

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
CASE NO. 08-06-7 (Comprehensive Zoning Regulations Rewrite: Campus
Institutional)

Thursday, December 11, 2008

Testimony of Alma Hardy Gates, ANC 3D05

It is widely acknowledged that Section 206 of the current Zoning Code does not provide residential neighborhoods with the tools or protections when zoning relief is sought by private schools. Neighborhoods are asked to balance school needs against their quality of life while private schools hire expert witnesses to come to the table and, for a price, present their client in the most favorable light.

The proposed changes under the Office of Planning's November 19 Memorandum, Section 5. Special Exception Review, Recommendation #5. Create special exception criteria for institutional uses that address the full range of possible impacts associated with these uses are much broader than the current, "not likely to become objectionable..." and, the proposed *core requirements* establish a new and more comprehensive baseline for private school special exception applications. For the first time, a complete and useful body of information for gauging potential impacts would be furnished and private schools would be asked to address sustainability issues.

The Zoning Commission should require a mission statement to provide the framework within which the private school will operate. For example, while The Lab School of Washington (LSW) and Georgetown Day School (GDS) are both private schools, LSW would have a very different mission statement than that of Georgetown Day School (GDS). The impacts of LSW may far exceed those of GDS by virtue of the mission of the school and level of individual instruction provided to students because LSW serves a learning disabled population, the teacher/student ratio is extremely low and its staff is composed of special ed teachers as well as clinicians who provide psychological counseling, speech and language therapy and occupational therapy. In addition there are numerous "artists" who teach curriculum through the arts. Few of these same educational elements would be found at GDS where a more traditional academic program is followed and the student/teacher ratio is very different.

One of the issues raised during discussion in the work group was "caps vs. counts." Caps on both numbers of students and faculty/staff have been a critical component of special exceptions for private schools. The intent of any language must be carefully considered to ensure each individual is counted as a whole body rather than allowing Full Time Equivalents (FTE) among faculty/staff. (Exhibit 1). "Caps" set a limit on the numbers of non-residents moving in and out of a neighborhood each school day. In the past several years two private schools in ANC 3D's area have been required to return to the BZA because of unreported increases in their numbers of faculty/staff. It is impossible for the neighborhood to know whether or not there are an additional 100 faculty/staff, as there

were in both of these cases, but it is an obvious impact from the additional traffic and cars parked on residential streets.

The addition of a conservation element for special exception applications is extremely timely. As the Sustainability Work Group continues to meet and develop new zoning regulations aimed at improving and preserving the environment, it is essential to include environmental considerations in the institutional planning process. When Sidwell Friends' new Middle School opened it was the only building in the District of Columbia, and the only education facility anywhere, to be awarded the highest designation under the Green Building Council's Leadership in Energy and Environmental Design program. In short, Sidwell Friends School has set a new standard for environmentally responsible school buildings in the District of Columbia.¹ Another example that would be included in a special exception application form under the proposed Conservation, environmental impacts section, is found in ANC 3D's area where wetlands were captured through piping for St. Patrick's Elementary School on Whitehaven Parkway and then recreated on property at the front of The Lab School when the Lab School expanded.

In addition to the lessening of impacts, the desired outcome of the special exception planning process is to improve school/community relations. The quarterly meetings mandated for some private schools in zoning orders provide an opportunity for dialog between an institution and the neighborhood. In my experience, quarterly meetings have been extremely useful and positive provided the institution is willing to respect and discuss issues raised by the community. It is through this mandated communication process that a neighborhood and an institution come to know each other and move forward in a spirit of cooperation.

The proposed "special exception criteria for institutional uses that address the full range of possible impacts associated with these [private school] uses" could be strengthened further by the addition of a periodic reporting requirement and establishment of a "clean hands" threshold. Both of these requirements are found in the recommendations put forth by the Ward 3 Private School Expansion Task Force that was established by Councilmember Kathy Patterson in 2003. The Councilmember noted: "...it is important for schools, as institutions, to be good neighbors, with all that entails. Where there are tensions and conflicting concerns, we need comprehensive and transparent land use policies so that all of the interests of District residents are respected." The task force offered eight recommendations that were not acted upon by the Councilmember, nevertheless they remain timely:

- 1) Establish a zoning resource center;
- 2) Private schools should adopt a code of conduct;
- 3) School facilities should be available to the community after hours;
- 4) The Office of Zoning should have adequate resources to enforce compliance with BZA Orders;
- 5) BZA Orders permitting private school to expand or relocate should be unambiguous and specific;

¹ ArchitectureDC, Fall 2007, *Friends of the Environment*, p.14.

- 6) The BZA should apply a “Clean Hands” rule to all private school applicants seeking special exceptions;
- 7) BZA Orders granting special exceptions to private schools should require annual reports by the school on total student enrollment and number of faculty; and,
- 8) Private schools should give 90 days notice in advance of filing with the BZA for a special exception.

In conclusion, the proposed changes found under “Special Exception Review” are a vast and necessary improvement over current § 206 regulations that require little of the institution and provide few protections for the community. Inclusion of several of the recommendations put forth by the Patterson Task Force in the new regulations would provide additional and needed guidance on compliance measures. Too often, the burden of proof falls to the community rather than the institution that would be charged with reporting whether or not it is abiding by its BZA Order.

Recommendation #2, Matter of Right Threshold Comments

It would be useful for the Zoning Commission to recognize the existence of “matter of right” private schools that can occupy commercial space in any residential zone district. This is the case with the River School on MacArthur Boulevard at V Street, NW. The school’s impacts are noticeable, but the neighborhood has no means by which to mitigate them. A similar situation existed for several years on Connecticut Avenue where a special education school was established in the commercial corridor near the intersection with Nebraska Avenue. School buses clogged the parking lanes of Connecticut Avenue and created real friction between the owners of the school, commercial interests, customers and neighborhood residents who were faced with a parking problem over which they had no control. Special exceptions and campus plans provide a level of protection for residential districts that do not exist with matter of right school/institutional occupancy.

Private Schools and Universities Located in the ANC 3D Area

Georgetown Day School – Lower School Campus
The Lab School of Washington – PreK-12
St. Patrick’s Episcopal Day School – PreK-6
St. Patrick’s Episcopal Day School – Middle School
Field School – 7-12
Our Lady of Victory – K-8
The River School – K-6
Ms. Barbara’s Montessori School - PreK
George Washington University/Mt. Vernon Campus
American University

EXHIBIT I

In St. Patrick's School Special Exception Application No.17081, David Zaidain, a member of the BZA, makes the following remarks regarding Full Time Equivalents (FTEs):

MEMBER ZAIDAIN: Why the change between the two? [full-time vs. part-time employees] Why are we not just talking about people?

To me, FTE is a budgetary term. One FTE [full-time equivalent] can mean five people or four people.

In your presentation, you [St. Patrick's] talk about the benefits of FTEs and how you offer flexible programs and all of that. Believe me, I'm not disagreeing with that. I think we're all supportive. But to me, all of that is - and I have made issues of this in other school cases - an employment policy. That's a budgetary issue.

One of the impacts that we have to assess and I'm sure that one of the previous BZA in 1990 assessed was people coming to and from that site and the impacts to the surrounding property owners. That's where we get in. I'm still struggling. Maybe we'll get more testimony and the Board can ask more questions on how an FTE gets us there. How does 0.6 FTE translate into a parking issue and into a traffic issue? I appreciate that but I hope you understand... how FTEs can be incredibly challenging. A 0.6, 0.5, 0.1, that's still one person driving to the site and leaving.

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