GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16559 of The Morris and Gwendolyn Cafritz Foundation/The Field School, pursuant to 11 DCMR § 3104.1 for a special exception to establish a private school under Section 206 for a maximum of 320 students and 74 faculty and staff in an R-1-A District at premises 2301 Foxhall Road, N.W. (Square 1341, Lots 856, 861, 878, and 879).

HEARING DATES: March 15, 2000; March 29, 2000; May 10, 2000; and July 25, 2000

DECISION DATES: September 5, 2000; October 3, 2000; and November 8, 2000

DECISION AND ORDER

The Board of Zoning Adjustment approved Application No. 16559 of The Morris and Gwendolyn Cafritz Foundation and The Field School to establish a private school in an R-1-A District. subject to conditions.

PRELIMINARY MATTERS:

Applicant. The applicants in this case are The Morris and Gwendolyn Cafritz Foundation, the owner of the property that is the subject of the application, and The Field School, the purchaser of the property. Both the foundation and the school were initially represented in these proceedings by Wilkes, Artis, Hedrick & Lane, Chartered, and subsequently by ShawPittman. Hereafter, the word "applicant" refers to The Field School.

Application. The Field School filed an application with the Board of Zoning Adjustment on January 10, 2000, for a special exception under 11 DCMR § 3104.1, 46 DCR 7853 (1999), to establish a private school under 11 DCMR § 206 (1995) in an R-1-A Zone District at 2301 Foxhall Road, N.W. (Square 1341, Lots 856, 861, 878, and 879). The zoning relief requested in this application is self-certified pursuant to 11 DCMR § 3113.2.

Notice of Application and Notice of Hearing. By memoranda dated January 14, 2000, the Office of Zoning advised the D.C. Office of Planning, the Zoning Administrator, and Advisory Neighborhood Commission (ANC) 3D, the ANC for the area within which the subject property is located, of the application.

The Board scheduled a public hearing on the application for March 15, 2000. Pursuant to 11 DCMR § 3113.13, the Office of Zoning, on January 27, 2000, mailed the applicant, the owners of all property within 200 feet of the subject property, and ANC 3D notice of the hearing.

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Notice was also published at 47 DCR 619 (Jan. 28, 2000). The applicant's affidavits of posting and maintenance indicate that three zoning posters were placed in front of the property on Foxhall Road, 44th Street, and W Street beginning on February 28, 2000, in plain view of the public. As a preliminary matter at the March 15th hearing and with the consent of the applicant and persons requesting party status, the Board announced the continuation of the hearing to March 29th due to its congested agenda. Just prior to the hearing, the applicant had made significant revisions to its traffic management plan. To allow persons interested in the application more time to study the revised plan, the Board deferred hearing all testimony relating to traffic until May 10, 2000.

Requests for Party Status. The Board granted party status collectively to Jessie M. Harris, J. Ellis II and M.R. Brady, Louis H. and Sherry M. Nevins, Mr. and Mrs. Richard B. Griffin, Sylvia K. Shugrue, Mary W. Wilkins, David J. and P.M. Markun, Ken and Dottie Woodcock, Ed and Marneee Bruce, Gene and Carol Ludwig, Douglas C. Worth, and the Raha III Corporation as Neighbors Against Foxhall Gridlock (NAFG), a group of adjacent and nearby property owners in opposition to the application. NAFG was represented by Hunton & Williams. The Board also granted party status individually to Sylvia K. Shugrue, the owner of the abutting property at 2207 Foxhall Road (Square 1341, Lot 855), the property closest to the southern entrance to the proposed school. Mrs. Shagrue was represented by Jackson & Campbell. NAFG and Mrs. Shagrue met the party status criteria in 11 DCMR § 3106.3, since they would be more significantly, distinctively, or uniquely affected by the noise, traffic, lighting, runoff, and parking impacts from the proposed school than other persons in the general public. The Board also granted party status to the Foxhall Crescents Southgate Homeowner's Association, nearby property owners, represented by Jeffrey W. Bolotin, since the Association members would be more significantly affected by traffic related to the proposed school than other persons in the general public.

Applicant's Case. The applicant presented testimony and evidence from Elizabeth Ely, founder and Executive Director of The Field School; Louise Millikan, President of The Field School Parents' Association and a member of the School's Board of Trustees; David Cox, a principal in Kress Cox Architects, an expert in architecture and site planning; Eliot Rhodeside, a landscape architect with Rhodeside & Hawell, an expert in landscape architecture; R.J. Keller, senior project engineer with R.C. Fields and Associates, an expert in civil engineering; Louis Slade, of Gorove/Slade Associates, an expert traffic operations engineer; and Clay Kaufman, a teacher at The Field School. The applicant presented rebuttal testimony and evidence from Steve Sher, an expert in land use planning; and James Long, of Delon Hampton and Associates, an expert in civil engineering and highway design.

Office of Planning (OP) Report. OP reviewed the application with respect to the number of students; noise; traffic; other objectionable conditions, including visual and institutional intrusion into the neighborhood; and parking impacts. In a series of three reports dated March 10, May 3, and June 7, 2000, OP recommended approval of the application subject to numerous conditions derived from the applicant's operations plan, community comments, and the Department of Public Works review. Ex. 286, 418, and 444. The Board adopted all the conditions proposed by OP in this order.

Department of Public Works (DPW) Report. Through reports dated March 9 and May 22, 2000, Exhibits 286 and 439, and the testimony of Ken Laden, Administrator for Intermodal Planning, and John Payne, Bureau of Traffic Services, DPW determined that the application would not have adverse traffic or parking effects, provided certain conditions, which are adopted in this order, are met.

Metropolitan Police Department Report. The Metropolitan Police Department submitted a letter dated March 20, 2000, stating that it does not appear that the proposed private school would adversely affect public safety. Ex. 286. In addition, Officer Dorsee T. Knight from the Second District appeared at the hearing to respond to Board member questions.

Fire and Emergency Medical Services (EMS) Department Report. The Fire and EMS Department submitted a memorandum dated March 8, 2000, stating that it has no objections to the proposed special exception. Ex. 286.

National Park Service Report. David Murphy, representing the National Park Service, testified in support of the application based upon applicant's agreement to construct and maintain a storm water management system that would protect Glover-Archbold Park. The Board adopted the conditions proposed by the National Park Service in this order.

ANC Report. ANC 3D initially submitted a letter dated March 14, 2000, opposing the application, citing concerns with traffic congestion, traffic and pedestrian safety, the diversion of school traffic onto residential streets that would result from prohibiting left turns into the property, and impacts on the immediately adjoining neighbors from noise, exhaust fumes, and runoff associated with the proposed parking lot. The ANC also recommended that if the Board determined to grant the application, the Board should condition the approval on a reduction in the parking lot size and the development of a traffic plan acceptable to DPW and the ANC, to include consideration of a student or vehicle cap and the construction of a left-turn lane. Ex. 135. On April 25, 2000, the ANC submitted a second resolution, this time supporting the application contingent upon certain conditions. Ex. 414. The ANC submitted a final resolution on July 18, 2000, retracting its support due to opposition to the final traffic plan and storm water management concerns. Ex. 448. The resolution indicated, however, that if the Board were to approve the application, the Board should include in its order the OP-recommended conditions, plus three other conditions requiring the applicant to satisfy the National Park Service storm water management concerns, to provide a 24-hour hotline during construction to respond to neighborhood questions and complaints, and to establish the shuttle bus pick-up points within established parking lots, to be monitored by school staff or volunteers. The Board included these conditions in this order.

