

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17866 of Associates for Ideal Education, Inc., pursuant to 11 DCMR § 3104.1, for a special exception to establish a private school (60 students, pre-K through 8th grade, and 10 staff) under section 206 and a special exception from the requirements of subsection 1553.2 under the Sixteenth Street Heights Overlay District, in the R-1-B District at premises 1501 Gallatin Street, N.W. (Square 2714, Lots 804 and 805).¹

HEARING DATE: June 2, 2009

DECISION DATE: June 9, 2009

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief (Exhibit 6).

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 4C, and to all owners of property within 200 feet of the property that is the subject of this application. The subject property is located within the jurisdiction of ANC 4C, which is automatically a party to this application. ANC 4C submitted a letter in support of the application. The ANC's report indicated that, at a duly noticed public meeting at which a quorum was present, the vote was 7 to support the application, 1 in opposition, with 1 abstention (Exhibit 42). The Office of Planning (OP) also submitted a report recommending approval of the application with conditions (Exhibit 29).² The

¹ The Applicant amended the application by reducing the request for an increase in students from 80 to 60. Also, on June 2, 2009, the application was amended to include special exception relief from the requirements of subsection 1553.2 under the Sixteenth Street Heights Overlay District (SSH Overlay). From the time the Applicant filed its case to when the case was heard and decided, the SSH Overlay had been expanded by the Zoning Commission in ZC No. 08-09 to include the area in which the Applicant's school is located.

² The OP report indicated that the Applicant currently operates a child development center at the site with a maximum of 40 children under a Certificate of Occupancy dated August 3, 2004. Approval of the application would add a private school use and increase the total number of students by 20, from 40 to 60, for both uses at the site.

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District Department of Transportation (DDOT) also filed a report in support of the applications with conditions (Exhibit 30).³ At the hearing the Board heard testimony from the ANC Single Member District member in support as well as six other witnesses in support of the application. One witness testified in opposition. Fifteen letters of support (Exhibits 34 and 38) and three letters of opposition (Exhibits 35, 39, and 41) also were received.

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR §§ 3104.1, 206, and subsection 1553.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3104.1 for a special exception under section 206 and subsection 1553.2, and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that the application (pursuant to Exhibits 12 and 28 – PLANS) be **GRANTED AS CONDITIONED**:

1. The total occupancy of the site for the private school and child development center use shall not exceed 60 students and 10 staff.
2. The Applicant shall share its intermodal split data with the District's Department of Transportation, Policy and Planning staff and ANC 4C every 12 months.
3. The Applicant shall comply with the requirements for screening, parking, and lighting that are located in subsection 1553.2 of the Zoning Regulations, including ensuring that direct rays of all lighting are confined to the surface of the parking area.
4. The Applicant shall implement the Transportation Management Plan (TMP) that is located in Exhibit 28 of the record.

³ In its report, DDOT recommended that the Board require the Applicant to file a Transportation Management Plan (TMP). The Applicant submitted a Transportation Management Plan (TMP) which the Board has incorporated by reference in the conditions to this order (Exhibit 28).

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VOTE: 3-0-2 (Shane L. Dettman, Marc D. Loud, and Peter G. May to approve; no other members present or voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of Board members approved issuance of this order.

ATTESTED BY:



RICHARD S. NERO, JR.

Acting Director, Office of Zoning

FINAL DATE OF ORDER: JUN 12 2009

UNDER 11 DCMR § 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL BECOME EFFECTIVE UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE,

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MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER

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As Acting Director of the Office of Zoning, I hereby certify and attest that on June 12, 2009, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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ATTESTED BY:



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