GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 849-B
Z.C. Case No. 97-16A
Modification of an Approved Planned Unit Development
(Lowell School, Inc. - Square 2745F, Lots 815 and 817)
September 27, 2010

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on July 1, 2010, to consider an application from Lowell School, Inc. (the "Applicant," "Lowell," or "School") for review and approval of a modification to an approved planned unit development ("PUD"). The Commission considered the application pursuant to Chapters 2, 24, and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Commission hereby approves the application.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. The project site consists of Lots 815 and 817 of Square 2745F ("Property" or "Subject Property"). The Subject Property is known as the Lowell School and is generally situated on Kalmia Road, N.W. between 16th and 17th Streets, in the Colonial Village neighborhood of Ward 4. The Subject Property is located within the boundaries of Advisory Neighborhood Commission ("ANC") 4A. (Exhibit 2, pp. 2-3; Exhibit 21, pp. 2-3.)

2. The Applicant initially filed its application on December 14, 2009. The Commission set the application down for a public hearing at its April 12, 2010, public meeting. (Exhibit 2, April 12, 2010 Transcript, pp. 14-15.)

3. The Applicant filed a pre-hearing statement on April 23, 2010, and a public hearing was timely scheduled for July 1, 2010. Prior to the public hearing, the Applicant supplemented its application with additional information on June 11, 2010, pursuant to § 3013.8 of the Zoning Regulations. (Exhibits 12, 14, and 21.)

4. A public hearing was held on July 1, 2010. The Commission granted expert status to the Applicant's architect and transportation engineer. Testimony was presented by the Applicant's project team, including the project architect, representatives of the School, and a transportation consultant. At the public hearing, the Applicant submitted its

PowerPoint presentation (Exhibit 36), the Neighborhood Cooperation Agreement (Exhibit 33), a letter in support from the Shepherd Park Citizens Association (Exhibit 34), and a letter in support from the Civic League of North Portal Estates (Exhibit 35; July 1, 2010 Transcript ("Tr."), pp. 14-15, 60.)

5. At the public hearing, the Commission considered a motion by Sharon Giles ("Giles") to enlarge the time within which to file for party status. The Commission determined that Giles did not provide a reasonable explanation as to justify the granting of Giles' motion. Accordingly, it denied the motion. (Tr., pp. 9-12; Exhibit 22.)

At the public hearing, the Commission considered requests for party status from Sharon Giles, Columbus Giles, Cynthiana Lightfoot, and William Lightfoot. The Applicant filed a response in opposition to the request for party status. Its opposition was based on the fact that (1) the requests were untimely; (2) the requests did not state how the individuals were uniquely affected; (3) the requests were contradictory by their own terms; and (4) the requests sought relief that was not within the purview of the Commission. (Exhibit 30.)

6. The Commission determined that the requests were untimely. Accordingly, it denied their requests for party status. (Exhibit 28; Tr., pp. 9-11.) The ANC was the only other party to this case.

7. As another preliminary matter, the Commission considered a request submitted by Giles (Exhibit 22) and by the District of Columbia Preservation League ("DCPL") (Exhibit 26) for a continuance or to postpone the hearing date until after an application was filed to designate the property as a historic landmark. The Commission denied the motion to continue the hearing, noting that no landmark application had been filed to date and the requests were not made by a proper party. Further, the Commission noted that the historic designation process was a separate process from the zoning process and did not require the zoning case to be stayed in the interim. (Tr., pp. 9-11.)

8. The Commission also considered a motion from Giles to deny the application. (Exhibit 22.) The Commission denied her motion because it was not made by a proper party and because it lacked substantive support. (Tr., pp. 9-11.)

9. At the conclusion of the hearing, the Commission closed the record for this case with the exception for the limited information it requested from the Applicant and for responses to the Applicant's submission by the ANC, the District of Columbia Office of Planning ("OP"), and the District of Columbia Department of Transportation ("DDOT"). (Exhibit 41.) The Applicant timely filed its post-hearing response on July 14, 2010. (Exhibit 42.) Responses were submitted by the ANC and DDOT. The ANC submission was submitted after the deadline set by the Commission.

10. At its public meeting held on July 26, 2010, the Commission considered the supplemental filings submitted by the Applicant, DDOT, and the ANC. The Commission voted to accept the ANC's late submission into the record. The Applicant's submission contained two alternative designs for the project's garage and play area. The Commission took proposed action to approve the two alternative designs for the parking garage and play area, and did not approve the original design.

In doing so, the Commission noted that there was limited evidence of the surrounding community's satisfaction in the project, that there were potential issues with the loading provisions of the Applicant's proposed Traffic Management Plan ("TMP"), and that the ANC had not yet voted on the Applicant's revised proposal. The Commission requested that the Applicant and the ANC attempt to complete outreach efforts and left the record open until September 13 to receive a revised TMP and a revised ANC letter.

Lastly, the Commission issued a procedural order requiring the Applicant to submit a final list of proffered public benefits, and for each, a draft condition that is both specific and enforceable by August 9, 2010; the Office of the Attorney General ("OAG"), Office of Zoning ("OZ"), and OP to communicate any perceived deficiencies regarding the proposed conditions to the Applicant by August 16, 2010; the Applicant to file its revised proffer and conditions by August 23, 2010; and OAG, OP, and the parties to file any responses they have to the Applicant's final proffer and conditions by August 30, 2010, with the OAG response treated as a privileged attorney-client communication.

11. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to the District of Columbia Home Rule Act. NCPC, by action dated August 26, 2010, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.

12. The Applicant submitted its proffer of public benefits and draft conditions on August 9, 2010. OAG, OP, and OZ discussed the proffer and conditions with the Applicant on August 16, 2010. The Applicant submitted a revised proffer and draft conditions on August 23, 2010. OAG submitted its comments to the Commission on August 27, 2010.

13. On September 9, 2010, the ANC submitted a letter indicating that at a properly noticed public meeting with a quorum present, it voted to recommend approval of the Application.

14. On September 13, 2010, the Applicant submitted a document that addressed the Commission's concerns regarding loading and traffic management and community outreach. The document also attached a revised TMP and a full set of revised plans, comprised of the two alternative designs approved by the Commission.

15. The Commission took final action to approve the application in Case No. 97-16A on September 27, 2010. In doing so, the Commission accepted the Applicant's revised conditions.