Persons in Support of the Application. Some 37 neighbors and Field School teachers, employees, students, alumni, and parents testified in support of the application. Several residents in the immediate area stated that speeding cars are the greatest existing traffic problem on Foxhall Road. They believed that the applicant's traffic management plan as well as the proposed improvements to Foxhall Road would result in beneficial traffic calming effects. The

proponents felt that the proposed school, given its design and retention of open space, was the best use of the land. They also stated that the construction of a public sidewalk on the property along Foxhall Road would improve pedestrian safety. The Board received over 250 letters in support of the application, many of which were form letters. These letters expressed appreciation for the applicant's community outreach efforts and supported retention of the Cafritz mansion for school use over other potential development alternatives, preservation of the open space, and preservation of the character of Glover-Archbold Park by not allowing access to the school from 44th Street.

A number of community organizations also supported the application. The Wesley Heights Historical Society submitted a letter dated March 9, 2000, stating that it supports the application subject to an agreement between the Society, The Field School, and neighboring property owners on 44th Street that the School will not allow automobile access from or onto 44th Street for 25 years or for as long as the School or its agents control the Cafritz Estate and use it for educational purposes. The Society also indicates that school traffic should not impede Foxhall Road commuter traffic or spill over onto nearby residential streets. Ex. 84.

The report of the Wesley Heights Association for the Preservation of Residential Streets, a committee of the Wesley Heights Historical Society, summarizes community support for the application. The Association spent a year studying the application, hired professionals to review the zoning and traffic issues, and engaged in extensive conversations with National Park Service representatives in formulating its position. It believes that there are five central issues that are important to the neighborhood: First, the protection of Glover-Archbold Park by ensuring proper run-off, erosion control, preservation of existing wetlands, and protection of an old growth forest. Second, the Association wants to ensure the preservation of green space, which the proposed school would provide, in lieu of alternative development schemes such as a high-density residential development that could pave and cover up to 60 percent of the land. Third, the Association feels strongly about the protection of lower 44th Street, which it views as essentially an extension of Glover-Archbold Park, for strollers, joggers, dog-walkers, children learning to ride bicycles, and bird-watching. Fourth, the Association believes that the applicant's willingness to provide additional recreation space for the community is a benefit because the community lacks open space and playing fields for children's use in unstructured activities. Fifth, The Field School has already established a standing liaison with the community and would continue to convene this group to optimize community relations. Finally, the Association concludes that The Field School proposal, which is sensitive to environmental and community concerns, would not significantly alter the residential character of the neighborhood. Ex. 81; *see also* Ex. 218.

Other organizations, including the Foxhall Crescents Homeowners Association, Palisades Citizens' Association, Spring Valley – Wesley Heights Citizen's Association, and The Neighborhood Alliance, and several individuals offered qualified support for the proposed school. Most of these letters expressed concern regarding potential traffic impacts.

Parties and Persons in Opposition to the Application. NAFG submitted a traffic impact analysis report dated March 6, 2000, prepared by MCV Associates, Inc.; a traffic safety and

highway design analysis dated May 1, 2000, prepared by Transportation Research Corporation; and a land use planning report, prepared by Kenneth Doggett. Exs. 62, 416. NAFG also presented testimony from Foxhall Road residents Ken and Dottie Woodcock and Ed Bruce; two traffic experts, Fred Hanscomb and Joe Mehra; and expert land use planner Ken Doggett. NAFG testimony centered on anticipated adverse traffic and safety impacts; the validity of the applicant's traffic analysis; adverse impacts on neighbors from noise, lights, and fumes; consistency of the proposed location with the Comprehensive Plan for the National Capital and the Ward 3 Plan; impacts on the residential character of the neighborhood; and criticism of the size of the site as too small to accommodate the school.

Sylvia Shugrue opposed the application, arguing that the proposed school would result in adverse traffic and safety impacts; that there would be adverse impacts associated with the proposed parking lot, including increased storm water runoff onto her property, increased air temperatures in the immediate area, fumes, and objectionable lighting conditions; that the contouring of land during construction would result in runoff onto her property; and that there would be adverse effects associated with construction equipment and vehicles and construction noise and dust. She also felt that it would be difficult to enter or exit her property as a result of traffic backed up at the proposed southern entrance traffic light.

Jeffrey Bolotin argued on behalf of the Foxhall Crescent's Southgate Homeowner's Association that the applicant had not met its burden of proof. He stated that the proposed use of the property would be inappropriate, not fit within the community, violate the Ward 3 Plan, and produce serious traffic and safety issues that have not been satisfactorily addressed.

Three individuals testified in opposition to the application. In addition, the Board received some 80 letters in opposition, many of which were form letters. The opponents generally cited traffic, public safety, and environmental concerns, including traffic congestion during commuting hours, speeding vehicles, difficulty making turns onto Foxhall Road from unsignalized cross-streets, poor sight lines along Foxhall Road, lack of sidewalks, parking and traffic impacts on nearby residential streets, fumes from vehicles idling in car pool queues, and adverse impacts from the proposed asphalt parking lots, including heat island effects, increased storm water runoff, and unsightliness. They also expressed concern about erosion of the residential character of the neighborhood.

Closing of the Record. The record was closed at the end of the hearing, except for specific documents requested by the Board. Since the applicant presented two new experts on rebuttal, the Board permitted NAFG to submit written surrebuttal. The applicant and NAFG both filed proposed findings of fact and conclusions of law.

Decision Meeting. The Board originally scheduled its decision meeting for September 5, 2000; however, in order to allow the full membership of the Board to participate and vote on the application, the Board continued the meeting to October 3, 2000. On October 3rd, the Board, voting 4 to 1, granted the requested special exception, subject to conditions to be established at the November 8, 2000, decision meeting. On November 8, 2000, the Board, in a series of separate votes, adopted the conditions that are included in this order.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The property that is the subject of this application consists of approximately 10.5 acres located in an R-1-A District at 2301 Foxhall Road, N.W. (Square 1341, Lots 856, 861, 878, and 879). It is irregular in shape, with 710 feet of frontage on Foxhall Road and a maximum depth in the east-west direction of 760 feet.

2. The property fronts on Foxhall Road to the west and slopes steeply downhill to the east, where it abuts the rear of residential lots facing 44th Street, the 44th Street right-of-way, and the heavily-wooded Glover-Archbold Park. Residential properties facing W Street and Foxboro Place abut the south property line. The Kreeger Museum abuts the subject property continuously along the north property line.

