District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Garland Pinkston, Jr.
Clerk of the Court

Telephone: 879-2700
Area Code 202

No.: 01AA53 - Neighbors Against Foxhall Gridlock, et al

District of Columbia Office of Zoning
Madeline H. Robinson, Director
One Judiciary Square
414 - 4th Street, N.W.
Suite 210
Washington, D.C. 20001

16559

RECEIVED
D.C. OFFICE OF ZONING
2001 JAN 24 PM 4:28

Dear Sir/Madam:

Pursuant to the rules of this Court I am transmitting, herewith, a copy of the petition for review filed on 17th day of January, 2001 in the above-entitled case.

Yours very truly,

Garland Pinkston, Jr.
Clerk

By: _____
Deputy Clerk

cc: Charles J. Reiserel

#483

Board of Zoning Adjustment
District of Columbia
CASE NO.16559
EXHIBIT NO.483

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

RECEIVED
JAN 17 2001
DISTRICT OF COLUMBIA
COURT OF APPEALS

RECEIVED
D.C.
OFFICE OF ZONING
2001 JAN 24 PM 4:28

NEIGHBORS AGAINST FOXHALL GRIDLOCK and FOXHALL CRESCENTS SOUTH GATE HOMEOWNERS ASSOCIATION, INC.

Petitioners,

v.

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT,

Respondent.

No. 01 AA53

JAN 17 2001

PETITION FOR REVIEW OF AN ORDER OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

1. This Petition seeks review of a Decision and Order of the District of Columbia Board of Zoning Adjustment ("BZA" or "Board"), an agency of the District of Columbia Government.

2. This Court has jurisdiction over this matter under D.C. Code § 11-722 (1981 ed.), which provides for review in this Court of orders and decisions of any agency of the District of Columbia, including the Board of Zoning Adjustment.

3. The parties seeking review are: Neighbors Against Foxhall Gridlock ("NAFG"), a group of adjacent and nearby property owners, and Foxhall Crescents South Gate Homeowner's Association, Inc. ("FCSGHA"), an association of

HOGAN & HARTSON L.L.P.
COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004-1109
(202) 637-5600

nearby property owners, collectively the Petitioners. Petitioners were granted party status by the BZA and participated actively in the proceedings below. The individuals who were collectively granted party status by the BZA as NAFG are: 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 Marnee Bruce; Gene and Carol Ludwig; Douglas C. Worth; and the Raha III Corporation. FCSGHA is a group of twenty-two homeowners in the Foxhall South Gate Neighborhood located off of "W" and "46th" Streets, N.W.

4. Petitioners seek review and reversal of the BZA Decision and Order (the "BZA Decision") approving Application No. 16559 of the Morris and Gwendolyn Cafritz Foundation and The Field School (hereinafter, "Applicants") for a special exception to establish a private school in an R-1-A District of the District of Columbia, subject to conditions. The final date of the BZA Decision was December 19, 2000; the decision dates were September 5, 2000; October 3, 2000; and November 8, 2000. The hearing dates were March 15, 2000; March 29, 2000; May 10, 2000 and July 25, 2000.

5. In the decision under review, the BZA approved the said application and granted the said special exception even though the proposed private school would violate the zoning laws of the District of Columbia in that it (1) will not be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will tend to adversely affect the use of neighboring property,

HOGAN & HARTSON
L.L.P.
COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004-1109
(202) 637-5600

and (2) will likely become objectionable to adjoining and nearby property because of noise, traffic, number of students, and otherwise objectionable conditions. See 11 D.C.M.R. § § 206.2 and 3104.1.

6. The BZA Decision is unlawful and should be set aside on the grounds that it was contrary to the law and facts, arbitrary, capricious, and an abuse of discretion:

a) The BZA Decision is contrary to the applicable provisions of the Zoning Regulations, including 11 D.C.M.R. § § 206.2 and 3104.1;

b) The BZA's findings of fact were not supported by substantial evidence in the record;

c) The BZA's findings of fact were contrary to the evidence of record;

d) The BZA's findings of fact were based on evidence not in the record;

e) The BZA ignored relevant evidence in making its findings of fact;

f) The BZA failed to give proper consideration to the traffic-safety standards promulgated by the American Association of State Highway and Transportation Officials ("AASHTO").

g) The BZA failed to afford the recommendation of the Advisory Neighborhood Commission that the Application be denied the "great weight" to which it was entitled by law, see D.C. Code §§ 1-251; 1-261(d)(3) (1981 ed.);

HOGAN & HARTSON
L.L.P.
COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004-1109
(202) 637-5600

h) The BZA failed to give proper consideration to the applicable provisions of the Comprehensive Plan.

ACCORDINGLY, Petitioners respectfully request that this Court reverse and vacate the BZA Decision.

