

October 31, 2013

BY HAND DELIVERY AND ELECTRONIC MAIL

Anthony J. Hood, Chairman, and Members
Zoning Commission for the District of Columbia
One Judiciary Square
441 4th Street, N.W.
Second Floor
Washington, D.C. 20001

Re: Subtitle X Chapter 1; Proposed Rules and Procedures Pertaining to Private Schools

Dear Chairman Hood and Members of the Zoning Commission:

The Sheridan School is a small independent private school that operates from a single two-story building located at 4400 36th Street, N.W. Although the School's property includes a limited amount of outdoor space that is used primarily for Recess and landscaped open space, the site is not large enough to provide any play/ball fields. The School's parking lot is small and can only accommodate 22 spaces. To assume that Sheridan's property and facilities (i) are in any way akin to those of "medical complexes" or large universities, (ii) constitute a "campus" or (iii) might offer "campus-serving retail, service and industrial uses", as the Office of Planning's proposals for Subtitle X Chapter 1 clearly do, reflects a major misunderstanding of the manner in which Sheridan and most other small private schools function. Equally importantly, OP's inappropriate and incorrect base assumption apparently lead it to recommend an over-reaching regulatory scheme whose need has not been adequately justified.

For the reasons set forth above and below in this letter, Sheridan recommends that the OP proposal for Chapter 1 of Subtitle X pertaining to private schools be disapproved or significantly revised. Our comments and recommendations with respect to specific provisions of the OP proposal follow:

1. Section 100.1(b). As stated above, OP's assumption that all private schools permitted by special exception should be governed by the same overall regulatory scheme -- which appears to have been designed to regulate large colleges and universities (see Section 100.1), "medical complexes" (see Section 100.2) and other institutions with "campus facilities" (see Section 100.3) -- is inappropriate and without merit. As a result, this assumption needs to be removed from any new proposal that OP might make in response to this letter and

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communications from other private schools. One size does not fit all with respect to the private school community in the District of Columbia and it is an inappropriate benchmark or baseline for (and does not justify) the treatment of private schools in any manner that is similar to the manner in which large universities and hospitals are regulated.

2. Section 104.1(d), if adopted, would require each private school to submit to the BZA for its approval a “description of **all activities** conducted or to be conducted on the school...” (Emphasis added.) This requirement is so over-broad and all-encompassing that it could be interpreted to require information pertaining to a myriad of “activities” that are (i) internal to a private school and which have never been the subject of prior applications to the BZA and/or (ii) which could have no conceivable adverse impact on nearby neighbors and which are, as a result, totally irrelevant to a BZA proceeding.

3. Section 104.1(e). This section, if adopted, would require a private school to submit to the BZA for its approval information and data which is also required to be submitted by large colleges and universities. Such information is totally inappropriate for, and should not be required from, private schools which (i) are tiny in comparison to large universities, most of which have large sprawling campuses, and (ii) have miniscule impacts (actual or potential) on their neighbors when compared to the impacts of large universities. Such inappropriate information includes *inter alia* the following: (i) the “FAR for entire campus”, which is unnecessary in a residential zone that does not regulate FAR and, furthermore, incorrectly assumes that each and every private school has a large “campus”; (ii) “Future needs/capital improvements (10 yrs)”, which is inappropriate and unreasonable to require from private schools, the vast majority of which do not have ten (10) year “future needs” or “capital improvements” plans and which do not have the staff or financial resources (or the need) to develop such plans; and (iii) an explanation of “**all programs** on campus including educational, certificate, adult learning, international, career training, religious, night classes, civic and non-profit uses,” (emphasis added) which is inappropriate with respect to private schools, the vast majority of which offer few if any of such programs (other than “educational”).

4. Section 104.5. This section, if adopted, would dramatically change the legal criteria and standards by which the BZA would be empowered to judge special exception applications submitted by private schools. Thus, in addition to evaluating whether such applications are in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property (which are *inter alia* the current legal standards), the BZA would be required to evaluate and approve applications “subject to the special conditions specified in this section.” (Emphasis added.) Such “special conditions” are those discussed above in this letter (as well as other conditions set forth in proposed Subtitle X Chapter 1 which are too numerous to summarize or discuss in a brief letter). As indicated above, many of the “special conditions” are inappropriate or inapplicable to private schools or constitute unreasonable requirements.

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In addition to the above, the proposals contained in proposed Subtitle X Chapter 1 fail to make any distinctions between (a) the proposed establishment of a new private school in a new neighborhood and (b) proposed changes to an existing private school which has a long and generally successful history of good relations with its neighbors or between (c) the proposed construction of major new buildings that fundamentally alter the size and scale of a private school, including its parking needs and traffic patterns, and (d) modest proposed increases in the numbers of teachers or students or minor additions to existing buildings. As stated above, one size does not fit all and it is inappropriate and unreasonable to treat all changes proposed by private schools as if they were the equivalent of the establishment of a new campus by a large college or university or the construction of a large new eight-story classroom building or a 250-bed dormitory by a large college or university.

By contrast to the proposed new regulatory scheme, the current practice and procedure at the BZA and the existing Zoning Regulations applicable to private schools -- as applied by the BZA and well-understood by neighbors, ANCs and OP over the period of decades -- result in an evaluation and analysis that is commensurate with (i.e., proportional to) the scope and extent of the changes proposed by a private school applicant, whether they are modest or major and whether they are to the number of faculty or students, the construction of new buildings or the development of modest additions to existing buildings or the addition of new educational programs or facilities or the modest expansion of existing programs or facilities. Until OP can demonstrate convincingly, by a preponderance of the evidence, that the existing rules and regulations applicable to private schools are no longer working and need to undergo a major overhaul, the existing rules and regulations should not be thrown overboard, particularly under the guise of simplifying and updating the Zoning Regulations.

Thank you for your consideration of these views and our recommendations.

Sincerely,

A handwritten signature in cursive script that reads "Randy Plummer".

Randy Plummer
Head of School

cc: Ms. Donna Hanousek, Office of Zoning
Ms. Jennifer Steingasser, Office of Planning
Mr. Joel Lawson, Office of Planning
John P. Brown, Jr., Esquire