Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-D
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Washington, D.C. 20016

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November 8, 2005

Mr. Geoffrey Griffis
Chair
Board of Zoning Adjustment
441 4th Street, NW
Suite 210-S
Washington, DC 20001

RE: Application No.17383, The Lab School of Washington

Dear Chairman Griffis:

Advisory Neighborhood Commission 3D met with a board member of The Lab School and their attorney at the commission's regularly scheduled meetings on September 7, October 5 and November 2, 2005 and a quorum (5) was present at all times. Notices of these meetings were posted in the neighborhood and in the Northwest Current for two weeks prior to each meeting. The commission's agenda was also posted on the Palisades Listserv prior to the meeting.

The Lab School presented the commission with proposals to permit an increase in faculty and staff from 94 to 182 and an increase in student enrollment from 310 to 330; to permit use of 4749 Whitehaven Parkway for administrative offices; and, for accessory parking spaces in public space for an existing private school.

ANC 3D considered each of the four proposals separately. The commission also reviewed previous BZA Orders that are still in effect, and their observance and implementation by the school. Lastly the commission developed several conditions meant to prevent further negative impacts to the neighborhood surrounding The Lab School of Washington.

INTRODUCTION

The Lab School of Washington is widely respected as a premier educational facility for students with learning disabilities. It is understood that because of the specialized teaching methods used at the school, the teacher/student ratio at The Lab School is much lower than would be found in traditional schools. The current ratio of Lab School paid faculty/staff to students is about two to one; but, the 182 faculty/staff number does not

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include fourteen volunteer student teachers and eight volunteer tutor trainees who are at the school each day as a requirement of certification.

At the September 7 meeting of ANC 3D, the commission was informed that the school had recently purchased a shuttle bus to pick up and drop off teachers and students at the Metro. This is a necessary improvement and its continued implementation will help lessen current traffic impacts on the community. The commission was also informed that the school has begun to enforce a policy permitting only students with a proven hardship to drive to school. Unapproved students, who choose to drive to school, will be disciplined through a set of newly-created enforcement mechanisms. The commission urges the school to formalize this policy in its Student Handbook.

PREVIOUS ZONING APPROVALS and CONDITIONS

The Lab School of Washington moved to its present location at 4759 Reservoir Road, NW in 1983. The property is located at the intersection of Reservoir Road and MacArthur Boulevard and a portion of the rear property abuts Whitehaven Parkway. BZA Application 14006 granted July 27, 1983, notes a child development center and private school would be established at the site. There would be no new construction on site; and, the school would propose a maximum future enrollment of 250 students and a maximum of fifty teachers and staff. It also notes the subject property has access from both Whitehaven Parkway and Reservoir Road. The proposed traffic pattern contemplates a one-way route through the site wherein vehicles would enter from Reservoir Road and exit onto Whitehaven. All picking up and dropping off of children would be made at the southern end of the circular drive as it fronts the entrance of the classroom building.

As noted in the Preliminary Statement of Applicant, in 1992 BZA Order 15642 granted the school permission to convert a newly purchased single family home on Whitehaven Parkway into a conference center, construct a small addition and a footbridge from the main school across to the back of the new property. ANC 3D reviewed the conditions of that order at its October 5 meeting and noted that it was clear the Board of Zoning Adjustment intended to keep vehicular and pedestrian traffic and their impacts away from Whitehaven Parkway. The BZA went so far as to direct the school to establish pedestrian walkways from the front of the main campus down to MacArthur Boulevard. Order 15642 also directed the school to "assign a representative of the school as a community liaison person for working with the ANC and area residents to help to ensure compliance with the proposed conditions set forth in Exhibit No. 27B of the record with regard to parking concerns, and to afford the neighborhood a proper forum for raising and addressing any problems which may arise relative to the operation of the subject facility."

At the time BZA Order 15642 was issued, The Lab School was within the boundary of another ANC but it has become apparent to ANC 3D from the school's immediate neighbors and our relationship with the school since 2000 (when boundaries were realigned) that a liaison was never appointed.