3. The property is located in the Ward 3 neighborhood of Wesley Heights. It is adjacent to stable, well-maintained, residential neighborhoods to the south, north, and northeast. The Foxhall Crescents residential subdivision is located across Foxhall Road to the northwest. While the surrounding area is predominantly residential in character, a number of private schools and embassies are located nearby, including the Mount Vernon campus of The George Washington University, St. Patrick's Episcopal Day School, Georgetown Day School, The Lab School, Horace Mann Elementary School, Our Lady of Victory School, Rock Creek International School, and the Belgian and Spanish Embassies.

4. The property is presently improved with the Cafritz House, a three-story, 14,000 square foot residence built in 1937 in the Art Deco style. It has a circular drive in the front, with two points of access on Foxhall Road. The rear of the house opens out to formal gardens and terraces overlooking a sloping meadow and views of the Washington Monument in the distance. The lower portion of the property has heavy tree cover and remains in a relatively wild state.

5. The applicant's design and construction plans incorporate the existing house into the campus scheme and seek to minimize disturbance to the existing topography and landscaping. Much of the site would remain open, with circulation and parking close to and parallel with Foxhall Road.

6. The applicant would renovate the existing house for classrooms, administrative offices, and student activities. The applicant proposes new construction to consist of approximately 40,000 square feet in a series of low, residentially-scaled two and three-story buildings that would provide academic classrooms, administrative offices, a 200-seat gymnasium, a 110-seat theatre, and a 400-seat all school meeting house. There would be two academic wings added to the house, one along the north side as an extension of the north end of the house, stepping down the hillside and terminating in the gymnasium and lockers. The second wing, an academic cluster, would extend outward from the southern end of the house and terminate in the meeting

house. The new buildings, made of light-colored and terra cotta masonry with hipped roofs and projecting bay elements, would complement the existing building. The existing terraces behind the house would act as the school's quadrangle, allowing the students to walk outside from one academic wing to the other.

7. The buildings would occupy seven percent of the land, with the new wings constructed into the slope to reduce their visibility from the street and nearby properties. The buildings, plazas, parking areas, and sidewalks total about 27 percent of the site.

8. The applicant would also construct a tennis court and athletic field. The athletic field requires the construction of a retaining wall and regrading of the property. The athletic field would be located roughly in the center of the site, where it would be buffered on all sides by existing and proposed vegetation.

9. The applicant would construct a new southern entrance to the property from Foxhall Road, which would be signalized. The relocated southern entrance would be approximately 190 feet from the southern property line. The existing northern entrance would be retained and gated for emergency access only.

10. While the subject property has limited frontage on 44th Street and W Street, the applicant would only provide access from Foxhall Road.

11. The applicant would maintain substantial landscape buffers along the perimeter of the property. The existing tree canopy covers approximately one-half of the site and would be left virtually intact. The landscape plan preserves existing trees along the Glover-Archbold Park and 44th Street right-of-way. The plan calls for planting 200 additional trees, plus shrubs and ground cover.

The Proposed Private School Use

12. The Field School is a private, independent school that has operated in the District of Columbia since 1972. It has been located at 2126 Wyoming Avenue, N.W., since 1974. At the time of the application, the school had 212 students in grades 7 through 12 and 49 faculty and staff. It is a co-educational institution, founded on the belief that learning occurs best in an informal, personal, and non-institutional environment.

13. The school would remain small, gradually increasing its enrollment to a maximum of 320 students in grades 7 through 12 and its staffing levels to 74 faculty and staff.

14. As part of its application, the applicant proposed an operations plan that would, among other things:

a. Stagger the starting hours between the lower and upper grades, with an 8:00 a.m. start for the seventh and eighth grades (approximately 50 to 60 students) and no

earlier than an 8:20 a.m. start for the ninth through twelfth grades (approximately 250 to 260 students);

b. Prohibit students from leaving the campus during the school day in unsupervised activities;

c. Not start any outdoor athletic event after 6:00 p.m.;

d. Not conduct athletic events on Sunday;

e. Not allow any outside group to rent its facilities;

f. Permit local residents to utilize the athletic field, tennis court, and campus grounds when they are not being used by the school, but not for competitive sports;

g. Strictly enforce car pooling among students so that, to the extent permitted by law, no student would be permitted to drive to school without at least two passengers;

h. Not install any exterior lighting on the athletic field or tennis court;

i. Ensure that all lighting in the parking facilities is directionally down lit with minimum light candle power;

j. Shut the lights in the southernmost parking lot off at 9:00 p.m. and not turn them on again on Saturdays and Sundays, except for special events;

k. Co-ordinate and work with other schools in the area to address community concerns; and

l. Meet quarterly with a liaison committee, to consist of representatives of the school, ANC 3D, the Neighborhood Alliance, Palisades Citizens Association, Foxhall Crescent Homeowners Association, and representatives of adjacent properties.

Noise Impacts

15. The proposed buildings are designed to be energy efficient and insulated, with an ambient noise level well below that of Foxhall Road as it currently exists.

16. The location and buffering of the athletic field and parking lot would minimize associated noise impacts on the neighbors.

17. The school's proposed operations, including hours of operation, limitations on use of the athletic field, and the outdoor lighting schedule, which would discourage after-hours activities, also make it unlikely that noise would present a problem.

18. Based on the above, the Board finds that the proposed private school is not likely to become objectionable to adjoining and nearby property because of noise.

Traffic Impacts

19. Foxhall Road is a two-lane, north-south roadway that extends from the north at the intersection of Nebraska Avenue and Loughboro Road to the intersection of MacArthur Boulevard and Canal Road.

20. The subject property is located on a stretch of Foxhall Road just north of W Street that is narrow, curved, and hilly, with poor visibility.

21. Foxhall Road is a minor arterial with an average daily traffic volume in the vicinity of the subject property, according to the most recent 1997 traffic counts, of 17,500 vehicles.

22. According to DPW, traffic congestion (level of service) on Foxhall Road is measured at intersections, not segments of roadway. DPW concurred with the level of service findings in the Gorove/Slade traffic study dated February 29, 2000 (Table 1). Traffic congestion is generally worse during the morning peak traffic period. The level of service at Foxhall Road and Garfield Street is level "C" during the morning peak traffic period and level "B" during the afternoon peak traffic period. This denotes moderate to light traffic congestion during peak traffic hours. The major commuter through-movements at the intersections of Foxhall Road and "W" Street and Foxhall Road and Whitehaven Parkway are at level of service "A" during both the morning and afternoon peak hours. This denotes very light traffic congestion.

23. Traffic waiting at unsignalized side streets currently has difficulty accessing Foxhall Road during periods of peak traffic congestion. This situation is compounded by the poor sight distances for drivers waiting to turn left from W Street onto Foxhall Road. According to Officer Dorsee T. Knight from the Metropolitan Police Department, many of the traffic accidents in the area occur at Foxhall and W due to the slope and curve of the road.

