

BZA CASE NO. 20472-A
LIMITED SCOPE REMAND
PUBLIC HEARING
JULY 3, 2024

The River School Proposed Campus at 4220 Nebraska Avenue, NW

Overview

- Limited Scope Remand Timeline
- BZA Procedural Order Instructions
- The River School Response to BZA Procedural Order
- Conclusion

Limited Scope Remand Timeline

- December 18, 2023: DC Court of Appeals issued opinion largely affirming BZA judgment, with remand for further proceedings on shuttle bus issue
- May 15, 2024: BZA issued procedural order on limited scope remand with clear instructions for parties
- June 4, 2024: River School team provided draft statement in response to BZA procedural order to ANC3E Commissioners for their review and comment
- June 7, 20, and 27, 2024: River School team met with ANC3E Commissioners to discuss response to BZA procedural order
- June 21, 2024: Deadline for submissions from parties, OP, and DDOT
- June 25, 2024: ANC3E public meeting
- July 3, 2024: Public hearing for further proceedings on remand

Court of Appeals Opinion

“An adequate discussion may have included findings on whether the shuttle was necessary to the reduction goal and whether 100% compliance was required. Additionally, if shuttle use will be required, the Board should consider whether the School will adequately enforce that requirement.

On remand, the Board should make additional findings about the shuttle’s precise role consistent with this analysis. If 100% use of the shuttle is necessary, the Board should determine whether it would require the School to meet that level as a condition in granting its application.”

BZA Procedural Order: Instructions to Parties

“Questions on remand: On remand, the parties and agencies should address the role of the shuttle bus in achieving the Applicant’s reduction goal and whether 100-percent compliance is required to meet the goal. If shuttle use will be required, how will the Applicant enforce the requirement?”

The River School Response

Role of the Shuttle Bus

- The traffic study analyzed the AM peak hour, the PM peak hour of the school, and the PM commuter peak hour.
- Because the AM peak hour was projected to have the highest trip generation, and was of greatest concern to ANC3E and members of the community, The River School committed to a 45% vehicle trip reduction for the AM peak hour.
- Because both PM peak hours were projected to have a much lower trip generation, The River School committed to a 15% reduction during each of the PM peak hours.
- The role of the shuttle bus is to contribute to reducing vehicle trips *during the AM peak hour* to allow River to meet its 45% trip reduction commitment.

The River School Response

Use of the Shuttle Bus is Necessary to Achieve The River School's AM Peak Hour Trip Reduction Commitment

- The use of a shuttle bus was specifically requested by ANC3E and is one of several strategies identified by River that would be utilized to meet the AM peak hour vehicle trip thresholds.
- Head of School Nancy Mellon testified that the shuttle would be provided for students in grades K-6, and affirmed that such students would be required as a condition of their enrollment to utilize the shuttle, subject to limited exceptions.
 - 10.27.21 transcript, page 159, line 22. “MS MELLON: Yes. Our proposal, the way we got the trip down by 45 percent was by having shuttle buses required for all children K through sixth grade.”
 - Page 164, line 24. “MS MELLON: Well, it [the shuttle bus] is a requirement. It will be a requirement. MR. DONAHUE: It's a requirement for each student? MS. MELLON: It's for children K through sixth. MR. DONAHUE: All right, and what are the repercussions if they fail to ride the bus? MS. MELLON: Well, then it's a condition of their enrollment.”

The River School Response

100 Percent Compliance with the K-6 Shuttle Bus Requirement is Not Necessary to Meet the Trip Reduction Commitment

- Students in grades K-6 will be required, as a condition of their enrollment, to arrive at campus during the morning drop-off on the shuttle bus, subject to specific, limited, and clearly defined exceptions, as follows:
 - Students who walk or bike to school
 - Students who take public transportation
 - Students who arrive in a vehicle with a younger sibling that is permitted to arrive by car
 - Students who arrive in a vehicle with a parent who is a member of the faculty or staff
 - A limited number of students who have a documented physical disability or condition that would prevent them from utilizing the shuttle, approved each year by the Head of School.
In the event such a student arrives on campus in a vehicle during the AM peak hour, the trip would be subject to, and is in no event exempt from, the AM vehicle trip threshold.

The River School Response

How will the Applicant enforce the shuttle bus requirement?