In 1997, Application 16273 brought the The Lab School back to the BZA for an increase in its student cap from a maximum of 250 to 310 students, but no change to faculty/staff was requested... The school was also proposing to construct two new buildings on the campus -- a gymnasium and an additional classroom building. The construction necessitated a reconfiguration of the existing on-site parking lot. "The school's traffic consultant testified that the current access to the site from Whitehaven Parkway would be permanently closed as part of the proposed project, thereby further reducing any potential impacts on Whitehaven Parkway ... the additional number of trips to the site generated by the increased enrollment will not change the current levels of service which are well within the acceptable range..."

Application 16273 also states that due to pressing educational needs, the school was over its authorized student cap. The order also notes that in the original order authorizing the establishment of The Lab School on Reservoir Road (14006), the school would continue to employee 40 full-time and 54 part-time employees.

In December 1997, the BZA issued its decision on Order No. 16273 that states "The number of students shall not exceed 310. The number of faculty and staff shall not exceed 95."

EXISTING CONDITIONS

The Lab School appears to be out of compliance with several conditions of its previous BZA Orders. It is over its student cap by 20 students and over its faculty/staff cap by 87, and that figure does not include 22 daily teaching volunteers.

Current neighborhood impacts are apparent at the corner of Whitehaven Parkway and MacArthur Boulevard. In the morning streams of employees are walking through the Our Lady of Victory Church and School parking lot from the direction of the CVS parking lot, the Safeway lot and neighborhood streets without zoned parking. Reservoir Road is solidly parked with Lab School staff. Deborah Weinberger, an immediate neighbor of the school, attended all three ANC meetings and commented that often it is impossible for homeowners along Reservoir Road to exit their driveways because school cars are parked too close to their driveways.

The Lab School has not taken necessary steps to ensure school activities are not impacting the neighborhood. Absent a community liaison there is little opportunity for the school and community to interact when problems arise. In an effort to move the school toward compliance and back to the BZA, several meetings have occurred between the school and ANC 3D over a three year period. The commission initially met with resistance as the school wanted to use public space for its parking needs without first returning to the BZA, but ANC 3D has been consistent in its direction – BZA approval first, and then approach the Public Space office for permission to create diagonal parking spaces on Whitehaven.

APPLICATION No. 17583

The Lab School of Washington was represented at three ANC meetings by Allyn Kilsheimer, a board member and Allison Prince, attorney for the school. A traffic consultant was present but did not offer a formal traffic study. No administrative staff member from the school attended any of the meetings.

The commission was troubled by language in the Preliminary Statement of Applicant such as "staff employed by the school has gradually increased over time," "a slightly larger student enrollment," and "the parking currently available on the property does not meet the minimum parking requirement of the Zoning Regulations." This last statement was especially incredible, as the school, with approximately the same number of employees, in 1997 told the BZA that there would be adequate parking for staff and visitors; but omitted a large number of specialists so it could appear to meet the parking requirement and also have its two new buildings.

Following the September 7 ANC meeting, many unanswered issues remained, and on September 25 the commission sent a letter to the school's attorney, Allison Prince. A copy of that letter was also sent to the Office of Zoning and is enclosed.

The school's traffic consultant, Terry Miller of Wells and Associates, claiming to have left the material for his November 2 ANC presentation on his desk, only presented Levels of Service (LOS) at the intersections at Reservoir and the school driveway, MacArthur and Reservoir and MacArthur and Whitehaven Parkway. His numbers indicate that morning LOS have deteriorated at all intersections since 1997. The commission believed it would receive a full traffic study including the number of cars or school buses that transport students to the school daily. The commission found Mr. Miller's presentation woefully inadequate and uninformative. A report from the traffic consultant was requested by the ANC at its September and October meetings.

The BZA application process is timely and expensive for institutions seeking change, nevertheless these are necessary investments that ensure compliance with zoning regulations and protection of neighborhoods. In that spirit, ANC 3D reviewed each of the proposals from The Lab School.

Proposed Faculty and Staff Increase

The commission voted 6-0-0 to permit an increase in faculty and staff from 95 to 150 based on the current number of on-site parking spaces available. The school indicated it currently has 107 parking spaces. Using the parking requirement of two spaces for every three employees would require 100 spaces. The additional requirement for a high school to provide one space for every 10 seats in the gymnasium would add an additional 8 spaces. The school currently has sufficient on-site parking spaces if there were a faculty/staff cap set at 150 employees.