24. With the exception of one Metrobus route with a bus stop an approximate five-minute walk from the subject property, the proposed school would not be accessible by public transportation.

25. The applicant projects that the school would generate approximately 106 inbound and 68 outbound vehicles during the morning peak hour of 7:45 a.m. to 8:45 p.m., with 65 percent coming from north of the site and 35 percent coming from south of the site. The morning peak hour for school traffic would coincide with the morning peak hour for the streets in the area.

26. The afternoon peak hour for school traffic would occur between 2:00 p.m. and 3:00 p.m., while the peak traffic of the nearby streets occurs from 4:00 p.m. to 6:00 p.m. The school is projected to generate 14 inbound trips and 72 outbound trips during its afternoon peak hour. Routine afternoon school traffic would therefore have a minimal impact in the area.

27. The applicant expects that approximately half of its student body would remain after-school for athletics and extra-curricular activities. Many of these students would be leaving before the neighborhood street peak afternoon hour. The applicant also projects that half of the faculty and staff would stay after-school to assist with extra-curricular activities and to perform other school functions. Therefore, after-school activities would not likely result in increased traffic congestion.

28. According to DPW, use of the site for the proposed private school presents a potential traffic safety problem due to restricted sight lines, drivers travelling at speeds in excess of the posted 25 mph limit, and high traffic volumes. DPW was also concerned that some of the drivers who would be travelling to the school would be relatively young and inexperienced. DPW, therefore, applied conservative engineering requirements and traffic control policies in developing its recommendations. In its report dated May 22, 2000, Ex. 439, DPW stated that the proposed school could be accommodated at the site if certain conditions, which are incorporated in this order, are met. DPW requested that any approval of this application be conditioned upon the applicant meeting DPW's recommended design criteria for the widening of Foxhall Road and the construction of a dedicated left-turn lane, eliminating use of the northern entrance for school traffic, and installing a traffic signal at a relocated southern entrance.

29. DPW also recommended against a right-turn only policy, since this would require school-related traffic to weave through adjacent residential streets to access or leave the school.

30. DPW further determined that it would not be advisable to use W Street or 44th Street for school access, since these are primarily residential streets with on-street parking that restricts free-flowing traffic movement. In addition, 44th Street is a dead-end street.

31. In a series of reports prepared to address new information and the concerns and recommendations of OP, DPW, ANC 3D, and the neighborhood that came to light and evolved throughout the hearing process, the applicant's traffic consultant, Gorove/Slade opined that the proposed private school would not create any adverse traffic or parking impacts in the surrounding area.

32. The final Gorove/Slade report dated June 2, 2000, Ex. 443, prepared in response to the final DPW report, recommends:

a. Relocating the southern entrance to a point approximately 190 feet from the southern property line in order to provide adequate sight distance to allow safe left turning movements onto the school property;

b. Construction of a southbound left-turn lane on Foxhall Road, using the existing right-of-way along the front of the subject property, to provide a sight distance of 305 feet for northbound traffic and 364 feet for southbound traffic and a 320-foot southbound approach taper, an 88-foot striping taper, and a 66-foot left-turn storage lane, for a combined taper, deceleration, and stacking distance of 474 feet for a three-car stacking lane;

c. Removal and relocation of all utility poles and other visual obstructions, including a tree, along the Foxhall Road frontage;

d. Closing and gating the northern entrance to the property to prevent all vehicles, except emergency vehicles, from turning into or out of the northern entrance;

e. Installation of a traffic signal at the southern entrance to accommodate full access, with right and left turns into and out of this entrance. The traffic signal would be linked to loop detectors in the left-turn lane to ensure that the left-turn bay is adequate to serve the projected left-turning traffic demand; and

f. Installation of school zone warning signs and signs warning drivers of the traffic signal at the southern entrance.

33. DPW supported the proposed sight distances, subject to further refinement during the design and engineering process. DPW indicated that there was internal debate over whether the stacking lane should accommodate three or five cars. DPW also indicated that all design, engineering, construction, and installation expenses related to the left-turn lane, traffic control signal, signage, and warning signals would have to be borne by The Field School, to which The Field School agreed.

34. The proposed location of the left turn lane would avoid impacting the Kreeger Museum property.

35. The applicant's queuing analysis shows that the proposed left-turn bay would be able to accommodate the projected left-turn queue at the southern entrance.

36. The proposed traffic signal would create gaps in the Foxhall Road traffic stream that would allow vehicles on the minor street approaches, such as W Street, to turn more efficiently onto Foxhall Road.

37. School zone warning signs would be posted along Foxhall Road at appropriate locations as detailed in the Manual on Uniform Traffic Control Devices to alert motorists to the approach to the school entrances. These signs would have flashing lights to accompany the 15 mph school zone speed limit during the school traffic peaks. In addition, advance signal warning signs would be installed to alert motorists of the new traffic signal at the southern entrance. The proposed traffic signal, school zone, and warning signs and lights are expected to have a traffic-calming effect.

38. In addition, the applicant proposed a traffic management plan:

a. Requiring faculty and staff to arrive before 7:30 a.m., before the morning peak hour;

b. Providing shuttle bus service to and from the Tenleytown and Foggy Bottom/GWU Metrorail stations and at least two other off-site locations in the vicinity of the intersections of MacArthur Boulevard/Loughboro Road and Massachusetts Avenue/Nebraska Avenue, with the locations to be determined by demand;

c. Expanding the shuttle bus service to other remote pick-up points convenient to the parents to meet the goal of reducing the number of school-related vehicles on Foxhall Road;

d. Requiring all faculty, staff, students, and visitors driving to the school to park on campus, with 38 parking spaces to be provided for students;

e. Requiring licensed students driving to school to car pool with at least two additional riders to maintain their school driving privileges;

f. Requiring parking stickers for students driving to school, with the school's enrollment contract to provide for loss of driving privileges and other disciplinary measures for students who attempt to park in the neighborhood; and

g. Constructing a sidewalk for public use on the Foxhall Road side of the property, with a significant buffer between the sidewalk and Foxhall Road.

39. DPW supports the applicant's proposed traffic management plan, but recommended against posting a traffic control officer at the school entrance, as suggested by the applicant, as unsafe due to the limited sight lines along this stretch of road.

40. While the proposed private school would present an additional challenge to peak hour traffic on Foxhall Road, DPW believes that the proposed construction of a left-turn lane provides the safest overall approach to the traffic that would be generated by the school.

