The Applicant shall provide a contact telephone number and

e-mail address for neighbors who wish to report any failure to comply with the usage and parking conditions adopted in this Order.

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

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

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

Each concurring member has approved the issuance of this Order.

MAR 27 2006

FINAL DATE OF ORDER: _____

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

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

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

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. SEE D.C. CODE § 1-2531 (2001). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE,

BZA APPLICATION NO. 17320**PAGE NO. 18**

UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

MN

ZONING COMMISSION ORDER NO. 03-12B/03-13B
Z.C. CASE NO. 03-12B/03-13B
(PUD Modification – Capper/Carrollsbury Venture, LLC – Senior Building)
September 15, 2005

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Zoning Commission") held a public meeting on September 15, 2005. At the meeting, the Zoning Commission approved an application from Capper/Carrollsbury Venture, LLC, together with the District of Columbia Housing Authority, (collectively the "Applicant") for a minor modification to the consolidated planned unit development ("PUD") and zoning map amendment approved pursuant to Zoning Commission Order No. 03-12/03-13, dated October 8, 2004.

The Zoning Commission has determined that the modification request is properly before it under the provisions of §§ 2409.9 and 3030 of the Zoning Regulations.

FINDINGS OF FACT

By Zoning Commission Order No. 03-12/03-13, dated October 8, 2004, the Zoning Commission approved the Applicant's application for a consolidated PUD and zoning map amendment for Squares 739, 767, 768, 769, 797, 798, 800, 825, 825S, and 882 and Portions of Squares 737, 799, 824, N853, and 880.

The property included in the PUD approval is located in the Southeast quadrant of Washington, D.C. and generally bounded by 2nd Street on the west, 7th Street on the east, Virginia Avenue on the north, and M Street on the south. The property consists of approximately 927,000 square feet of land area. A portion of the PUD approved by the Zoning Commission includes an apartment complex devoted to low-income senior citizens in Square 825S, known as Senior Building 2. Square 825S is zoned R-5-B, which permits a maximum height of 50 feet as a matter-of-right. 11 DCMR §400.1. Specifically, the Zoning Commission granted consolidated approval to construct an addition consisting of approximately 138 units to the existing senior apartment building, and authorized the addition to be 45 feet in height. Senior Building 2 is adjacent to an existing 60-foot tall senior building owned by the D.C. Housing Authority at 410 M Street, S.E., and the Zoning Commission found that the proposed building height of 45 feet for the senior building will establish a transition between the 410 M Street structure and the new single-family structures to the north. The Zoning Commission required the consolidated PUD to be developed in accordance with the plans dated May 27, 2003, marked as Exhibit No. 17 in the record of case No. 03-12 (the "Consolidated Plans").

Pursuant to 11 DCMR § 3028, Zoning Commission Order No. 03-12/03-13 became final and effective upon publication in the *D.C. Register* on October 8, 2004.

By letter dated August 31, 2005, counsel for the Applicant filed a request to place a minor modification to Zoning Commission Order No. 03-12/03-13 on the Commission's Consent Calendar pursuant to § 3030 of the D.C. Zoning Regulations. The letter requested that the Zoning Commission grant approval of a minor modification to change the height of the senior apartment building in Square 825S from 45 feet to 48 feet, 3¼ inches, which is less than the R-5-B matter-of-right height of 50 feet, and to approve the plans attached as Exhibit 3 of the August 31, 2005 letter.