The Subject Property and Surrounding Area

16. The PUD site is located in the R-1-A Zone District and consists of nearly nine acres of land. Lot 815 consists of approximately 298,682 square feet of land area and Lot 817 consists of approximately 62,696 square feet of land area. The Property is situated on Kalmia Road, N.W., between 16th and 17th Streets, N.W., in the Colonial Village neighborhood of Ward 4. It is located along the upper 16th Street corridor, just east of Rock Creek Park. The site includes approximately 780 feet of frontage along Kalmia Road and approximately 620 feet of frontage on 17th Street. (Exhibit 2, pp. 2-3; Exhibit 21, pp. 2-3.)

17. There is a significant grade change on the Property. The site slopes gradually upward approximately 35 feet from the northwest corner of the site to the rear of the Property. (Exhibit 2, p. 3; Exhibit 21, p. 3.)

18. The Property is split into two separate parcels by a main drive that connects through to 17th Street and Kalmia Road. The property east of the drive is largely improved with School facilities while the property to the west of the drive is primarily open space for student recreation and community use. (Exhibit 2, p. 3; Exhibit 21, p. 3.)

19. Each of the School's buildings is located along the main drive. The campus consists of four primary buildings: the Parkside building, the main building, the Fraser building, and the Marjorie Webster house. Parkside is located along 17th Street and will accommodate the proposed middle school. The main building accommodates the majority of Lowell activities. Fraser was formerly a dormitory but has been vacant since Lowell acquired the property. Finally, the Marjorie Webster house is used primarily for administrative offices. (Exhibit 2, pp. 3-4; Exhibit 21, pp. 3-5, 6; Exhibit 36; Tr., pp. 34-35.)

20. The School faces Rock Creek Park to its west and single-family residences to its north, south and east. The School is surrounded by low-density properties in the R-1-A Zone District. (Exhibit 2, p. 3; Exhibit 21, p. 3.)

Zoning and Development History of Property

21. The Property was first developed in 1924 as the Marjorie Webster Junior College, a post-secondary educational institution. At the time of the comprehensive rezoning of the city in 1958, the Property was zoned R-1-A. Around 1971, the University Research Corporation acquired the Property and continued to use the Property as a junior college. In 1977, the United States Fire Administration purchased the Property for use as a fire

academy. Because the United States Fire Administration was an entity of the federal government, the Property was rendered unzoned since federal property is not subject to local zoning laws. The government subsequently transferred the property in 1981 to Gallaudet University. (Exhibit 2, pp. 5-6; Exhibit 21, p. 7.)

22. In light of the Property's designation as unzoned property, Gallaudet sought approval for a PUD and a PUD-related map amendment to zone the Property R-1-A and permit its use as a university. By Z.C. Order No. 387, dated December 13, 1982, the Commission approved the application and authorized Gallaudet to use the Property for university purposes. The R-1-A Zone District is generally consistent with low-density residential uses; however, in this case, the Commission found it appropriate for low-density institutional use. (Exhibit 2, p. 6; Exhibit 21, p. 7.)

23. The School acquired the Property from Gallaudet and modified the PUD in 1998 to allow it to operate on the Property as a private school, pre-K through sixth grade with no more than 400 students and 60 faculty/staff. The Commission approved the application subject to 20 conditions pursuant to Z.C. Order No. 849. (Exhibit 2, p. 6; Exhibit 21, p. 7.)

Description of the PUD Project

24. There are four components to the Applicant's modification request. It seeks approval to: (1) expand the program of the School to include seventh and eighth grades; (2) increase the cap on the number of faculty and staff from 60 individuals to 100 individuals; (3) construct an addition to an existing building, know as Parkside, and (4) raze an existing building, know as Fraser, which may be replaced with a structure comprised of an underground parking garage topped by a play area, or a surface play area and parking area, and an addition to the existing gymnasium and pool (collectively, "Project"). (Exhibit 2, pp. 3-5; Exhibit 21, pp. 3-6.) The Project is explained in more detail below:

(a) Seventh and Eighth Grades:

The School is a private school that currently teaches children up to the sixth grade level. The project calls for expanding to include seventh and eighth grades. This expansion will make Lowell more competitive with other private schools in the District and surrounding jurisdictions. The standard model for schools is Kindergarten through Fifth Grade (Primary or Elementary Schools), Sixth Grade through Eighth Grade (Middle Schools), and Ninth Grade through 12th Grade (High School), this has left the Lowell School's program (Pre-Primary through Sixth Grade) undesirable. As a result, Lowell has students leaving earlier than the program is designed for, and in some cases students are not applying to Lowell who are looking for the more standard program design of Pre-Primary through Eighth Grade. Finally, expanded enrollment will allow Lowell to sustain the

expenses of its campus. The existing 400-student cap accommodates this, but the current program design does not allow the enrollment cap to be fulfilled.

The School will establish the two additional grade levels in phases. The seventh grade will grow organically from the students in the existing sixth grade class and the eighth grade will be phased in the following year to accommodate those seventh graders. (Exhibit 2, pp. 3-4; Exhibit 21, pp. 3-4.)

(b) Faculty and Staff Cap

The School also seeks approval to increase the cap on its faculty and staff from 60 individuals to 100 individuals. There is a trend in the educational field to decrease the student-to-teacher ratio to maximize the attention each student receives. It is more realistic to serve 400 students with 100 faculty and staff members rather than the 60 that were approved by the Commission in 1998. (Exhibit 2, p. 4; Exhibit 21, p. 5.)

(c) Parkside Improvements

Part of the Project includes an addition to Parkside to accommodate the new Middle School. The proposed addition to Parkside will include a computer lab, art studios, a state-of-the-art theater, new library, and student gathering places. The addition will incorporate sustainable design features and will be ADA-accessible. In connection with the changes being made to the building, the School is creating an access drive between the Parkside building and 17th Street. This access drive will allow additional room for vehicle queuing and will reduce the amount of queuing that currently occurs off-campus. The Applicant will re-evaluate the need for the drive aisle prior to securing building permits for the gymnasium addition. If the aisle is no longer needed to alleviate queuing concerns, the Applicant will seek permission to abandon plans for the drive aisle. Another component of the Applicant's work on Parkside is that it will simultaneously extend the sidewalk network on the campus side of Kalmia to the Kalmia Road intersection with Myrtle Street to aid in pedestrian access to the School for those who live in the neighborhood. (Exhibit 2, p. 4-5; Exhibit 21, p. 5; Exhibits 42, 51.)

(d) Fraser, Garage, Gymnasium, and Pool

Finally, the School proposes to raze Fraser Hall and replace it with either a play deck with below-grade parking garage, or alternatively with a grade-level parking area and play area. The removal of the four-story Fraser Hall will significantly add to the air and the light of the campus and the community. If the Applicant constructs the first approved option, the play deck that will be constructed in place

of the Fraser building will be a non-regulation size playing field covering a one-level garage with 32 parking spaces. The play area will mask the visual impacts and minimize the environmental impacts of the garage. If the Applicant constructs the second approved option, the Fraser building will be replaced with grade-level parking and play areas.

