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December 22, 2006

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By Hand Delivery

District of Columbia Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210
Washington, DC 20001

Re: Motion for Reconsideration of BZA Order No. 17383

Dear Members of the Board:

Enclosed please find an original and twenty copies of a Motion for Reconsideration of BZA Order No. 17383 being filed on behalf of The Lab School of Washington.

Thank you for your attention to this motion.

Best regards,

Allison C. Prince

Enclosure

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17383
EXHIBIT NO. 86

Board of Zoning Adjustment
District of Columbia
CASE NO. 17383
EXHIBIT NO. 86

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of The Lab School of Washington

BZA Application No. 17383

MOTION FOR RECONSIDERATION OF BZA ORDER NO. 17383

The Lab School of Washington (the “**Applicant**” or “**Lab School**”) hereby requests that the Board of Zoning Adjustment (“**BZA**” or “**Board**”) reconsider or clarify BZA Order No. 17383 (the “**Order**”) in accordance with 11 DCMR §3126. This Motion for Reconsideration (“**Motion**”) satisfies the requirements of 11 DCMR §3126.2 as the written order in this case was issued on December 12, 2006.

By way of background, in Order No. 17383, the Board approved the Applicant’s two-part request. First, the Board approved the request to increase the School’s earlier-approved enrollment and faculty and staff caps. Specifically the student enrollment cap was increased from 310 to 330 and the faculty and staff cap was increased from 95 to 182. Second, the Board approved the School’s proposed use a former house at 4749 Whitehaven Parkway for administrative offices for the School.

Since 1983, the Lab School has operated on its campus pursuant to special exception approval. There is no term limit on the School’s operation. In connection with the recent increase in enrollment and faculty and staff limits granted in the Order, the Applicant proposed and the Board imposed a five year term on the requested increase. The School simply wishes to clarify that prior to the end of the five year term, the School must return to the Board for approval of a permanent solution to its parking needs and that if does not, the increase granted in

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the Order will lapse and the earlier limits set forth in Order No. 16273 dated February 24, 1998 (310 students and 95 faculty and staff) will become effective once again.

The Order, as currently worded, states simply that the special exception approval is limited to a five year term (Condition 7) and that “the conditions set forth herein supersede all other conditions set forth in previous orders relating to school.”(Footnote 3 on page 13). We are concerned about two unintended and opposing interpretations of this language. First, it could be argued in the event of a lapse, the School would revert to its earlier approval --the previous order has not been vacated-- without the constraints of any limits on enrollment, faculty and staff since the conditions in that order have been superseded. Second, an equally troubling argument could be made that the School’s entire 24-year old history of approvals would terminate at the end of five years leaving the School without permission to operate at any level. For the sake of clarity we have proposed a minor change that clearly indicates that in the event that the Order lapses, the conditions set forth in BZA Order No. 16273 will become effective again (See Exhibit A).

In addition, the Order is drafted in a manner that suggests that the five year limit pertains to the School’s use of the building at 4749 Whitehaven Parkway for administrative offices. Such a limit on the use of that building was never proposed by the Applicant. Based on the Board’s discussion of the use of this building at its decisional meeting on May 16, 2006 (see page 25), it appears that the Board did not intend to impose any conditions on the use of the building.

Finally, Condition No. 6 governing the angled parking spaces incorrectly refers to an outdated exhibit. The most up-to-date parking exhibit in the record is Exhibit 56. Exhibit 9 to which the Order refers shows 50 parking spaces whereas Exhibit 56 refers to 43 spaces, the

number that is referenced in the condition. We would appreciate your correcting the order to refer to the Exhibit 56.

We appreciate the Board's consideration of this matter. We believe that it is the interest of all parties to insure that there is no ambiguity in the Order.

December 22, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Allison C. Prince', is written over a horizontal line.

Allison C. Prince
Kate I. Myers
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CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2006 a copy of the Motion for Reconsideration of Order No. 17383 was served by hand and/or by U.S. Mail on the following:

Chairperson
Advisory Neighborhood Commission 3D
P.O. Box 40846
Washington, DC 20016

Bill Crews
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation
Administration
941 North Capitol Street, NE, Suite 2000
Washington, DC 20002

Ms. Alma Gates
4911 Ashby Street, NW
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Jill Stern
General Counsel
941 North Capitol Street, NE, Suite 9400
Washington, DC 20002



Allison C. Prince

EXHIBIT A

Original Conditions blacklined to show proposed changes

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof and grants the School Special Exception Relief under § 206 **to increase the enrollment and the faculty and staff limits** SUBJECT to the following CONDITIONS³:

1. The maximum enrollment shall be 330 students.
2. The maximum number of faculty, staff, and administrative personnel, including part-time employees, shall be 182.
3. Within 30 days of the beginning of each academic year, the School shall provide to ANC 3D a report indicating current student enrollment and the number of faculty/staff.
4. The School shall fully implement and comply with the Plan A of the Traffic Management Plan (TMP) (Exhibit 66).
5. Within 45 days of each traffic monitoring survey required by the TMP, the School shall provide to DDOT and ANC 3D a report indicating its compliance with the TMP. Compliance with the TMP will be measured by the School's progress in reducing its AM traffic generation rate from 196 to 165, as described in its Traffic Study (Exhibit 25, Tab H) and its letter of May 5, 2006 (Exhibit 82) and by its balancing of its parking supply with its parking demand.
6. Forty-three (43) new angled parking spaces must be in place along Whitehaven Parkway within 9 months of the effective date of this order for the School to be in compliance with § 206.3's requirement of ample parking. These spaces must be consistent with the plans prepared by VIKA Engineers (Exhibit 956), and with the provisions of Chapter 23 of the Zoning Regulations. There will be no structures or lighting relating to the parking spaces and the area will be paved in accordance with DDOT requirements.
7. This approval **of the increase in enrollment and faculty and staff limits** is limited to a **FIVE YEAR TERM** from the effective date of this Decision and Order. **In the event that this Order lapses, the enrollment and faculty and staff limits will revert to those imposed in BZA Order No. 16273, specifically 310 students and 95 faculty and staff, unless otherwise determined by the Board.**

Further, for the reasons stated herein, the Board concludes that the Applicant has met its burden of proof and grants the special exception relief under § 206 to allow the School's use of the building located at 4749 Whitehaven Parkway for administrative purposes.

³ The conditions set forth herein supersede all other conditions set forth in previous orders relating to this School.