Respectfully submitted,

Eric Von Salzen (DC Bar #13482)
Marta I. Tanenhaus (DC Bar #437449)
HOGAN & HARTSON, L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004
202-637-5718
Attorneys for Petitioners

HOGAN & HARTSON L.L.P.
COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004-1109
(202) 637-5600

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition For Review Of An Order Of The District of Columbia Board of Zoning Adjustment was mailed, postage prepaid, this 17th day of January, 2001 to the parties who formally participated in the proceedings before the agency (other than the agency and the District of Columbia Corporation Counsel, who will be served by the Clerk of the Court, pursuant to this Court's Rule 15(e)):

Phil T. Feola, Esq.
Paul A. Tummonds, Esq.
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037-1128

Richard L. Aguglia, Esq.
Hunton & Williams
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006

Alan R. Swendiman, Esq.
Jackson & Campbell
1120 20th Street, N.W., South Tower
Washington, D.C. 20036

Jeffrey W. Bolotin, Esq.
4604 Foxhall Crescents, N.W.
Washington, D.C. 20007

Andrew Altman, Director
D. C. Office of Planning
801 North Capitol Street, N.E., Suite 4000
Washington, D.C. 20002

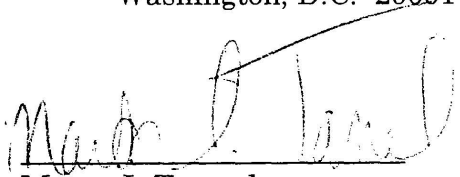
Kenneth Laden, Administrator
Office of Intermodal Planning
Department of Public Works
2000 14th Street, N.W.
Washington, D.C. 20009

David Murphy
Office of Lands, Resources and Planning
National Capital Region, National Park Service
1100 Ohio Drive, S.W.
Washington, D.C. 20242

Ann F. Heuer, Chair
ANC 3D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

Michael D. Johnson, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E., Suite 2000
Washington, D.C. 20002

Honorable Kathleen Patterson
Councilmember, Ward 3
Council of the District of Columbia
441 Fourth Street, N.W., Suite 709
Washington, D.C. 20001



Marta I. Tanenhaus

HOGAN & HARTSON
L.L.P.
COLUMBIA SQUARE
555 THIRTEENTH STREET NW
WASHINGTON DC 20004-1109
(202) 637-5600

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

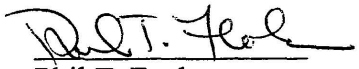
NEIGHBORS AGAINST FOXHALL GRIDLOCK and FOXHALL CRESCENTS SOUTH GATE HOMEOWNERS ASSOCIATION, INC.	)	
Petitioners,	)	
vs.	)	
DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT	)	Docket No. 01AA53 (BZA Application No. 16559)
Respondent	)	

NOTICE OF INTENTION TO INTERVENE

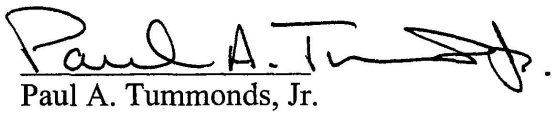
Pursuant to Rule 15(f) of the Rules of the District of Columbia Court of Appeals, The Field School hereby gives notice of its intent to intervene, as of right, as a party respondent in the above-captioned case. The Field School is the current owner of the subject property, was the contract purchaser of the subject property at the time of the application, and was a party (as co-applicant) in the proceedings before the Board of Zoning Adjustment for the District of Columbia in this matter.

Respectfully submitted,

Shaw Pittman

By: 

Phil T. Feola
D.C. Bar No.: 290387



Paul A. Tummonds, Jr.
D.C. Bar No.: 452020
Attorneys for the Intervenor
2300 N Street, N.W.
Washington, D.C. 20037
(202) 663-8000

RECEIVED
D.C. OFFICE OF ZONING
2001 FEB 12 PM 2:57

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Intention to Intervene was mailed, first class, postage prepaid, this 9th day of February 2001 to:

Eric Von Salzen, Esq.
Marta I. Tanenhaus, Esq.
Hogan & Hartson, L.L.P.
555 Thirteenth Street, N.W.
Washington, D.C. 20004

Alan R. Swendiman, Esq.
Jackson & Campbell
1120 20th Street, N.W.
Washington, D.C. 20036

D.C. Board of Zoning Adjustment
441 4th Street, N.W.
Second Floor
Washington, D.C. 20001
Attn: Sheri Pruitt

Richard Aguglia, Esq.
Hunton & Williams
1900 K Street, N.W. Suite 1200
Washington, D.C. 20006

Advisory Neighborhood Commission 3D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016
Attn: Eleanor Roberts Lewis, Chair

Jeffrey W. Bolotin, Esq.
4604 Foxhall Crescents, N.W.
Washington, D.C. 20007

Alan H. Bergstein, Esq.
Office of the Corporation Counsel
441 4th Street, N.W.
Room 680N
Washington, D.C. 20001

Charles L. Reischel, Esquire
Deputy Corporation Counsel
Appellate Division
441 4th Street, N.W.
6th Floor South
Washington, D.C. 20001

Paul A. Tummonds, Jr.