The School will also expand the existing pool deck and gymnasium. The 5,100-square- foot addition to the gym will be a modest increase but will make the School's facilities competitive with other private grade schools in the District. It will enhance the existing pool area by providing deck space, a locker room, and bleachers. (Exhibit 51.)

The proposed construction on the campus will support the program expansion. The renovation of, and addition to, the Parkside building will make room for seventh and eighth grade classrooms and accessory facilities. Razing Fraser and constructing a surface play area with either below-grade garage, or a grade-level play and parking areas, gives Lowell some much needed recreation space for its students. It also provides parking to minimize the School's impact on the community. The modest addition to the gymnasium and pool will make these athletic facilities competitive with other area schools. Finally, expanding the number of faculty and staff is necessary to accommodate the anticipated increased enrollment and to support the new seventh and eighth grade program. (Tr., pp. 26-30.)

(e) Other Aspects of the Project

The School is pursuing a drive aisle in front of Parkside that was shown in the Applicant's original submission on December 14, 2009, but was not shown in the Applicant's supplemental submission on June 11, 2010. The Applicant is committed to converting a portion of impermeable surface parking adjacent to the Marjorie Webster House to permeable surface parking. The construction would satisfy certification levels for LEED 2009 for Schools (LEED 3.0). (Tr., pp. 34, 37, 40, 42, 45, 46.)

Nearly half of Lowell's students live west of Rock Creek Park and travel through the Park to access the School. The School has agreed to undertake several initiatives to reduce the number of trips made to and from the School. Specifically, Lowell will provide a pre-tax payroll deduction for public transportation expenses; it will establish a reward program for alternative transportation; and it will continue to provide shower facilities for its faculty and staff. The School also has a strong carpool program and committed to establishing a bus program in the Fall 2011. Already 73% of students carpooling in the morning and 66% of students are carpooling in the afternoon. (Tr., pp. 47-

59.) Lowell has committed to spending approximately $150,000 on an annual basis in the form of bus transportation and additional personnel to minimize Lowell's impacts. (Tr. pp. 60-63.)

Density Proposed and Flexibility Requested

25. The Property was zoned via a PUD-related map amendment to the R-1-A Zone District in Z.C. Order No. 387. Z.C. Order No. 849 imposes a maximum height of 40 feet and a maximum density of .36. floor area ratio ("FAR"). As a result of the instant project, the gross floor area of the campus will be reduced by approximately 9,745 square feet and the density will decrease from .36 FAR to .33 FAR if the Applicant constructs the first option which includes the enclosed parking and play deck. The gross floor area will be reduced by approximately 19,800 square feet and the density will decrease to .31 if the Applicant constructs the second option with grade level parking and play area. Lot occupancy will increase from 13% to 15% for option one. Lot occupancy will decrease to 12% for option two. The proposed construction will have a modest effect on the zoning tabulations of the property as demonstrated in the chart below:

	Existing	**Proposed (option 1)**	**Proposed (option 2)**
FAR	.36	.33	.31
Height	40 feet	40 feet	40 feet
Lot Occupancy	12.72%	14.47%	11.69%

(Exhibit 51.)

26. The PUD will be constructed in phases. The first phase of development will include the addition of the seventh and eighth grades. Seventh grade will be added in the 2011-2012 School Year. The eighth grade will be added in the 2012-2013 School Year. The second phase of development will include the addition to the Parkside building as well as establishing the new queuing drive. Finally, the third phase of development will be to raze the Fraser building, establish the play deck (if constructed), and construct the addition to the gymnasium and pool. (Exhibit 2, p. 11; Exhibit 21, pp. 13, 14; Exhibit 42.)

Comprehensive Plan

27. The proposed PUD is consistent with and fosters numerous policies and action items enumerated in the Comprehensive Plan. The Subject Property is located in the Rock

Creek East Planning Area delineated in the Comprehensive Plan. (Exhibit 2, pp. 16-20; Exhibit 21, pp. 19-24.) The Comprehensive Plan's Rock Creek East Area Element includes the following pertinent provisions:

(a) Land Use: The School is an institutional use located in a residential neighborhood. Consistent with the land use elements outlined in the Comprehensive Plan, the School is conscious of its context. To that end, it takes numerous precautions to ensure that it does not have a detrimental effect on the adjacent neighborhood. The Property includes expansive swaths of green spaces and those buildings that do exist are located so as to minimize their effect on the neighborhood. The School has also been proactive in addressing any traffic issues that have arisen. It has established an effective carpool program, it is establishing a drive aisle that will enable the School to maximize the amount of queuing that takes place on campus, it has committed to a bus program starting for the 2011 school year, and it has committed to a stringent TMP filed in the record as part of Exhibit 42.

- *Policy LU-2.1.5: Conservation of Single Family Neighborhoods*: Protect and conserve the District's stable, low density neighborhoods and ensure that their zoning reflects their established low density character. Carefully manage the development of vacant land and the alteration of existing structures in and adjacent to single family neighborhoods in order to protect low density character, preserve open space, and maintain neighborhood scale.

- *Policy LU-2.3.5: Institutional Uses*: Recognize the importance of institutional uses, such as private schools, child care facilities, and similar uses, to the economy, character, history, and future of the District of Columbia. Ensure that when such uses are permitted in residential neighborhoods, they are designed and operated in a manner that is sensitive to neighborhood issues and that maintains quality of life. Encourage institutions and neighborhoods to work proactively to address issues such as traffic and parking, hours of operation, outside use of facilities, and facility expansion.

- *Policy LU-3.2.1: Transportation Impacts of Institutional Uses:* Support ongoing efforts by District institutions to mitigate their traffic and parking impacts by promoting ridesharing, carpooling, public transportation, shuttle service and bicycling; providing on-site parking; and undertaking other transportation demand management measures.

- *Policy LU-3.2.3: Non-Profits, Private Schools, and Service Organizations*: Ensure that large non-profits, service organizations, private schools,

seminaries, colleges and universities, and other institutional uses that occupy large sites within residential areas are planned, designed, and managed in a way that minimizes objectionable impacts on adjacent communities. The zoning regulations should ensure that the expansion of these uses is not permitted if the quality of life in adjacent residential areas is significantly adversely affected.

(Exhibit 2, pp. 17-18; Exhibit 21, pp. 20-21.)