The commission attempted to find a compromise that would meet the parking requirements laid down under Title 11 and still enable the school to meet the faculty/staff needs of its special student population and alleviate some of the severe negative impact on the neighbors, surrounding streets and commercial parking lots. The commission felt the school could reach a goal of 150 staff members by the start of the 2006/07 school year through normal attrition. A great deal of time was spent deliberating this segment of the application. Testimony provided by school neighbor Deborah Weinberger and Fr. Jordan was compelling and useful.

Proposed Student Enrollment Increase

The commission voted 6-0-0 to maintain the present student cap of 310. The commission felt this would not prove a hardship for the school as the admissions season is just gearing up for the 2006/07 school year and therefore would create no need to cut current students. Given the existing staff/student ratio, adding additional students will encourage the school to hire additional staff. As the commission is recommending a reduction in staff from 182 to 150, an increase in student enrollment was denied.

Proposed Angled Parking Spaces in Public Space

The commission voted 6-0-0 to oppose the request for use of public space. Lengthy discussions on the removal of public parking for a private school took place and consumed more time than any of the other proposals. The public space being requested for diagonal parking spaces is located on Whitehaven Parkway at the intersection with MacArthur Boulevard across from the entrance to Our Lady of Victory School, and around the corner from Engine Company 29. Whitehaven Parkway is Engine Company 29's most direct access route to Foxhall Road. The land is heavily vegetated and acts as a buffer for a Pepco substation located between the street and firehouse. The existing on-street parking is used by Lab School staff with Ward 3 parking permits and at least one teacher from Our Lady of Victory who opposed the removal.

Discussions on the use of public space for Lab School parking began over two years ago. Sometime in 2004, Allyn Kilsheimer presented the commission with a series of drawings for a possible on-site parking facility. Mr. Kilsheimer indicated that the proposed Whitehaven spaces are meant as a short-term (five year) fix until the school can build a parking facility on its own property. However, the school proposes to keep the spaces for its use even after the facility is constructed and would act as an incentive to permit future staff growth.

The Department of Transportation requires cars to back into diagonal parking spaces. The proposed spaces were reviewed by DDOT only from an engineering perspective and were found to meet the minimum requirements in terms of size and other dimensional specifications. DDOT did not, however, consider or address the issues relating to use of public space for the proposed purpose. DDOT has not met with the school on the planning aspects of the proposal nor has DDOT commented on the extraordinary activity that occurs at the corner of Whitehaven and MacArthur during morning drop off and

afternoon pickup periods where traffic from three schools mingles within a short distance of each other (Our Lady of Victory, St. Patrick's and The Lab School).

The Reverend Milton Jordan, Pastor of Our Lady of Victory, addressed the commission and shared a letter he submitted to the BZA. In his letter, Fr. Jordan outlined his concerns with regard to student safety and the ability of fire engines to round the corner onto Whitehaven with cars backing into and pulling out of diagonal parking spaces along Whitehaven Parkway. He also pointed out that parking activity relating to the diagonal spaces would likely coincide with drop-off and pick-up times at Our Lady of Victory, and St. Patrick's, thereby increasing the negative impact on student and public safety. He also questioned the wisdom of removing the buffering around the power station and said that he was not in favor of putting curious students in jeopardy. Father Jordan reported that his board had voted the previous evening 14-0 to oppose the proposed diagonal parking spaces.

The school's neighbor, Deborah Weinberger, stated she felt there would be little parking relief from the diagonal spaces given the number of employees at the school. The proposal would provide only a few additional spaces taking into account the removal of on-street parking. Lab School employees currently far exceed the posted two hour parking limit on Whitehaven Parkway and Reservoir Road where they routinely block driveways and fire hydrants. She also expressed concern about permitting the school to change the existing topography of the site.

In addition, the commissioners expressed concern about the conversion of public space for a private school use, and the environmental impact of the construction activity. The parking spaces would be designated for use by The Lab School and would remove existing on-street parking for neighborhood use. Installation of the angled parking would also require removal of vegetation and replacement with impervious surface, and thus could have an environmental impact that has not been full explored.