41. The Board credits the opinion of DPW that, with the conditions recommended by DPW, the proposed private school would not result in objectionable traffic conditions. While Neighbors Against Foxhall Gridlock (NAFG) is concerned that the applicant's traffic proposal may not meet American Association of State Highway and Transportation Officials (AASHTO) standards, the Board credits the testimony of DPW and James Long, the applicant's civil engineering and highway design expert, that the AASHTO standards supply general guidelines, to be applied to the extent possible. Mr. Long also testified that the frontage of the subject property could actually provide 512 feet for the combined taper, deceleration lane, and stacking

lane and could accommodate a five-car stacking lane. According to DPW, further refinements to the applicant's proposal could be made during the design process to address safety concerns. DPW will continue to review and approve the applicant's design, engineering, and construction work to make the intersection as safe as possible.

42. The Board finds that all of the major commuter through-movements at the intersections along Foxhall Road that were studied by Gorove/Slade are projected to operate at acceptable levels of service during the morning and afternoon peak hours after the school relocates to the site. The minor eastbound and westbound approaches to Foxhall Road from W Street would continue to operate at unacceptable levels of service, although the proposed traffic signal at the school entrance may create gaps in the traffic flow along Foxhall Road that would allow vehicles waiting at this intersection to turn more efficiently. DPW plans to install a traffic signal at the intersection of Foxhall Road and Whitehaven Parkway, which would improve the level of service at that intersection as well as general traffic conditions along Foxhall Road.

43. The Board also finds Gorove/Slade's projections of the percentage of students likely to use public transportation credible. Thirty-six percent of The Field School students currently use public transportation to access the school at Wyoming Avenue. While 90 percent of the parents surveyed by the school indicated that they would use the school's proposed Metrorail shuttle bus service to the Foxhall Road property, Gorove/Slade conservatively based its traffic analysis on the existing 36 percent. *See* Ex. 22.

44. Based on the above, the Board finds that the proposed private school, as conditioned, would not create objectionable traffic congestion or traffic safety conditions.

Number of Students

45. The Board finds that the subject property is large enough to accommodate the needs and demands of a private school for grades 7 through 12, with a maximum of 320 students. The density per student is consistent with a number of similar private schools in the northwest quadrant of the District of Columbia.

46. While there would be no adverse impact from the number of students per se, the number of vehicles associated with the number of students could result in adverse traffic, parking, and related impacts. As a means of addressing these impacts as they relate to the number of students, OP and ANC 3D recommended capping the number of vehicles that could enter the school grounds during the morning peak hour. OP also suggested that the school's expansion beyond the initial projected number of 260 students should be tied to the school's success in meeting its vehicle targets during the morning peak hour.

Other Objectionable Conditions

47. In response to the Board's request, the applicant modified its site plans to include a walkway from the athletic field to the property line on 44th Street for the purpose of collecting errant athletic balls.

48. At the Board's request, the applicant submitted a construction management plan, Exhibit 469, that would control the proposed construction, with all construction parking and vehicles maintained on-site. The construction would be staged from the area that would become the athletic field, which would be the last portion of the site to come on-line. The proposed construction loop road has been moved as far away from 2207 Foxhall Road, the neighboring property to the south, as practicable. Non-construction areas would be protected by a chain-link fence.

49. The geotechnical analysis of the site showed that it has good bearing capacity. The soil is generally fill on the surface with good quality clay below it. There are no underground aquifers or underground water.

50. The applicant's landscape architect researched the possible presence of a stream on the property, going back as far as a 1888 Coastal and Geodetic Survey. He did not find a stream, either intermittent or continually running, on the property.

51. The applicant's storm water and surface run-off systems are designed to protect Glover-Archbold Park, with all roof water and parking lot water directed to underground leaders and piping, which would force the water through sand filters to begin a two-stage filtration process. After filtration, the water would be detained and released incrementally downhill to the right-of-way on 44th Street, where it would run into a storm water pipe installed in an existing pathway to minimize the impact on existing vegetation and improve the trail condition. It would then be tied into the W Street storm water outfall that discharges into Foundry Creek. The system would be over-sized to accommodate future drain inlets and to provide storm water infrastructure on 44th Street that does not currently exist.

52. The sand filter vault is a multi-stage filter, with the first filter primarily a sediment and oil grit type separator that requires yearly maintenance. The second stage of the filter is a sand portion that basically strains the water. It would need to be maintained less frequently. The filters are located adjacent to the parking lots, so that a maintenance vehicle could pull directly up to them for cleaning and maintenance. The applicant would be responsible for maintaining the filters.

53. The proposed storm water management controls would improve environmental conditions on-site and at Glover-Archbold Park. The applicant also expressed a willingness to work with the adjacent property owner at 2207 Foxhall Road to mitigate water runoff from the subject property.

54. Given the size of the parking lot and the steep slope to the south, OP expressed concerns related to runoff from the lot. OP also expressed concerns that the parking lot could act as a heat island, adversely affecting the microclimate. To mitigate potential environmental problems, OP recommended that the applicant investigate the use of porous pavement, a condition of this order.

55. The site plan includes significant setbacks for all of the school's buildings and facilities. Along Foxhall Road, the nearest residential building is approximately 110 feet from the property line. At the southern property line, the buffer is approximately 300 feet from the future meeting house to the closest neighboring property at 2207 Foxhall Road, while the distance from the southern entrance to the parking lot is approximately 80 feet. The applicant proposes to construct a landscaped berm in this area to provide a visual and auditory buffer, and is willing to increase the width of the buffer to 100 feet.

56. Given the large size of the property, its steep slope, the design of structures to follow the terrain, the lighting plan, and the landscape plan, including the substantial buffer along the southern property line, the proposed private school would not result in a significant visual intrusion for neighboring property owners.

57. Neither OP nor the Department of Health found the environmental impacts of the project to be such that they could not be controlled and mitigated through the applicant's traffic management plan and best management practices. The Department of Health will continue to work with the applicant to develop and implement an acceptable erosion and storm water management plan.

Parking Space

58. A two-directional frontage road would connect the two entrances to the school and include a separate drop-off lane and parking. The proposed circulation system would provide ample queuing space to meet the school's anticipated needs, to prevent queuing on the public roadways, and to allow drivers to turn around to access the southern entrance after dropping-off and picking-up students.

59. Parking would take place in the south parking area, in a linear fashion along the frontage road, and in a third area downhill behind the gymnasium. The latter parking area would primarily serve the shuttle buses.

60. The applicant initially proposed constructing a parking lot for 128 vehicles, plus parking for ten school buses, a service area, and an enclosed loading dock on the north side of the property. The number of parking spaces was reduced to 110 spaces at the request of OP and ANC 3D. At the Board's request, the applicant relocated all bus parking to behind the gymnasium.

61. The parking calculations on the applicant's preliminary architectural plans, Exhibit 12, show that 90 parking spaces would be required under the Zoning Regulations, 50 parking spaces

for the maximum number of faculty and staff and 40 additional spaces, based on the requirement of one additional space for each ten seats in the largest assembly space, the 400-seat meeting house.

62. The applicant would issue students parking stickers that would readily identify vehicles as school-related vehicles. The applicant would prohibit students who do not have a sticker from driving to school. The applicant's enrollment contract would mandate the loss of driving privileges for students who attempt to park in the neighborhood. The applicant proposes to use disciplinary measures up to and including suspension and/or expulsion from school to enforce its parking program.