(b) Transportation: The School has established a carpool program; it is installing additional bike racks to encourage its faculty and staff to bike to work; it is implementing a bus program starting in the 2011-2012 School Year; it is establishing a sidewalk along a portion of Kalmia Road; it is establishing a rewards program for faculty, staff, and students who carpool, walk, bus, or take Metro to School; it has initiated the process to become a Safe Routes to School member; and it has initiated the process for SmartBenefits for its employees. Each of these is consistent with the Comprehensive Plan.

- *Policy T-2.3.1: Better Integration of Bicycle and Pedestrian Planning*: Integrate bicycle and pedestrian planning and safety considerations more fully into the planning and design of District roads, transit facilities, public buildings, and parks.

- *Policy T-3.1.1: Transportation Demand Management (TDM) Programs*: Provide, support, and promote programs and strategies aimed at reducing the number of car trips and miles driven (for work and non-work purposes) to increase the efficiency of the transportation system.

(Exhibit 2, p. 18; Exhibit 21, p. 21.)

(c) Environmental Protection: The Property is heavily landscaped with native plantings and many mature trees that the Applicant has preserved. In light of the efforts the Applicant takes to preserve the natural setting of the campus, it is taking measures to ensure that the development is equally as thoughtful. The School will construct the new development to meet the standards for the LEED for Schools program. Listed below are specific District policies and actions with which the School is consistent.

- *Policy E-1.1.3: Landscaping*: Encourage the use of landscaping to beautify the city, enhance streets and public spaces, reduce stormwater runoff, and create a stronger sense of character and identity.

- *Action E-2.3.B: Expand Recycling Efforts in District Institutions*: Work with the DC Public Schools and Public Charter Schools to expand school

recycling programs and activities. Encourage private schools, universities, colleges, hospitals, and other large institutional employers to do likewise.

- *Policy E-3.1.1*: Maximizing Permeable Surfaces: Encourage the use of permeable materials for parking lots, driveways, walkways, and other paved surfaces as a way to absorb stormwater and reduce urban runoff.

- *Policy E-3.1.2: Using Landscaping and Green Roofs to Reduce Runoff*: Promote an increase in tree planting and landscaping to reduce stormwater runoff, including the expanded use of green roofs in new construction and adaptive reuse, and the application of tree and landscaping standards for parking lots and other large paved surfaces.

- *Policy E-3.1.3: Green Engineering*: Promote green engineering *practices* for water and wastewater systems. These practices include design techniques, operational methods, and technology to reduce environmental damage and the toxicity of waste generated.

- *Policy E-3.2.1: Support for Green Building*: Encourage the use of green building methods in new construction and rehabilitation projects, and develop green building methods for operation and maintenance activities.

(Exhibit 2, pp. 18-19; Exhibit 21, pp. 21-22.)

(d) Educational Facilities: As mentioned previously, the School is an institutional use in the middle of a residential neighborhood. The School operates with its context in mind. The School's campus is extensively landscaped to complement Rock Creek Park, which is located across 17th Street from the School. The well-landscaped campus is also a valuable resource for the community because it provides an aesthetic oasis for neighboring residents, who frequently use the campus on weekends. The School's actions are consistent with Policy 1.4.2 of the Comprehensive Plan:

- *Policy EDU-1.4.2: Promoting High-Quality Design*: Require that *the* renovation or reconstruction of school facilities use high architectural and landscape design standards that are sensitive to community context as well as academic and student safety needs.

(Exhibit 2, pp. 19-20; Exhibit 21, pp. 22-23.)

(e) Compliance with Rock Creek East Area Element: The School is located in the Rock Creek East Area Element. Rock Creek East is comprised largely of low-to moderate-density residential uses. Again, because the School is located in a residential neighborhood, it takes care to pursue improvements that comport with

its context in the greater community. The School has maintained a low-density campus that highlights the architectural integrity of its buildings as well as the quality of its landscaping. These aesthetic resources add to the definition of the neighborhood, rather than detract from it.

The School is consistent with several policy points delineated in the Rock Creek East Area Element, such as:

- *Policy RCE-1.1.1: Conservation of Low Density Neighborhoods*: *Maintain* and conserve the attractive, stable neighborhoods of the Rock Creek East Planning Area. Any new development in the Planning Area should be attractively designed and should contribute to the community's positive physical identity.

- *Policy RCE-1.1.2: Design Compatibility*: Ensure that renovation, additions, and new construction in the area's low density neighborhoods respects the scale and densities of adjacent properties, avoids sharp contrasts in height and mass, and preserves park-like qualities such as dense tree cover and open space.

- *Policy RCE-1.1.12: Enforcement*: Mitigate traffic, parking, noise, and related safety problems that result from nonresidential uses through strict enforcement of zoning, parking, and other municipal regulations.

(Exhibit 2, p. 20; Exhibit 21, pp. 23-24.)

(f) Compliance with Future Land Use Map: The Property is located in the institutional land use category of the Comprehensive Plan Future Land Use Map. This designation includes land and facilities occupied and used by private schools, which is consistent with the Applicant's ongoing use of the Property. (Exhibit 2, p. 21; Exhibit 21, p. 24.)

Government Agency Reports

28. By report dated June 21, 2010, the OP recommended that the proposed PUD modification be approved. In its report, OP found that the requested flexibility would not compromise the intent and purpose of the Zoning Regulations and that the proposed modifications would not be inconsistent with the Comprehensive Plan. Specifically, OP found that the project was consistent with the institutional, non-profit, and corporate citizenship land use policies. It further found the project consistent with the private school educational facilities policy of the Comprehensive Plan as well as transportation and environmental policies of the Comprehensive Plan. (Exhibit 24.)

29. OP requested additional information with respect to (1) design, (2) historic preservation, (3) permeable surfaces, (4) construction management, (5) First Source and Certified Business Enterprise ("CBE") Agreements, (6) Phase 3, and (7) transportation. Specifically, it requested the following:

    (a) Design: concern regarding angle of the garage due to context with the greater campus;

    (b) Historic Preservation: any changes to the project driven by a historic designation application should be reviewed by the Commission in a separate modification application;

    (c) Permeable Surfaces: a desire to convert existing surface parking into parking with a permeable surface;

    (d) Construction Management: strengthen the construction management plan;

    (e) First Source and CBE Agreements: submit signed agreements governing these aspects of the construction;

    (f) Phase 3: provide a projected date for the initiation and completion of the demolition and construction for Phase 3; and

    (g) Transportation: commit to a specific number of bicycle spaces; provide more details on transit incentives for faculty and staff; and work with the community and DDOT on a Transportation Demand Management Program, traffic calming, and pedestrian and vehicular safety measures.