The Applicant indicated that the Consolidated Plans indicate the proposed height of the senior building in Square 825S was 45 feet as identified on the development data sheet. However, the actual building height shown on Sheets A-5.1 and A-5.2 of the Consolidated Plans is approximately 44 feet, 1 inch, as measured from the measuring point (Elevation 80.57 feet) to the roof (Elevation 124.67 feet), and 47 feet, 8 inches, as measured from the measuring point (Elevation 80.57 feet) to the top of the parapet. The building height of 47 feet, 8 inches is shown, but not dimensioned, on the Consolidated Plans. The Applicant also indicated that the measuring point of Elevation 80.57 feet relied upon in preparing the Consolidated Plans was based upon preliminary survey information. However, the actual measuring point is 20.08 feet. This measuring point, which is more than 60 feet lower than that relied upon in preparing the Consolidated Plans, is based upon actual survey data the Applicant received subsequent to issuance of the Order. The perimeter roof coping as now designed is at Elevation 68.39 feet. Therefore, the proposed building height, based upon the actual measuring point, is calculated as follows: 68.39 feet – 20.08 feet = 48.31 feet, or 48 feet, 3¼ inches.

The Applicant's letter further indicates that Senior Building 2 as designed exceeds 45 feet by 3 feet, 3¼ inches for several reasons. First, the actual measuring point, which has been established based upon the final site survey, is more than 60 feet lower than that relied upon in the Consolidated Plans. Moreover, the entire Senior Building 2 has been raised out of the ground approximately three feet to accommodate a bio-retention pond within the central courtyard. The bio-retention pond was "strongly recommended" by the District of Columbia Department of Health ("DCDOH") during DCDOH's review of the project and is a significant environmental benefit to the development. The Applicant has proposed raising the basement floor from Elevation 15.00 feet to approximately Elevation 18.00 feet in order to accommodate positive over-land relief for the bio-retention pond and to help prevent flooding of the building.

The Applicant's letter also stated that: the Applicant reduced the overall height of Senior Building 2 to its lowest possible level by eliminating the roof parapet and utilizing internal roof drains; the ceiling heights at all residential floors are just eight feet; the basement ceiling height has been set at the absolute minimum to accommodate programming and services for the residential units above; and the proposed height of 48 feet, 3¼ inches will also establish a transition between the 410 M Street structure and the new single-family structures to the north.

The Applicant presented evidence that it had duly served a full copy of its request for a minor modification on Advisory Neighborhood Commission 6D and the D.C. Office of Planning. No comments were received from either of these organizations.

On September 15, 2005, at its regular monthly meeting, on the recommendation of the Director of the Office of Zoning, the Zoning Commission placed the Applicant's request for a minor modification on the Commission's Consent Agenda.

CONCLUSIONS OF LAW

Upon consideration of the record of this application, the Zoning Commission concludes that the Applicant's proposed modification is minor and consistent with the intent of Zoning Commission Order No. 03-12/03-13. The Zoning Commission concludes that the proposed modification is in the best interest of the District of Columbia and is not inconsistent with the intent and purpose of the Zoning Regulations and Zoning Act.

The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the requested minor modification will not affect any of the other conditions of the approved PUD. The modification is of such a minor nature that its consideration as a consent calendar item without public hearing is appropriate.

DECISION

In consideration of the reasons set forth herein, the Zoning Commission hereby orders **APPROVAL** of a minor modification to allow for construction of the senior apartment building in Square 825S to a height of 48 feet, 3¼ inches. The construction shall be consistent with the plans submitted to the Zoning Commission record by the Applicant on August 31, 2005. Accordingly, Condition No. 8 on page 32 of Zoning Commission Order No. 03-12/03-13 shall include the following:

8. Except for roof structures, the maximum permitted heights shall be as follows:
.....
 - g. For the senior apartment building in Square 825S: 48 feet, 3¼ inches;
.....

All other provisions and conditions of Zoning Commission Order No. 03-12/03-13 remain in effect.

Vote of the Zoning Commission taken at the public meeting on September 15, 2005: 5-0-0 (Carol J. Mitten, Gregory N. Jeffries, Anthony J. Hood, Kevin Hildebrand, and John G. Parsons to approve).

APR - 7 2006

In accordance with the provisions of 11 DCMR § 3028.8, this order shall become final and effective upon publication in the *D.C. Register*; that is, on _____.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. Order No. 05-12

Z.C. Case No. 05-12

(Text Amendment -- Hostelling International)

February 13, 2006

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.