- Students in grades K – 6 will be required, as a condition of their enrollment, to arrive to campus during daily morning drop-off on the shuttle bus, subject to the limited exceptions detailed above.
- To ensure the enforceability of the BZA order for the benefit of all interested parties, River proposes that the BZA adopt an additional condition of approval that confirms the foregoing and is wholly consistent with the record in this case, as follows:

Proposed Condition

Students enrolled in Kindergarten through Grade 6 shall be required, as a condition of their enrollment and as affirmed in the student contract, to utilize a shuttle bus provided by The River School to arrive at campus during the daily morning drop-off, subject to the following exemptions:

- a. K-6 students who arrive at the campus in a vehicle with a younger sibling who is concurrently enrolled in the School in pre-K grade levels and is authorized to be transported to campus via vehicle in accordance with The River School Transportation Management Plan (Ex. 100B).
- b. K-6 students who arrive at the campus in a vehicle with a parent or guardian who is employed at the School and are authorized to drive a vehicle to campus in accordance with The River School Transportation Management Plan (Ex. 100B).
- c. K-6 students who live within walking or biking distance of the campus and have been authorized as “walkers” by the School and comply with the requirements for walkers as set forth in The River School Transportation Management Plan (Ex. 100B). For the purposes of this exemption, “walkers” includes those students who arrive via bicycle.

Proposed Condition

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- d. K-6 students who utilize public transportation (e.g., Metrorail and Metrobus) to travel to the campus and are authorized as “walkers” by the School (to walk the remaining distance to the campus) and comply with the requirements for walkers as set forth in The River School Transportation Management Plan (Ex. 100B).
- e. K-6 students who have a documented physical disability or condition such that they would qualify for an accommodation pursuant to the Americans with Disabilities Act (ADA) or DC Human Rights Act which would prevent them from utilizing the shuttle bus, approved each school year by the Head of School. Hearing loss in and of itself shall not constitute an acceptable exemption (Ex. 100B, 165).

Failure to comply with this requirement of the student contract will result in progressive consequences up to and including dismissal from the School, as specifically enumerated in the student contract and set forth in The River School Transportation Management Plan (Ex. 100B).

River's Efforts to Respond to ANC Feedback

- Narrowed exception for students with a documented disability or condition to clarify that hearing loss alone would not be the basis for an exemption and that student would qualify for an accommodation pursuant to the Americans with Disabilities Act (ADA) or DC Human Rights Act.
- Requested that the BZA clarify Condition 4 regarding pick-up and drop-off activities to track the broader prohibition in Finding of Fact 48(d), specifically:
 - *All student pick-up and drop-off activities shall occur on campus. The Applicant shall not permit pick-ups or drop-offs of students from passenger vehicles on 42nd Street, Van Ness Street, Warren Street, or other neighborhood streets under any circumstances. The Applicant will ensure that caregivers will not park on neighborhood streets during drop-off and pick-up to wait or walk their student(s) to or from the subject property.*
- Agreed to update the Transportation Management Plan with additional protocols to address specific concerns raised by the ANC regarding tracking students riding the shuttle.
- Agreed to review shuttle bus routes with ANC3E and DDOT before they are finalized.

River's Efforts to Respond to ANC Feedback

- Responded to ANC concern about how “walkers” would be identified as actually walking to campus rather than simply getting dropped off on a nearby neighborhood street.
 - As detailed in the Operations Management Plan component of the TMP, Item 1.e requires families who walk their children to school to be given badges to identify them as “walkers.” School staff will be stationed at pedestrian entrances to campus to ensure that only “walkers” are entering campus on foot (and not families from a parked car on a neighborhood street).

Conclusion

- The role of the shuttle bus is to contribute to reducing vehicle trips during the AM peak hour to allow River to meet its 45% trip reduction commitment.
- Use of the shuttle bus is necessary; however, 100% compliance for all K-6 students is not required to meet the AM trip reduction threshold – students whose arrival to campus does not result in a vehicle trip (e.g., walkers) and a limited number of students with a documented disability, whose vehicle trips would be subject to the AM trip threshold, would be exempt from the shuttle requirement.
- River has proposed an additional condition that would ensure enforceability of the shuttle requirement.
- Failure to comply with the shuttle bus requirement will result in progressive consequences up to and including dismissal from the School, as specifically enumerated in the student contract and set forth in The River School Transportation Management Plan.