    (Exhibit 24.)

30. OP noted in its testimony at the hearing that the School was not increasing its student enrollment cap. Accordingly, OP focused on the impact of the faculty and staff increase rather than potential impacts from the increase in student enrollment. (Tr., p. 135.)

31. By its email dated July 19, 2010, OP reiterated its support for the project and indicated that its outstanding questions had since been answered.

32. Specifically, the Applicant responded with the following:

    (a) Design: the garage is at grade so the angles that appear on the site plan will not be evident once constructed;

(b) Historic Preservation: the Commission often grants flexibility to Applicants to modify plans in order to satisfy comments from the Historic Preservation Review Board ("HPRB") and the Commission of Fine Arts ("CFA");

(c) Permeable Surfaces: at the public hearing, Lowell proposed converting a portion of surface parking adjacent to the Marjorie Webster house to permeable surface;

(d) Construction Management: the Applicant incorporated the terms from the Neighborhood Cooperation Agreement concerning construction management terms;

(e) First Source and CBE Agreements: Lowell submitted information regarding its satisfaction of former commitments. It also testified at the public hearing that it would commit to entering First Source and CBE Agreements in connection with any construction project on its campus;

(f) Phase 3: Lowell testified to projected phasing dates at the public hearing, with 2015 being the estimated date for starting Phase 3 of the project. Lowell also proposed revised language tightening the phasing periods it had previously proposed. It proposed an outside date of six years from the approval of the order for filing building permits for construction projects; and

(g) Transportation: Lowell testified at the hearing that it would provide bicycle racks with the capacity for 24 bicycles in conspicuous locations on campus. Its post-hearing submission provided information on rewards programs for using alternative methods of transportation or carpooling and for establishing a SmartBenefits program for its faculty and staff.

(Exhibit 42; Tr., pp.40, 42, 54, 61-63.)

33. DDOT submitted a report dated June 24, 2010, citing concerns with the existing transportation impacts on the neighborhood. DDOT requested that the Applicant provide more information and proposed action items to reduce queuing in the community and to increase the amount of carpooling and use of alternative methods of transportation to the site. (Exhibit 31.)

34. DDOT made the following requests in its report:

(a) Participate in the Safe Routes to School program;

(b) Expand the carpool website to include walking buses and biking trains;

(c) Provide rewards for families that carpool, walk, or bike to School;

(d) Provide highly visible bike racks and include a description of the location in the handbook;

(e) Provide multi-modal split for faculty;

(f) Establish an incentive and reward program for faculty to discourage single-occupancy vehicles to and from School;

(g) Charge for parking;

(h) Reduce parking demand; and

(i) Measure the effectiveness of the bus.

(Exhibit 31.)

35. In its post-hearing submission, the Applicant addressed each of DDOT's concerns. Lowell initiated the process for joining Safe Routes to School. It expanded its website to include walking buses and biking trains. The School established a program to hold an annual bike raffle for parents and children who carpool, bike, or walk to school. It will provide gift cards to those faculty and staff members who bike, walk, carpool, or take public transportation to School. Those that do not participate in this program will be asked to contribute to it. Lowell is adding more bicycle racks to the School and will detail the location in the handbook. Lowell provided DDOT with the multi-modal split for its faculty. Lowell provided alternative designs to the Commission to reduce parking on-site. Finally, Lowell committed to providing DDOT scheduled reports on the effectiveness of its bus program.

36. By its report dated July 20, 2010, DDOT withdrew its objections to the application and recommended approval contingent on the Applicant providing a monitoring report prior to securing permits for the construction of the addition to the gymnasium and pool. The monitoring report should include updated information on queuing; the multi-modal splits of its faculty, staff, and students; and the impact of the bus program. (Exhibit 43.)

ANC 4A Report

37. ANC 4A submitted a letter in support of the application on June 21, 2010. The letter conditioned the ANC's support on (1) establishing a voluntary agreement between Lowell, the community and the ANC concerning traffic; (2) establishing a voluntary agreement between Lowell, the community, and the ANC on the removal of asbestos; and (3) establishing a voluntary agreement between Lowell, the community, and the ANC on the parking garage and field. (Exhibit 25.)

38. The Applicant satisfied the ANC's conditions and submitted the Neighborhood Cooperation Agreement ("Agreement") into the record. (Exhibit 33.)

39. The Agreement includes provisions regarding Lowell's traffic impacts on the community, the procedure for removing asbestos from Fraser, and the construction of the parking garage and limitations on use of the play area. The Agreement was signed by 26 neighboring residents, Lowell, and the ANC. (Exhibit 33.)

40. In light of the Applicant's satisfaction of the ANC's conditions of support, the ANC testified in support of the application at the public hearing. (Tr., p. 149.)

41. On July 26, 2010, the ANC submitted a letter indicating it did not believe that the Applicant had in fact reached a voluntary agreement with the community. (Exhibit 46.)

42. On September 9, 2010, the ANC submitted a further letter retracting its July 26, 2010 comments and reiterating its support for the project. (Exhibit 52.)

Applicant's Responses to Commission's Requests for Information

43. At the close of the hearing, the Commission requested information on 10 items and the Applicant submitted its response in a post-hearing submission on July 14, 2010:

(a) Potential for increasing the buffer between the play area and adjacent private homes: The Applicant provided two garage design alternatives to the Commission:

1. The first alternative reduced the size of the garage and the play area and increased the vegetated buffer to 26 feet. This alternative reduced the number of parking spaces in the garage by 10 and the area of play area by 3,000 square feet; and

2. The second alternative eliminated the garage altogether. This design increased the vegetated and hardscape buffer to 47 feet. This alternative resulted in a net reduction of eight parking spaces on campus and decreased the size of the play area by 8,000 square feet. This design included 14 surface parking spaces that would be "paved" with pervious materials;

(b) Greater collaboration with DDOT: As indicated above, the Applicant addressed each of concerns DDOT outlined in its hearing report. The Applicant also strengthened its TMP and provided additional information on its bus program. The Applicant also agreed to provide baseline trip generation and queuing

measurements to DDOT prior to final action on the application so that there would be a benchmark by which to measure future success of the TMP. Lowell also agreed to re-evaluate the need for the Parkside queuing aisle prior to securing building permits for the expansion to the gymnasium and pool;

(c) Prior CBE and First Source Information: Lowell had entered into a MOU with the predecessor agency to the Department of Local, Small, and Disadvantaged Business Enterprises in connection with its prior zoning approval. Lowell exceeded its commitment under this agreement by nearly $770,000. Lowell also entered into a First Source Agreement with the Department of Employment Services with a goal that 51% of new hires be District of Columbia residents and continues to participate in this program;

(d) Number of Lowell faculty and staff living in the District: Lowell informed the Commission that 68% of Lowell's faculty and staff live in Maryland and 22% live in the District.