ZONING COMMISSION ORDER NO. 05-33
Z.C. Case No. 05-33
(Petition from ANC 3D for Changes to ANC Review of Building Permits)
ORDER DISMISSING PETITION
January 9, 2006

On September 15, 2005, the Office of Zoning received a petition ("Petition") from Advisory Neighborhood Commission ("ANC") 3D. The Petition requests that the Zoning Commission modify Chapter 32 of the Zoning Regulations (DCMR Title 11) to require the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") to: 1) prepare a form requesting certain information for use as a building permit application; 2) transmit building permit applications within two days to affected ANCs; 3) wait until after the affected ANCs have weighed in on the building permit applications before approving the permits; and 4) give great weight to the ANC recommendations.

For the reasons stated below, the Zoning Commission dismisses the Petition with prejudice.

The Zoning Commission, like all other administrative agencies "is a creature of statute and may not act in excess of its statutory authority." *Dist. Intown Props., Ltd. v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 680 A.2d 1373, 1379 (D.C. 1996). *Accord President and Directors of Georgetown College v. District of Columbia Board of Zoning Adjustment*, 837 A.2d 58, 69 (D.C. 2003).

Section 492 of the Charter provides that the Zoning Commission for the District of Columbia "shall exercise all powers and perform all the duties with respect to zoning in the District as provided by law". D.C. Official Code § 1-621.01 (2001). In exercising such powers, the Commission may "regulate the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts, and other open spaces, the density of population, and the uses of buildings, structures, and land for trade, industry, residence, recreation, public activities, or other purposes." D.C. Official Code § 6-641.01 (2001). Nothing in this language suggests that the Zoning Commission may order DCRA to take the actions that would be required under the Petition.

While the Zoning Act established the requirement for a building permit, D.C. Official Code § 6-641.09, the authority "to administer and enforce the statutes, codes and regulations governing the construction, conversion, repair and alteration of buildings in the District of Columbia" was given by the Council in 1982 to what was then known as the Department of Licenses, Inspections and Investigations through Reorganization Plan No. 2 of 1983, effective July 3, 1982. The Council also granted the agency the authority to "administer and enforce the zoning

Z.C. ORDER NO. 05-33

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PAGE 2

statutes, codes and regulations governing land use, the height, area and use of buildings, and subdivision of all private land and condominiums." Both of these powers were transferred by the Council to the Department of Consumer and Regulatory Affairs by virtue of Reorganization Plan No. 1 of 1983, effective March 31, 1983).

The Council's ability to establish DCRA and to set forth the agency's duties and responsibilities derived from its exclusive authority under the Charter to:

[C]reate, abolish, or organize any office, agency, department, or instrumentality of the government of the District and to define the powers, duties, and responsibilities of any such office, agency, department, or instrumentality.

Section 404 of the District of Columbia Home Rule Act; approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)).

As to all District agencies, including the Zoning Commission, the Council has established across-the-board requirements with respect to Advisory Neighborhood Commissions through its enactment of the Advisory Neighborhood Commissions Act of 1975 and the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000. While the Zoning Commission may impose greater responsibilities upon itself with respect to ANCs, it may not require other agencies, including DCRA, to do more than these statutes require.

Lastly, the Commission notes that the District of Columbia Administrative Procedures Act leaves it to the discretion of every agency whether to act upon a petition. D.C. Official Code § 2-505(b). Even if the Commission possessed the powers contemplated in the Petition, we do not believe it appropriate to intrude in the internal operations of another agency as the Petition would have us do.

Therefore, the Commission dismisses Case No. 05-33 with prejudice.

The Zoning Commission, by vote of 5-0-0, taken at its public meeting on January 9, 2006, hereby orders dismissal of Case No. 05-33 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to dismiss).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the D.C. Register, that is, on _____.

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