The Lab School's need for additional parking evoked a statement from one of the commissioners who stated that she was concerned the school has outgrown its current location and should be looking for a new site. She noted the "community is experiencing tremendous traffic impacts that have not been addressed (by the school's traffic expert). The public should not pick up the cost for a private school that cannot live within its means. The school is overcommitted at its site and causes the conditions that the community is experiencing."

Proposed Use of the New Property

The commission voted 6-0-0 to permit the use of the new property at 4749 Whitehaven Parkway for administrative offices. Support for this proposal was conditioned upon the requirement that no student activity take place on the property. Serious concern for students crossing Whitehaven Parkway was expressed and formed the basis for the condition.

It was noted that only three parking spaces exist at 4749 Whitehaven, not the eight mentioned in the application.

It should also be noted that BZA Orders 15642 and 16273 both reference the necessity for the school to keep activities away from Whitehaven Parkway. The commission was mindful of this existing condition and would recommend it be reiterated in any future BZA Orders.

Traffic Report

In September, ANC 3D requested that a traffic report be presented at the October meeting. In October, the traffic consultant reported that he had just begun his traffic study and that it would be presented at the commission's November meeting. In November, the commission was only shown Levels of Service for two intersections and the school driveway. The commission expressed disappointment about the missing traffic study, but noted that, even based on the limited information available, it was apparent that the proposed diagonal parking on Whitehaven would have a negative impact on traffic at the intersections. The consultant could not/did not answer questions about the number of buses that transport DC funded students and funded students from jurisdictions outside the District. He stated that he had left the material for the commission on his desk.

The commission raised Conditions 9 and 10 of BZA Order 15642 with the school and noted the BZA's previous concern for activity along Whitehaven Parkway. The commission pointed out that students are being dropped off regularly at the Whitehaven gym entrance rather than in front of the school because parents do not want to wait for the traffic light or experience delays caused by school traffic congestion.

DDOT reported that as of November 7, 2005, the school has not consulted them on a traffic plan. Tremendous congestion occurs at and around the school driveway in the morning and afternoon school peak hours. A traffic study is a necessary but missing at the time of the ANC meeting.

CONCLUSION

ANC 3D spent over seven hours of meeting time on The Lab School of Washington and as a result came to the conclusion that the school has not complied with its BZA Orders. It can be said that the burden of proof – that the use is not likely to become objectionable to nearby property because of noise, traffic, number of students or otherwise objectionable conditions -- cannot be met because, due to noncompliance, these objectionable conditions already exist. The school has exceeded its student and faculty/staff caps and the impacts of its noncompliance have seriously affected the community. A commission member read from the recommendations in the Report of the Private Schools Task Force and cited the provision that requires clean hands prior to coming to the BZA for a special exception. The application of The Lab School of Washington provides the BZA with an exceptional opportunity to help the school come

into compliance and to require regular contact with the Compliance Review Compliance Officer at the Office of Zoning. To review:

1. ANC 3D voted 6-0-0 to maintain a student cap of 310.

2. ANC 3D voted 6-0-0 to permit an increase in faculty and staff from 94 to 150 based on existing on-site parking availability and the school's continued use of a daily, regularly scheduled shuttle bus for faculty, staff and volunteer student teachers and tutor trainees.

3. ANC 3D voted 6-0-0 to deny the proposed angled parking spaces in public space on Whitehaven Parkway. The school was strongly encouraged to continue discussions with GW/Mt. Vernon for its short-term parking needs (until an on-site facility is built), and to explore car pooling and shared bus transportation with other institutions in the immediate area.

4. ANC 3D voted 6-0-0 to support the proposal to permit use of the new property at 4749 Whitehaven Parkway for administrative purposes. Support was conditioned on the school not allowing any student activity at the property.

5. ANC 3D voted 6-0-0 to approve a condition that the school only permit students with a proven hardship to drive to school. Students must be approved prior to driving to school and the school's disciplinary measures will be clearly outlined in the student handbook.

6. ANC 3D voted 6-0-0 to approve a condition that would establish quarterly meetings between The Lab School and the community. A community liaison should also be appointed by The Lab School as a point of contact for the community.

Therefore, Advisory Neighborhood Commission 3D asks that its considerations be given the great weight to which it is entitled under DC Law.