63. The applicant would require licensed students driving to school to carry at least two other students in their vehicles. Based on the number of siblings enrolled in the school, the distribution of student residences, and the driving rate at the existing school location, the applicant projects that there would be 38 students transporting 2.5 students per vehicle.

64. The applicant projects that it would need an additional 50 parking spaces to meet demand from faculty and staff, and 10 additional spaces for visitors.

65. The provision of 110 on-site parking spaces would eliminate the need for faculty, staff, students, and visitors to park on adjacent neighborhood streets.

Harmony with the Zoning Regulations and Map

66. The proposed school buildings are well within the height, lot occupancy, and other area requirements of the R-1-A District. The R-1-A District does not have a floor area ratio limit.

67. While the R-1-A District has a lot occupancy limitation of 40 percent, the proposed school buildings would only occupy 7 percent of the property. The total impervious surface, including the parking areas, sidewalks, and buildings, is only 27 percent of the property. The building setbacks are approximately 300 feet, equivalent to a football field, from the southern property line, while the gymnasium is set back about 100 feet from the eastern property line.

68. If this application is granted, approximately 86 percent of the frontage on both sides of the street between Nebraska Avenue and MacArthur Boulevard would consist of residential uses, while the remaining 14 percent would consist of institutional uses. In the more narrow stretch between Edmond Street and Whitehaven Parkway, 70 percent of the frontage or 78 percent of the land area would consist of residential uses, while 30 percent of the frontage or 22 percent of the land area would consist of institutional uses.

69. The Generalized Land Use map shows the area as low-density residential. With the proposed school, the area would remain predominantly residential.

70. Noting the Comprehensive Plan's call to preserve and enhance the quality of stable residential neighborhoods, OP found that the proposed private school would not be inconsistent with the neighborhood's residential character. OP observed first that schools by their very nature are associated with residential areas; second, that Foxhall Road, with 17,500 vehicles per day, is a busy arterial road, not a quiet residential collector street; third, the area has already been characterized by a number of institutional uses, including the former Mt. Vernon College, St. Patrick's Church and School, the Kreeger Museum, and several embassies; and finally, that the design of the new school buildings would retain various elements from the existing mansion to evoke a residential feel, the buildings would be "tucked into" the slope to minimize the perceived bulk, and there would be substantial vegetative buffering. OP concluded, therefore, that the use of the property for a private school would not be inconsistent with the Comprehensive Plan or the Ward 3 Element.

Impacts on Use of Neighboring Property

71. The above findings largely pertain to impacts on the use of neighboring property and will not be repeated in this section of the Decision and Order.

72. Sylvia K. Shagrue, the owner of the property at 2207 Foxhall Road, objected that the proposed traffic light would result in traffic backing up and blocking her driveway. Any blockage would be for a limited period during the day. The Board has requested the applicant and DPW to address Mrs. Shagrue's concern during its review, to determine its likelihood of any blockage and whether there are any mitigative measures that might be taken. Moreover, DPW must issue a notice of proposed rulemaking and must consider all public comment received before the proposed traffic light can be installed.

74. The applicant has expressed a willingness to work with Mrs. Shagrue on storm water runoff control, increasing the width of the buffer between the parking lot and Mrs. Shagrue's property, improving the proposed buffering, allowing Mrs. Shagrue's visitors to park in the applicant's lot, and possibly refining its lighting plan. The Board finds that these measures are reasonable and would mitigate any adverse impacts on the abutting property.

CONCLUSIONS OF LAW AND OPINION

The Board of Zoning Adjustment is authorized under the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code § 5-424(g)(2)), to grant special exceptions as provided in the Zoning Regulations. The Morris and Gwendolyn Cafritz Foundation applied under 11 DCMR § 3104.1 on behalf of The Field School for a special exception pursuant to 11 DCMR § 206 to allow the use of the subject property as a private school. The notice requirements of 11 DCMR § 3113 for a public hearing on the application have been met.

The Field School is a private school as that term is used in the Zoning Regulations. To meet its burden of proof under Subsection 3104.1, the applicant must demonstrate that the

proposed private school use would meet the special conditions listed in Section 206; that it would be in harmony with the general purpose and intent of the Zoning Regulations and Maps; and that it would not adversely affect the lawful use of the neighboring property. Under Subsection 206.2, "The private school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions." Under Subsection 206.3, "Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile."

The Board's discretion in reviewing an application for a special exception for a private school is limited to a determination of whether an applicant has complied with the requirements of Sections 206 and 3104.1. If the applicant meets its burden, the Board must ordinarily grant the application. *See The Washington Ethical Society v. District of Columbia Bd. of Zoning Adjustment,* 421 A.2d 14, 18 (D.C. 1980). As stated in *French v. District of Columbia Board of Zoning Adjustment,* 658 A.2d 1023 (D.C. 1995), "The Board's limited function [in a special exception case] is to assure that the regulations adopted by the Zoning Commission are followed; it has 'no authority to implement the Comprehensive Plan.'" *Id.* at 1034, *quoting Tenley & Cleveland Park Emergency Committee v. District of Columbia Bd. of Zoning Adjustment,* 550 A.2d 331, 341 (D.C. 1988), *cert. denied,* 489 U.S. 1082 (1989). Thus, for a special exception application, the Board's role is to correctly follow the existing Zoning Regulations, not the Comprehensive Plan. 658 A.2d at 1023. *Cathedral Park Condominium Committee v. District of Columbia Zoning Commission*, 743 A.2d 1231 (D.C. 2000), cited by NAFG, is inapposite, since it involves the Zoning Commission's review and approval of a planned unit development application, which under 11 DCMR § 2403.4 is evaluated, in part, against the standard that it not be inconsistent with the Comprehensive Plan.

Further, the Board is required under D.C. Code § 412.4 to give "great weight" to OP recommendations. The Board is also required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective Oct. 10, 1975 (D.C. Law 1-21, as amended; D.C. Code § 1-261(d)) to give great weight to the recommendations of the ANC for the area within which the subject property is located. Under Section 3 of the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000 (D.C. Law 13-135, 47 DCR 5519 (2000)) (to be codified at D.C. Code § 1-261(d)(3)(a)), to articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances, articulating specific findings and conclusions with respect to each of the ANC's issues and concerns. The Board has carefully considered the ANC's reports; however, for the reasons stated below, does not find the ANC's final recommendation to deny the application based upon the final traffic plan and storm water management concerns persuasive. At the time the ANC made its final recommendation, it did not have the benefit of hearing the final DPW and National Park Service reports. As discussed above in the findings of fact relating to traffic impacts, the Board has credited the opinion of DPW and the applicant's traffic experts that the proposed school can be located on Foxhall Road in a manner that would not create objectionable traffic conditions. In addition, by the conclusion of the hearing, the applicant had agreed to provide storm water controls that meet the specifications of the National Park Service. The ANC also recommended that if the Board were to grant the application, it should impose certain

conditions, 24 of which were also proposed by OP and the applicant. The Board has incorporated all of these conditions in its order, including the three additional conditions specified by the ANC and conditions proposed by the National Park Service.