(e) Distribution of Student Body: The majority of Lowell's student body resides within three miles of the School;

(f) LEED Scorecards: Lowell submitted scorecards into the record for the construction to Parkside and the gymnasium and pool addition. Lowell committed to achieving the equivalent of LEED certification, with at least 40 LEED points;

(g) Community Relations Council: Lowell submitted information on when and why the Community Relations Council ("Council") stopped meeting. It also submitted information regarding Lowell's efforts to reinstate the Council;

(h) Construction Management Plan: Lowell submitted a stronger Construction Management Plan that detailed the restrictions and guidelines for the removal of asbestos and the demolition of Fraser;

(i) Loading Concerns: Lowell provided the Commission a commitment to enforce rules that forbid use of neighboring properties for the turning around or parking of delivery vehicles; and.

(j) Phasing: Lowell suggested language that would limit approval of the PUD to a maximum period of six years.

(Exhibit 42; Tr., pp. 60-63.)

Satisfaction of the PUD Approval Standards

44. In evaluating a PUD application, the Commission must "judge, balance, and reconcile the relative value of project amenities and public benefits offered, the degree of development incentives requested and any potential adverse effects." (11 DCMR § 2403.8.)

45. The Applicant, in its written submissions and testimony before the Commission, noted that the following benefits and amenities will be created as a result of the project, in satisfaction of the enumerated PUD standards in 11 DCMR § 2403:

(a) Urban Design, Architecture and Site Planning: Section 2403.9(a) and (b) specifically include urban design, architecture and site planning as categories of public benefits and project amenities for a PUD. The School is proposing modest modifications to the existing Lowell campus; nevertheless, the design is the result of thoughtful planning. The removal of Fraser Hall, which consists of four stories and approximately 39,200 square feet will significantly add to the air and the light of the campus and the community. Additionally, the Property has extreme grade changes and the proposed play deck with below grade parking, if constructed, will take advantage of the differing grades to minimize its aesthetic effect. The addition to the Parkside building is positioned away from the single-family houses that otherwise surround the campus. Again, the additions are an efficient use of space and are thoughtfully positioned on the Lowell campus. (Exhibit 2, p. 12; Exhibit 21, p. 15.)

(b) Effective and Safe Vehicular and Pedestrian Access; Transportation Management: Existing PUD conditions already regulate traffic operations on campus; however, in meeting with neighbors, the School has determined there are additional measures that it could undertake to further mitigate the effects from its operations. Specifically, the School will continue to evaluate and improve its transportation operations, strengthen its carpooling policy to improve efficiency of drop-off and pick-up procedures, minimize queuing on 17th Street, stop parents from parking on Kalmia Street and reduce vehicular demand. To that end, the School is proposing a new queuing drive to increase its on-site "stacking" capacity to minimize, if not eliminate, queuing from neighborhood streets. Further, the School is committing to establishing a bus program for its students in the Fall 2011. Finally, the School is extending its sidewalk network to improve pedestrian safety.

Z.C. Order No. 849 required that the 17th Street entrance to be closed during off-peak hours and that two-way access to the campus be provided via Kalmia Road. Despite this condition, Lowell continued to use the 17th Street entrance during off-peak hours because it provided consistency for those visiting the School and it minimized the impact on either Kalmia or 17th, since traffic was permitted to

access the School from either street during off-peak hours. No objections to removing this requirement as a condition of approval were entered into the record for this case. Accordingly, the Commission does not find it necessary to impose this requirement on Lowell operations. (Exhibit 2, pp. 8, 13; Exhibit 21, pp. 9-10, 15-16.)

(c) Environmental Benefits: The campus includes a wide expanse of green space that includes a stream, mature trees, and lush landscaping. The natural setting of the campus complements Rock Creek Park, which is directly across 17th Street from the School. Although not seeking certification, the project will be designed to meet the Certified Level Requirements of LEED 2009 for Schools (LEED 3.0) with at least 40 LEED points, and will exceed the Certified Level, where practical. The proposed new construction will also be consistent with sustainable design and will incorporate a number of green features, including:

Parkside Building

- Storm water management: Non-structural strategies, such as vegetated swales, will be used to manage runoff and allow it to naturally filter into the soil and vegetation. Pollutants are broken down by microorganisms in the soil and plants.

- Sustainable Roofing: A vegetative (Green) roof will be installed on the Library/Theater Addition. High-reflectivity roofing will be used on the existing building roof to lower heat gain from solar exposure.

- Exterior (Site Lighting): Dark Sky compliant fixtures will be used.

- Landscaping: Sturdy, low maintenance, native plants, which can tolerate the local climate without the need for irrigation, will be selected for planting areas.

- Innovative Water Use and Waste Technologies: Use super-efficient fixtures with low and dual flush capability in toilet rooms.

- High Efficiency HVAC System: A high efficiency, CFC-free (ozone depleting chemicals) HVAC system will be installed in the building.

- Recycling: The school will recycle paper, metals, and plastics used during the normal daily course of school.

- Sustainable Materials Choices: Use building materials with recycled content, FSC-certified wood products, products that are produced

regionally, and products that are produced from renewable sources, and those with low VOC content and low emitting characteristics.

- Interior Lighting Control: Energy efficient interior lighting will be designed to coordinate with natural light and provide multiple levels of lighting control so lower levels of artificial lighting can be used when day-lighting is strong. Occupancy sensors and automatic shut-off switching will also be provided.

- Day-lighting of Interior Spaces: Most spaces in the building have a visual connection with the exterior through the use of windows.

- Acoustic Performance: Classroom spaces will be designed to meet LEED for Schools acoustic performance standards.

- Alternative Transportation: The school utilizes extensive car-pooling and encourages the use of public transportation. A bicycle parking area will also be provided.

- Construction Waste Recycling: At least 50% of demolition and construction debris will be recycled.

- Re-use of existing building: The existing building will be re-used to the greatest practical extent to minimize waste.

- Construction Site Disturbance: The limits of construction sites will be limited to minimize disturbance to adjacent landscaped areas. Tree preservation will be a major objective.

- No Smoking: The school is a no-smoking campus.

- Windows: The building will be outfitted with new, energy efficient, operable windows.

Parking Deck and Athletic Center Addition (if constructed)

- Exterior (Site Lighting): Dark Sky compliant fixtures will be used.

- Innovative Water Use and Waste Technologies: Use super-efficient fixtures with low and dual flush capability in toilet rooms.