Document #: 1074701 v.1

District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Garland Pinkston, Jr.
Clerk of the Court

Telephone: 879-2700
Area Code 202

No.: 01AA53 - Neighbors Against Foxhall Gridlock, et al

District of Columbia Office of Zoning
Madeline H. Robinson, Director
One Judiciary Square
414 - 4th Street, N.W.
Suite 210
Washington, D.C. 20001

CORPORATION COUNSEL
APPELLATE DIVISION
2001 JAN 25 P 4:04

Dear Sir/Madam:

Pursuant to the rules of this Court I am transmitting, herewith, a copy of the petition for review filed on 17th day of January, 2001 in the above-entitled case.

Yours very truly,

Garland Pinkston, Jr.
Clerk

By: _____
Deputy Clerk

cc: Charles L. Reiserel

RECEIVED
D.C. OFFICE OF ZONING
2001 JAN 26 AM 10: 15

CORPORATION COUNSEL
APPELLATE DIVISION
2001 JAN 25 P 6:04

District of Columbia
Court of Appeals

FILED
JAN 23 2001
DISTRICT OF COLUMBIA
COURT OF APPEALS

CHARLES L. REISCHEL
450 5th St, NW 8th FLOOR
WASHINGTON, DC
20001

99-AA-000052 RALPH DAVIDSON V. DC BD. OF ZONING ADJUSTMENT

O R D E R

It appearing that the petition for review was served on February 4, 1999, and the administrative record was due to be filed with this court on March 22, 1999 (See D.C. App. R. 17), and has not yet been filed with this court, it is

ORDERED that respondent shall, within 20 days from the date of this order, file the administrative record, accompanied by a motion for leave to late file the record out of time. The motion should set forth good cause for the failure either to timely file the record or to request an extension of time within which to do so. (sw_)

RECEIVED
D.C. OFFICE OF ZONING
2001 JAN 26 AM 10:15

2/12/01

FOR THE COURT

GARLAND PINKSTON, JR.
CLERK OF THE COURT

copies to:

NORMAN M. GLASGOW

RICHARD B. NETTLER

District of Columbia Court of Appeals
DOCKETING STATEMENT

RECEIVED
D.C. COURT OF APPEALS
2001 JAN 16 PM 3:54

Appeal No. _____

1) Full caption: Neighbors Against Foxhall Gridlock and Foxhall Crescents South Gate Homeowners Association, Inc., Petitioners
District of Columbia Board of Zoning Adjustment, Respondent
Neighbors Against Foxhall Gridlock and Foxhall Crescents

2) Party filing appeal or petition: South Gate Homeowners Association, Inc.

3) Superior Court or Agency Docket No.: Board of Zoning Application No. 16559

4) Superior Court Judge: N/A

5) Timeliness of Appeal or Petition for Review:

a) Date of entry of judgment or order appealed from: December 19, 2000
b) Filing date of any post-judgment motion: N/A
c) Date of entry of order deciding post-judgment motion: N/A
d) Date notice of appeal or petition filed: January 17, 2001
e) Statute or Rule fixing time limit for filing appeal or petition: DC Ct. Appeals Rule 15(a)

6) Appeal from Superior Court: N/A

a) Is the order appealed from a final order (i.e., does it dispose of the action as to **all** claims by **all** parties)?
_____yes _____no

b) if no:

i) Did Superior Court direct the entry of judgment in accordance with Super. Ct. Civ. R. 54 (b)?
_____yes _____no
If yes, give the date_____

or ii) Is the order properly appealable as the grant or denial of an injunction under D.C. Code §11-721 (a) (2) (a)? _____yes _____no

or iii) Has the order been certified for appeal under D.C. Code §11-721 (d)? _____

c) If none of the above applies, what is the basis for jurisdiction?_____

7) Has any other notice of appeal or petition for review been filed in this case? _____yes X no
If yes, give date and D.C.C.A. case number: N/A

8) Has this appeal or petition previously been before the Court?
_____yes X no If yes, give the D.C.C.A. Case number N/A

9) Are there any appeals or petitions involving the same underlying order, or to counsel's knowledge, involving substantially the same issues, currently pending before this Court? _____yes X no
If yes, give D.C.C.A. case number and issue(s): N/A

10) Does this case turn on the validity or correct interpretation or application of a particular statute or case?
X yes _____no If yes, give popular name and citation of statute and/or case.
D.C. Code §5-401 et seq., Zoning Act of 1938

11) State concisely the principal issue(s) in this appeal or petition: The Board of Zoning Adjustment erred in its interpretation and application of the Zoning Act when it approved BZA Application No. 16559 and granted a special exception to establish a private school in a certain R-1-A District in the District of Columbia.

12) Does this appeal or petition present any new question of law? _____yes X no

If yes, what is that question: _____

13) Nature of relief sought below: (does not apply to criminal cases)

- ☐ damages — amount sought $_____ amount received $_____
- ☐ injunctive relief: ☐ temporary ☐ preliminary ☐ permanent
  - ☐ granted ☐ denied
- ☐ declaratory relief: ☐ granted ☐ denied
- ☐ attorney fees: amount sought $_____ amount received $_____
- ☒ other specify: Reversal and vacation of BZA Decision and Order in Application No. 16559, dated December 19, 2000.

14) Nature of Disposition Below:

- ☐ bench trial
- ☐ jury verdict
- ☐ summary judgment
- ☐ grant/denial of injunction
- ☐ default judgment
- ☒ agency order
- ☐ dismissal
  - ☐ forum non conveniens
  - ☐ lack of jurisdiction
  - ☐ failure to state a claim
  - ☐ failure to prosecute
- ☐ other (specify) _____

15) Do you intend to order any portion of the transcript for the appeal or petition? _____yes _____no

a) If yes, have all arrangements been made for its preparation? _____yes _____no

b) If yes, date ordered _____

c) If no, why not BZA is required to certify record under DC Ct. App. Rule 17

d) Estimated date of completion _____

e) Estimated number of pages: _____

f) Name of court reporter(s): _____

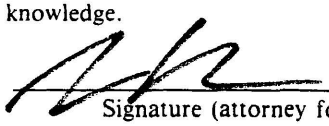
16) Attach copy of Order or Judgment from which appeal or petition taken.

17) Name, addresses and telephone numbers of trial or agency counsel for all parties: See attached list

18) Should a settlement conference be scheduled in this appeal or petition? _____yes X no

---

I certify that the above information is accurate to the best of my knowledge.



Signature (attorney for appellant or *pro se* party)

(Type or Print)

NAME Eric Von Salzen

ADDRESS Hogan & Hartson, L.L.P., 555 13th St. N.W. Washington, DC 20004

TELEPHONE NUMBER (202) 637-5718

Certificate of Service

I certify that a copy of the foregoing was mailed, postage prepaid, this 17th date of January, ~~19~~ 2001, to: See attached service list

Name _____ Name _____

Address _____ Address _____

(attach an additional sheet if necessary)

Signature 

Type or print name Marta I. Tanenhaus

Answer to Question 17 and Certificate of Service List

Neighbors Against Foxhall Gridlock and Foxhall Crescents South Gate Homeowners Association, Inc. v. District of Columbia Board of Zoning Adjustment

Re: Board of Zoning Application No. 16559

Attachment to Docketing Statement

17) Phil T. Feola, Esq.
Paul A. Tummonds
Shaw Pittman
2300 N Street, N.W.
Washington, D.C. 20037-1128
(202) 663-8000

Richard Aguglia, Esq.
Hunton & Williams
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006
(202) 955-1634

Alan R. Swendiman, Esq.
Jackson & Campbell
1120 20th Street, N.W., South Tower
Washington, D.C. 20006-3437
(202) 457-1646

Jeffrey W. Bolotin, Esq.
4604 Foxhall Crescents, N.W.
Washington, D.C. 20007
(301) 652-4288

Andrew Altman, Director
D.C. Office of Planning
801 North Capitol Street, N.E.
Suite 4000
Washington, D.C. 20002
(202) 442-7600

Kenneth Laden, Administrator
Office of Intermodal Planning
Department of Public Works
2000 14th Street, N.W.
Washington, D.C. 20009
(202) 671-0495

David Murphy
Office of Lands, Resources and Planning
National Capital Region, National Park Service
1100 Ohio Drive, S.W.
Washington, D.C. 20242
(202) 619-7405

Ann F. Heuer, Chair
ANC 3D
P. O. Box 40846
Palisades Station
Washington, D.C. 20016
(202) 965-4705

Michael D. Johnson, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E., Suite 2000
Washington, D.C. 20002
(202) 442-4460

Honorable Kathleen Patterson
Councilmember, Ward 3
Council of the District of Columbia
441 Fourth Street, N.W., Suite 709
Washington, D.C. 20001
(202) 724-8062

Robert R. Rigsby, Esq.
Office of the Corporation Counsel
441 4th Street, N.W.
Suite 1060N
Washington, D.C. 20001
(202) 727-3400

Ms. Sheila Cross-Reid, Chairperson
Board of Zoning Adjustment
441 4th Street, N.W.
Room 210
Washington, D.C. 20001
(202) 727-6311