Based upon the findings of fact and having given great weight to the OP and ANC recommendations, the Board concludes that the proposed private school, as conditioned by the Board, can be located at the subject property so that it is not be likely to become objectionable to adjoining and nearby property. The Board has imposed numerous, stringent conditions in this order in response to the OP, ANC, National Park Service, and neighborhood concerns, with particular emphasis on traffic and public safety, storm water runoff, and environmental and visual impacts on the immediately adjacent properties.

The Board also concludes that the proposed private school would provide ample parking. Under 11 DCMR § 2101.1, the applicant is required by the Zoning Regulations to provide at least 90 parking spaces. With a practical parking demand of 98 spaces, the Board concludes the applicant's provision of 110 parking spaces will meet the needs of its faculty and staff, students, and visitors.

The R-1-A District is a low density residential district that allows one-family dwellings, churches or other places of worship, embassies, low density community-based residential facilities, and appropriate accessory structures and uses as a matter of right. Uses permitted, with Board of Zoning Adjustment approval, include child development centers, private schools, community centers, and colleges and universities. The Board concludes that the use of the subject property for a private school, as conditioned by the Board, is in harmony with the Zoning Regulations and Map.

Finally, as discussed above with respect to the requirements of Subsection 206.2 and 206.3, the Board concludes that the proposed private school use, as conditioned by the Board, would not adversely affect the use of neighboring property.

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 school buildings and facilities shall be constructed in accordance with the plans prepared by Kress Cox and filed in the record as Exhibit 12, as modified by Exhibits 446 and 464.

Number of Students and Faculty and Staff; Operations

2. The initial maximum student enrollment shall be limited to 260 students. Upon the Office of Zoning's receipt of the Zoning Administrator's finding that the applicant is meeting the morning peak hour 106-vehicle limit imposed in condition number 18 of this order on a consistent basis, the applicant may increase its student enrollment to 320 students.

3. The maximum number of faculty and staff shall be 74.

4. The applicant shall stagger hours of operation between the Lower and Upper Schools with an 8:00 a.m. start for seventh and eighth graders and no earlier than an 8:20 a.m. start for ninth through twelfth graders.

5. The applicant shall prohibit students from leaving the campus during the school day except for emergencies, when authorized by a parent or guardian, and for school-organized trips.

6. The applicant may not start any outdoor athletic events after 6:00 p.m.

7. No athletic events may be held on Sundays.

8. The applicant may not allow the athletic field to be used for adult baseball.

9. No more than three major evening events beginning after 7:00 p.m. may be held on school property during the school year.

10. The applicant shall schedule all deliveries to take place from 9:30 a.m. to 4:00 p.m., Monday through Friday.

11. The applicant may not allow any outside groups or persons to rent its facilities.

12. The applicant shall permit local residents to use the athletic field and tennis court and to walk or stroll the campus grounds when these areas are not being used for school purposes, provided that the same conditions that apply to the applicant's use of the facilities and grounds shall apply to the public.

Traffic Management

13. All traffic entering or exiting the school property must use the relocated southern entrance, with the exception of emergency vehicles and other vehicles requiring access through the northern entrance that are unable to use the southern entrance. The southern entrance must allow both right and left turns onto Foxhall Road. The applicant may not use the northern entrance as an alternative entrance or exit for faculty and staff, parents, students, delivery and service providers, or other visitors, except in the circumstances described in the first sentence of this paragraph. The applicant shall install a gate at the northern entrance to bar any turns from Foxhall Road onto the school property or from the school property onto Foxhall Road.

14. Before a certificate of occupancy may be issued, Foxhall Road adjacent to the Field School property must be widened to allow the development of southbound left turn lane on Foxhall Road into the proposed school site. The construction must provide a

minimum sight distance of 305 feet for northbound traffic and 364 feet for southbound traffic. The length of the combined taper, deceleration, and stacking distance must be a minimum of 474 feet. The applicant shall submit its design and engineering plans to DPW for review and approval. The final design and engineering plans must be approved by DPW.

15. In connection with the widening of Foxhall Road, the applicant shall, with the approval and under the supervision of DPW, remove and relocate all utilities and other visual obstructions, including the existing utility poles and street lights, along the Foxhall Road frontage.

16. Before a certificate of occupancy may be issued, a traffic control signal must be located at the southern entrance to stop traffic on Foxhall Road to allow safe turns into and out of the school property. The traffic control signal must provide a priority green light to traffic on Foxhall Road and only be activated to stop northbound Foxhall Road traffic when there are vehicles stacked in the left turn lane. The traffic control signal must stop north and southbound traffic when a vehicle is in the southern entrance waiting to enter Foxhall Road. The applicant shall coordinate with DPW in examining and mitigating, to the extent practicable, any impacts from the traffic control signal on the property at 2207 Foxhall Road, N.W. (Square 1341, Lot 855).

17. Before a certificate of occupancy may be issued, school zone warning signs and signs warning drivers on Foxhall Road of the school-entrance traffic control signal must be placed on Foxhall Road.

18. The applicant may not permit more than 106 vehicles to enter the school property during the 7:30 a.m. to 8:30 a.m. morning peak hour.

19. The applicant shall require all student drivers to park on school property. The applicant shall establish a school parking sticker program and provide students who qualify under the program with parking stickers authorizing them to park on school property. No parking stickers may be issued to any student who is under the age of 17.

20. The applicant shall require, as part of its school parking sticker program, that students carpool to the maximum extent permitted by the Safe Teenage Driving Amendment Act of 1999, effective April 5, 2000 (D.C. Law 13-73; 47 DCR 2630 (2000)), and other applicable licensing laws.

21. The applicant shall establish pick-up points for the school shuttle buses at off-street locations within established parking lots. These pickup points must be monitored by school staff and/or volunteers.

22. The applicant shall require carpooling and vanpooling from Metro stations for major evening and weekend events.

23. The applicant shall construct and maintain a pedestrian sidewalk along the edge of the school property, as shown on the school plans.

24. The applicant shall work with the neighbors to approach the Department of Public Works to implement a series of traffic calming measures to protect the nearby residential neighborhoods from commuter encroachment.

Parking Lot

25. The applicant shall reduce the size of the parking lot to no more than 110 parking spaces.

26. The parking lot must be set back at least 100 feet from the adjoining property to the south.

27. The applicant shall investigate porous pavement technology with a groundwater recharge system, including that described in the material from Cahill Associates (Exhibit Q to OP's June 7, 2000, report), and, if cost effective and otherwise feasible, use it for the parking lot installation to minimize ecological disturbance to the property and nearby and adjacent properties.