- High Efficiency HVAC System: A high efficiency, CFC-free (ozone depleting chemicals) HVAC system will be installed in the building.

- Synthetic Turf Field Roof: Instead of a concrete surface, the garage will have a synthetic turf roof system that will allow of the collection of rainwater to controlled dispersion into storm water system. This will mitigate the "heat island effect" common to paved parking areas.

- Interior Lighting Control: High-efficiency interior lighting will be designed to provide multiple levels of lighting control so lower levels lighting can be used during low occupancy time periods. Occupancy sensors and automatic shut-off switching will also be provided.

- Construction Waste Recycling: At least 50% of demolition and construction debris will be recycled.

- Construction Site Disturbance: The limits of construction sites will be limited to minimize disturbance to adjacent landscaped areas. Tree preservation will be a major objective.

- No Smoking: The school is a no-smoking campus.

- Sustainable Materials Choices: Use building materials with recycled content, FSC-certified wood products, products that are produced regionally, and products that are produced from renewable sources, and those with low VOC content and low emitting characteristics.

(Exhibit 2, pp. 13-16; Exhibit 21, pp. 16-19; Exhibit 36.)

46. The Applicant provided testimony that the TMP that it was implementing to minimize its impact on the community will cost the School approximately $150,000 per year. (Tr., p. 61; Exhibits 36.)

47. The construction management plan submitted by the Applicant states that the Applicant will pay up to $10,000 for the community to hire an environmental engineer to review plans submitted by Lowell for demolition of Fraser. (Exhibit 42)

48. Lowell also committed to entering into a First Source Agreement and to using Certified Business Enterprises in connection with future construction. (Exhibit 42; Tr., p. 63.)

49. The Commission finds that the project is acceptable in all proffered categories of public benefits and project amenities and given the little flexibility the School is seeking from approved height, density, and student enrollment and that the project is superior in public benefits and project amenities.

The Commission credits the written submissions and testimony of the Applicant and OP that the proposed PUD modification is appropriate and that the proffered amenities and

benefits are acceptable. The Commission also credits the testimony of the Applicant and OP that the proposed PUD project is not inconsistent with the Comprehensive Plan.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process provides a means for creating a "well-planned development." The objectives of the PUD process are to promote "sound project planning, efficient and economical land utilization, attractive urban design and the provision of desired public spaces-and other amenities." (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)

2. Under the PUD process and Chapter 24 of the Zoning Regulations, the Commission has the authority to consider an application to modify a previously approved PUD. As a part of the modification, the Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, and yards and courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment. (11 DCMR § 2405.)

3. The development of the Project will implement the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned development that efficient planning and design, is consistent with surrounding uses and density and promotes educational facilities within the District.

4. The application meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The application meets the contiguity requirements of § 2401.3.

6. The proposed height and density of the buildings in the Project will not cause a significant adverse effect on any nearby properties and does, in fact, reduce the density approved in connection with Lowell's case before the Commission in 1998. Any impact of the project on the surrounding area and adjacent properties is deemed to be not unacceptable. As demonstrated in the Traffic Study submitted by the Applicant, the project will not cause adverse traffic impacts.

7. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the Project will be properly mitigated. The Commission finds that the conditions of approval proposed by the Applicant are

sufficient given the potential impacts of the project on the surrounding and adjacent properties and the development incentives and flexibility requested in this application.

8. The benefits and amenities provided by the Project are truly significant and the flexibility sought pursuant to a PUD is minimal; thus, granting the development incentives proposed in this application is appropriate.

9. Approval of the PUD modification is not inconsistent with the Comprehensive Plan, the Zoning Regulations, or the original PUD. The Commission finds that the proposed development is consistent with the Comprehensive Plan.

10. The PUD is fully consistent with and fosters the goals and policies stated in the elements of the Comprehensive Plan. The Project is consistent with the major themes and city-wide elements of the Comprehensive Plan, including the Land Use, Educational Facilities, and Transportation Elements. The PUD is also consistent with the more specific goals and policies of the Rock Creek East Area Element.

11. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give "great weight" to the issues and concerns of the affected ANCs as expressed in its written report. As is reflected in the Findings of Fact, ANC 4A voted to support the application subject to various conditions. The Commission finds that the conditions of approval have been satisfied by the Applicant pursuant to the Agreement entered into the record as Exhibit 33.

12. The Commission is also required to give great weight to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04). The Commission gives OP's recommendation to approve the PUD modification great weight and concurs with its recommendation to approve the application.

13. The Commission notes that the concerns of DDOT have been addressed by the Applicant.

14. The Commission acknowledges those individuals who testified in opposition to the Application. The Commission finds that the scale of the proposed construction is appropriate in the low-density neighborhood and that Lowell has adequately addressed the neighbors' concerns as they pertain to zoning. Those individuals who testified in opposition to the application cited concerns with aspects of the project that were not within the purview of the Commission, including the removal of asbestos and the designation of the campus as a historic landmark. The Commission does not opine on either of those issues, but notes that those issues are determined in a separate arena by separate regulatory bodies.

15. The PUD project and the rezoning of the Property will promote orderly development of the Property in conformance with the District of Columbia zone plan as embodied in the Zoning Regulations and Map of the District of Columbia.

16. The application for a modification to an approved PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of this application for Review and Approval of a Modification to an Approved Planned Unit Development for the Subject Property (Square 2745F, Lots 815 and 817). The approval of this PUD modification is subject to the following conditions. For the purposes of the following conditions, the term "Applicant" shall be the person owning a fee simple title to the property or their agent.

1. The PUD shall be developed in accordance with the drawings and plans prepared by Bowie Gridley Architects, dated September 13, 2010, and marked as Exhibit 51(Tab B) of the record, as modified by the guidelines, conditions and standards of this Order. These plans shall achieve an equivalent of LEED certification (at least 40 points).

2. The PUD shall be the campus of the Lowell School. The maximum permitted height shall be 40 feet. The maximum permitted density is .34 FAR. The maximum permitted percentage of lot occupancy is 15%.

3. The PUD shall be used by the Lowell School for a private educational institution comprised of nursery, elementary, and middle school programs through grade eight. There shall be a maximum of 400 students enrolled, with faculty and staff not to exceed 100 persons.