Sincerely,

Alma H. Gates

Alma H. Gates
Chair

cc: Allison Prince
Karen Thomas

Enclosure (1)

Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-E
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

By Post and Fax

September 25, 2005

Ms. Allison Prince
Pillsbury, Winthrop, Shaw Pittman LLP
2300 N Street, NW
Washington, DC 20037

Dear Allison Prince:

I am writing to follow up with some concerns that result from your presentation at ANC 3D's September 7, 2005 meeting and BZA Application #17383 of The Lab School of Washington. Some of these concerns involve inconsistencies that result in the Commission hearing one set of facts in your verbal presentation but finding different facts in the written application, and we feel it is in the best interest of all to seek clarification. We also have some follow up questions that result from incomplete or non-answers to questions raised at the ANC meeting.

1) **The use of public space on Whitehaven Parkway for 55 diagonal back-in parking spaces**. It was our understanding from your verbal presentation at our September meeting, and Allyn Kilsheimer's earlier presentation, that the school's use of public space was a temporary solution until a permanent parking facility could be constructed wholly on The Lab School's property. Your written BZA submission does not refer to the diagonal back-in spaces as a "temporary solution."

2)

a) Is The Lab School looking at the 55 diagonal spaces as a permanent or temporary solution to their parking needs?

b) And, if the school is proposing to use the spaces on a temporary basis, and given that Allyn Kilsheimer stated that raising funds to build the parking facility would be fairly easy once the engineering drawings are complete, within what timeframe would The Lab School restore the public space to its current use as parallel public residential permit parking?

c) Has the school discussed a financial arrangement with the District of Columbia for the use of the public space?

d) When did the school meet with DDOT to discuss their support of the proposed parking arrangement? This is different from DDOT approval of the engineering drawings.

3) **You noted that an extensive neighborhood search has taken place to find a site for a school parking facility, but none has been located.** Your application notes that The Lab School has purchased the single remaining residential property at 4749 Whitehaven Parkway which abuts two residential properties owned by St. Patrick's School. As St Patrick's has purchased a large tract of land on Foxhall Road to accommodate their expansion needs, have discussions taken place with St. Patrick's to purchase their two residential properties as the site for The Lab School's parking garage?

4) **The use of driveway space at 4749 Whitehaven Parkway**. It was our understanding from your verbal presentation, and that of Allyn Kilscheimer, that the driveway would accommodate parking for eight cars and there would be no widening of the existing driveway or adjacent parking surface. Currently there is a single car garage and corresponding 12 foot-wide driveway with a small adjacent parking pad for one car. If the garage is used to park one car, the driveway could only accommodate two additional cars which brings the number of parking spaces to: one in the garage, two in the driveway and one on the adjacent parking pad. Where would the additional four cars park without the creation of some additional parking surface?

5) **Your presentation and BZA application discuss a special exception to allow school parking in public space along Whitehaven Parkway. But, it appears this space is already being used by the school for daily school parking as a layer of blue stone/blue dust has been placed recently on the grassy public space adjacent to the Lab School gymnasium and cars are parked all over it.**

   a) Why is a special exception being requested if a permit for this use been issued by DDOT's Public Space Office?
   b) When did the Urban Forestry Office issue a permit to remove tree limbs and cover tree boxes to accommodate school parking in public space?

6) **The actual number of student teachers (interns) and tutor trainees at The Lab School for FY 2006 was not known at the time of the September ANC meeting, nor was there knowledge of how the school is meeting their parking needs.**

7) **The actual number of students who drive to school was not known at the time of the September ANC meeting nor was there knowledge of how the school is meeting their parking needs.**

Thank you for your response to these commission concerns. Once a written response is received, the commission will have a clearer understanding of what it is being asked to consider.

We also look forward to receiving the report of the school's traffic expert and an opportunity for further discussion at our October 5 meeting. At your request, The Lab School's presentation has been placed at the end of the agenda. It should also be noted I have requested that the chair not ask for a vote until the November 2 meeting to allow for a thorough discussion of all aspects of the various special exceptions the commission is being asked to consider.

Sincerely,

Ann F. Heuer
ANC 3D06

cc: Jerrily Kress
ANC 3D