28. The applicant shall install and maintain a 100-foot vegetative buffer between the parking lot and the adjoining property to the south. The applicant shall work with the owner of the adjoining property to ensure that the species, size, and screening provide effective buffering.

29. The applicant shall allow visitors to 2207 Foxhall Road to use the school parking lot.

Lighting

30. The applicant shall install and operate all lighting on the parking facilities so that it is directionally down lit with minimum light candle power.

31. The applicant may not install any exterior event lighting on the athletic field or tennis court.

32. The applicant shall turn the lights to the southernmost parking lot off at 9:00 p.m. The applicant may not turn the lights on at this parking lot on Saturdays and Sundays, except for special events.

33. The applicant shall consult with the owner of the adjoining property to the south at 2207 Foxhall Road, N.W., regarding further refinement of the lighting plan, including any matters pertaining to the hours and operation of the lights.

Construction Management

34. The applicant shall implement the construction management plan filed in the record as Exhibit 469.

35. During the construction proposed in this application, the applicant shall meet with neighbors and community representatives on a monthly basis to discuss construction activities scheduled for the following month and to review its efforts to resolve any objectionable conditions. The participants in these meetings may include adjoining property owners and representatives of the Palisades Citizens' Association, the Spring Valley-Wesley Heights Citizens' Association, the Foxhall Citizens' Association, the Wesley Heights Historical Society, the Foxhall Crescents Homeowners' Association, and ANC 3D. For purposes of this condition, the term "adjoining property owners" includes owners directly across Foxhall Road.

36. During construction, the applicant shall make available a 24-hour hotline with a live or on-call operator to respond to the callers' questions about objectionable and unsafe conditions. The applicant shall publicize the hotline number and post it prominently at the site.

37. Construction equipment, materials, and activities must be located as far from 2207 Foxhall Road as practicable to mitigate air quality and noise impacts.

Storm Water Management

38. The applicant shall coordinate with the National Park Service in developing and implementing storm water management controls.

39. The applicant shall design and construct a storm water management system consistent with that shown on the drawing entitled "Preliminary Site Utility Plan," dated September 1999, with the following amendments, subject to the approval of the pertinent reviewing agencies:

    a. The applicant shall construct storm inlets and a storm sewer connection of appropriate scale and capacity, meeting applicable District of Columbia standards, that are shown on the Preliminary Site Utility Plan as "future storm inlet" and "future storm connection by others." These structures must include water quality and water quantity design features to assure that the waters introduced from upstream of the development are not going to exceed the designed capacity intent of the remaining system to be built by the school;

    b. The vault structure at the northern end of the "proposed 36 storm sewer" situated within the 44th Street, N.W., right-of-way must have capacity, knock-out structures, to accommodate any necessary future storm water rates of flow emanating from areas upstream of the development within the general watershed

of an area generally delineated by Foxhall Road, South of Dexter Street, 44th Street, and the school property. The intent of this design is to allow for future storm water conveyance/storm water retention pipes within 44th Street parallel to the pipe proposed by the applicant as identified as the "proposed 36 inch storm sewer";

c. The vault structure proposed to be built in the vicinity of W Street and 44th Street shall be designed and constructed in such a manner as to provide water quality and water quantity management for the additional cleaning of the waters of oil and grit, as well as to provide a release control measure to assure a controlled, long-term release of storm waters into Glover-Archbold Park. The "proposed 36 inch storm sewer" must be designed, sized, and configured to act both as a conveyance structure as well as a retention structure to accommodate the projected and future flows from this overall watershed as previously identified;

d. All vaults and similar structures built within 44th Street must have vehicular access accommodations to assure that the designed cleanout function can be addressed;

e. The existing "15-inch CMP Storm" line that provides drainage for the low area at the southernmost vicinity of the property near the intersection of W Street and 44th Street must be carefully evaluated and either improved or replaced to assure that the drainage of the surface and subsurface of the low area shall be assured on a permanent basis;

f. The outfall of the storm line that releases water into Glover-Archbold Park must be given full design consideration and all additions or modifications of the structure on National Park Service lands must be subject to separate and specific review and approval by the National Park Service;

g. All areas of the school property, 44th Street, and National Park Service lands that are cleared, graded, or otherwise impacted by construction or sewer modification must be restored to a level such that the areas will support forest tree growth typical of adjacent areas. The applicant shall plant all areas of 44th Street, the school property, and National Park Service land with a reforestation mix of species and density subject to the approval of the National Park Service;

h. Following installation of the storm sewer, the applicant shall reconstruct the existing trail situated with 44th Street to a standard consistent with non-paved National Park Service trails in the District of Columbia;

i. Fencing of school property, where visible from National Park Service lands or associated trails, must be six-foot, black vinyl-coated chain-link or better quality. Location of the fence and gates must be subject to review and agreement by the

National Park Service, where such gates and associated trails or stairs may immediately or in the future be used to access National Park Service lands; and

j. In the event that the future of 44th Street is considered, the applicant will not object to the transfer the applicable portion of 44th Street to the National Park Service for park purposes, subject to rights of the District of Columbia to operate and maintain the water and sewer systems.

40. The applicant shall work with the adjoining property owner at 2207 Foxhall Road to develop and implement a drainage system that will mitigate water runoff from the subject property, including existing runoff, onto the adjoining property.

Community Outreach

41. The applicant shall coordinate and work with other schools located in the area to address community concerns.

42. After completion of the construction proposed in this application, the applicant shall conduct meetings with neighbors and community representatives no less than once every six months to discuss and review any objectionable conditions.

Chapter 32 of the Zoning Regulations sets forth provisions with respect to enforcement and penalties for violations of the regulations. Section 3205 requires compliance with conditions in orders of the Board and provides that if a building permit or certificate of occupancy has been issued pursuant to a decision of the Board to approve a special exception, then each condition to the approval of that special exception shall be treated as a condition to the issuance of the building permit or certificate of occupancy as well. 11 DCMR § 3205.3. The failure to abide by the conditions, in whole or part, shall be grounds for the revocation of any building permit or certificates of occupancy issued pursuant to this order.

VOTE: 4:1 (John G. Parsons, Sheila Cross Reid, Robert N. Sockwell, and Rodney L. Moulden, to grant; Anne M. Renshaw, to deny).

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

Each concurring member has approved the issuance of this Decision and Order and authorized the undersigned to execute this Decision and Order on his or her behalf.

ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: DEC 19 2000

UNDER 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6 OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE AND UPON ITS FILING IN THE RECORD AND SERVICE ON THE PARTIES.

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

PURSUANT TO D.C. CODE § 1-2531 (1999), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANTS ARE REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. TITLE 1, CHAPTER 25 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF THE APPLICANTS TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

16559/MS/poh

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16559

As Director of the Office of Zoning, I hereby certify and attest that on DEC 19 2000, a copy of the foregoing Decision and Order in BZA Application 16559 was mailed first class, postage prepaid, to each party and public agency that appeared and participated in the public hearing concerning this matter and who is listed below:

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ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
DIRECTOR