4. The regular school year will consist of 12 months including a summer session.

5. The Applicant shall institute a Traffic Management Plan prior to the issuance of a building permit for the addition to the Parkside building, or during such time period specifically stated below or in the Traffic Management Plan. The Traffic Management Plan shall include the following:

   - Access to the property will be counter-clockwise with ingress via 17th Street, N.W. and egress via Kalmia Road, N.W., during peak morning and afternoon arrival and departure periods;

   - Maintaining a carpool program, walking "buses," and biking "trains" with an online database for Lowell families to locate other families living nearby;

- The Applicant will actively manage the entrances and exits to the campus with at least two staff members posted on the sidewalk near the Kalmia Road entrance/exit and one staff member at the 17th Street entrance during weekday peak activity periods, as well as during major special events. During the afternoon peak pickup period, Lowell will ensure that a legally authorized traffic control officer is posted at the carpool entrance to manage traffic onto the School's campus;

- The Applicant will prohibit the parents of its students from utilizing Jonquil Street between 16th and 17th Streets during drop-off and pick-up periods. Lowell will periodically post a staff member to monitor Lowell drivers' use of Jonquil Street;

- Lowell will offer private bus service to families as early as Fall 2011 and will provide reasonable financial incentives to subsidize and encourage the use of the bus;

- Lowell will implement a rewards program for families, faculty, and staff to encourage carpooling or alternative methods of transportation to and from the School. The rewards program for its families and students will consist of an annual bike raffle for both parents and children. The more people in the carpool and the frequency of carpooling earn greater chances for winning. The rewards program for faculty and staff will consist of providing gift cards to those faculty and staff members who earn a certain threshold of points for carpooling. Again, the more people in the carpool and the frequency of carpooling earn greater chances for winning;

- Lowell will enforce these rules pursuant to the guidelines provided in the Traffic Management Plan in the record as Exhibit 51 (Tab A). The School will also enforce the loading provisions of the Traffic Management Plan as specified therein;

- The Applicant will require enrolling families to sign a traffic and parking management agreement agreeing to the rules outlined in Exhibit 51 (Tab A);

- The Applicant will provide a "test run" of the proposed bus service for a minimum of one week in Spring 2011;

- The School will implement all other commitments outlined in the Traffic Management Plan dated September 13, 2010, and submitted as Exhibit 51 (Tab A);

- On-site access roads shall be built and maintained in accordance with the Site Plan in Exhibits 36 and 42; and

- Prior to securing a building permit for the addition to the gymnasium and pool, Lowell shall submit a report to DDOT indicating the multi-modal split of the students, faculty, and staff accessing the School during morning and afternoon peak periods. Lowell shall also provide information on queuing measurements. Lowell shall also re-evaluate whether the queuing aisle in front of Parkside is necessary to mitigate impacts on the community.

6. The Applicant shall comply with paragraphs one through eight of the Construction Management Plan (included as Exhibit H of Exhibit 42 in the record) upon issuance of building permits for each phase of construction. The Applicant shall further comply with paragraph nine of the Construction Management Plan prior to issuance of a raze permit for the Fraser building unless otherwise specified in the Construction Management Plan.

7. The Applicant shall enter into a First Source Employment Agreement with the District of Columbia Department of Employment Services to promote and encourage the hiring of District of Columbia residents relative to the construction of the project prior to the issuance of a building permit for the addition to the Parkside Building.

8. The Applicant shall enter into a CBE Agreement with the Department of Small and Local Business Development for no less than 35% of the contract work granted under this PUD prior to the issuance of a building permit for the addition to the Parkside Building.

9. Upon approval of this application, the Applicant shall establish a Community Relations Council ("Council") to provide the community members with a mechanism to have their views considered and acted upon in connection with the activities of the School. A majority of the members of the Council shall come from the neighborhood and neighborhood groups in the community. The Council shall be chaired by a person from the community. The Council shall meet twice per school year, or more often if needed. No later than January 1 of each year, Lowell shall submit minutes from each Council meeting of the previous year to the Zoning Compliance Officer in the Office of Zoning, the ANC, and to property owners within 200 feet of the Lowell campus.

10. No outside individuals, organizations or agencies shall be permitted to hold fundraising activities on the property, except that community-related activities, reported in advance to the Council, may be permitted at the Applicant's discretion.

11. The parking and circulation plan shall be as shown on Exhibits 36 and 42.

12. Lighting on the property shall be designed to prevent spillage into the surrounding neighborhood.

13. The Applicant shall have the necessary flexibility to make adjustments to the project with respect to interior partitions, classrooms, parking layout, and outdoor play areas. It shall

also have the flexibility to choose either scheme for the parking garage and play area as approved by the Commission and illustrated on Sheets A2-3.01-2 and A2-3.01-3 of Exhibit 51 (Tab B). Finally, the Applicant shall also be granted the necessary flexibility to modify the proposed plans in response to design recommendations from the HPRB Review Board and the CFA.

14. No building permit shall be issued for this PUD until the Applicant has recorded a Notice of Modification to the PUD Covenant in the land records of the District of Columbia. Such Notice and Modification to the PUD Covenant in the land records of the District of Columbia. Such notice and all successors in title to construct on the use of this property in accordance with this order or else amendment thereof by the Commission.

15. The PUD approved by the Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in 11 DCMR § 2409.1. Construction shall begin within three years of the effective date of this order. An application for the final building permit completing the work approved herein shall be filed within three years of the issuance of the certificate of occupancy for the Parkside building, but no later than six years from the effective date of this Order.

16. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action

On July 26, 2010, upon the motion of Commissioner May, as seconded by Commissioner Turnbull, the Zoning Commission **APPROVED** the application a vote of **4-0-1** (Anthony J. Hood, Peter G. May, and Michael G. Turnbull to approve; Konrad W. Schlater to approve by absentee ballot; Greg M. Selfridge, not have participated, not voting).

On September 27, 2010, upon the motion of Vice Chairman Schlater, as seconded by Chairman Hood, the Zoning Commission **ADOPTED** this Order by a vote of **4-0-1** (Anthony J. Hood, Konrad W. Schlater, and Michael G. Turnbull to adopt; Peter G. May to adopt by absentee ballot; Greg M. Selfridge, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 2038, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on November 26, 2010.

ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION

JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning

Z.C. CASE NO.: 97-16A

NOV 2 6 2010

As Secretary to the Commission, I hereby certify that on _____ copies of this Z.C. Order No. 849-B were mailed first class, postage prepaid or sent by inter-office government mail to the following:

1. *D.C. Register* (via e-mail)

2. Phil Feola
Christine Roddy
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Washington, DC 20012

4. Commissioner Karl Kennedy
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5. Gottlieb Simon
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6. Councilmember Muriel Bowser

7. DDOT (Karina Ricks)

8. Melinda Bolling, Acting General Counsel
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10. Office of the Attorney General (Alan Bergstein)

ATTESTED BY: S. S. Schellin

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning