GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16559-A 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: July 3, 2001
DECISION DATES: July 3, 2001

DISPOSITION: The Board granted the above referenced Application to establish a private school under section 206 with an initial student enrollment of 260 students and 74 faculty and staff by a vote of 4-1-0 (John G. Parsons, Sheila Cross Reid, Robert N. Sockwell, and Rodney L. Moulden, to grant; Anne M. Renshaw, to deny).

FINAL DATE OF ORDER: December 19, 2000.

MODIFICATION ORDER

This Decision and Order arises from a request from the law firm of ShawPittman, on behalf of the Applicant, for a Modification of the plans approved under Board of Zoning Adjustment (BZA) Order No. 16559.

PROCEDURAL MATTERS

By BZA Order No. 16559, which became final on December 19, 2000, the Board granted approval for the establishment of a private school for a maximum of 320 students, with an initial enrollment of 260 students, and 74 faculty and staff. The approval was subject to 42 conditions.

The parties in opposition to the approval of the case petitioned the District of Columbia Court of Appeals to review the BZA decision. The case is still pending in the court.

In a letter dated May 23, 2001, the Applicant requested two minor modifications to the approved BZA Order No. 16559, pursuant to 11 DCMR section 3129. Specifically, the requested modifications sought the following:

1. To allow nine school staff to use the existing building on the property during construction of the project for regular daily school business and development use without the imposition of the conditions of BZA Order No. 16559; and

2. Permission to hold its monthly board meetings on the subject property.

Board of Zoning Adjustment
District of Columbia
CASE NO.16559
EXHIBIT NO.486

The letter indicated that the modifications relate to interim use of the property and will not change the design, appearance or site plan of the approved project, nor would the modifications impact any of the conditions of approval.

The Applicant stated in the letter that no student activity, classes, or the like would occur on the property as a result of these modifications. All employees will have parking spaces on the property. The uses requested will not generate any noticeable traffic and except for the internal modification to the existing mansion, no construction will be needed to accommodate the modifications.

The Applicant certified that copies of the modification request were served on all the parties, including Advisory Neighborhood Commission 3D.

FINDINGS OF FACT

At its public meeting on July 3, 2001, the Board reviewed and discussed the record of the case and the modification request. The Board finds as follows:

1. The property that is the subject of this application consists of approximately 10.5 acres located in an R-1-A District at premises 2301 Foxhall Road, N.W. (Square 1341, Lots 856, 861, 878, and 879). It is in the Ward 3 neighborhood of Wesley Heights. It is adjacent to stable, well-maintained, residential neighborhoods to the south, north, northwest, and northeast. While the surrounding area is predominantly residential in character, a number of private schools and embassies are located within the area.

2. The property is currently improved with the Cafritz House, a three-story, 14000 square foot residence built in 1937 in the Art Deco style. The Applicant's design and construction plans incorporate this existing building into the school's campus scheme.

3 Advisory Neighborhood Commission (ANC) 3D, which testified at the initial public hearing in Case No. 16559 and other parties were notified of the modification request.

4. By a letter dated May 25, 2001, the law firm of Hunton and Williams representing Neighbors Against Foxhall Gridlock (NAFG), a party to the case and the party seeking appellate review in the court of appeals indicated that NAFG has no objection to the proposed interim use of the property.

5. The Board noted that the interim use of the facility will result only in the modification of the interior of the existing building and that the use would have no impact on the approved project or the community around it.

CONCLUSIONS OF LAW AND OPINION

1. The Board concludes that the interim use of the property does not change the facts relied upon by the Board in approving the application.

2. The Board also concludes that the interim use proposed by the modification for only nine school staff and monthly board meetings of approximately 20 persons, held in the evenings after the evening rush hours will not have any noticeable traffic impact on the area.

3. The board concurred with the Applicant that the modifications do not ultimately change the approved project or any of its conditions. Rather, the modifications will enable the school to use its property while pursuant to BZA Order No. 16559 conditions and the completion of the Court of Appeal's case.

4. The R-1-A District permits matter-of-right development of single-family residential uses, churches or other places of worship, embassies, low density community-based residential facilities, and detached dwellings with a minimum lot area of 7,500 square feet, a minimum lot width of 75 feet, a maximum lot occupancy of forty percent, and a maximum height of three stories/forty feet. Uses permitted, with BZA approval, include child development centers, private schools, community centers, colleges and universities. The Board concludes that the modifications will not negatively impact the uses in this area.

Based on the above findings of fact and conclusions, the Board concludes that granting the modification is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map. The Board also finds that the modification will not adversely affect the neighboring or adjacent properties in the vicinity or change the material facts the Board relied upon in approving the application with conditions. Accordingly, the Board **ORDERS** that the request to modify the plans approved by BZA Order No. 16559 to allow nine (9) school staff to use the existing building on the property on an interim basis during construction of the project for regular school business and development use and to allow the school to hold its monthly board meetings with approximately 20 persons on the subject property be **GRANTED.** The Board also indicated that this order applies only to the use of the property as depicted on the modification plans, (Exhibit No. 484-A), and does not constitute approval of the construction plans or construction road shown on the plans.

VOTE: 3-0-2 (Anne M. Renshaw to approve, John G. Parsons and Sheila Cross Reid to approve by proxy; Susan M. Hinton and Geoffrey H. Griffis, not voting, not having read the record).

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

Each concurring member has approved the issuance of this Order.

Attested By: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: AUG - 6 2001

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

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

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

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

VCE/16559-A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16559-A

As the Director of the Office of Zoning, I hereby certify and attest that on AUG - 6 2001, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below.

Eleanor Roberts Lewis, Chairperson
Advisory Neighborhood Commission 3D
Ernest Auditorium, Sibley Hosp.
P.O. Box 40846
Washington, D.C. 20008

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th floor
Washington, D.C. 20001

Ann F.Heuer, Commissioner
Single Member District 3D006
4705 Foxhall Crescent, N.W.
Washington, D.C. 20007

Ellen McCarthy, Deputy Director
Development Review Division
Office of Planning (4thfloor)
801 North Capitol Street, N.E.
Washington, D.C. 20002

Neighbors Against Foxhall Gridlock
C/o Richard Aguglia, Esq.
Hunton & Williams
1900 K Street, N.W. Suite 1200
Washington, D.C. 20006

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

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

Michael D. Johnson, Zoning Administrator
Department of Consumer & Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, D. C. 20002

Kathleen Patterson, Councilmember
Ward Three
441 4th Street, N.W., Room 709
Washington, D.C. 20001

ATTESTED BY: Jerrily R. Kress

Jerrily R. Kress, FAIA
Director, Office of Zoning

Att/VCE