

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

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TUESDAY  
DECEMBER 16, 2003

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APPLICATION NUMBER:

17082 (Washington International School)

The Special Public Meeting convened in Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:00 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE MILLER	Board Member
DAVID ZAIDAIN	Board Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary
BEVERLY BAILEY	Office of Zoning

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P-R-O-C-E-E-D-I-N-G-S

9:29 a.m.

MR. MOY: Good morning, ladies and gentlemen.

Let me call to order the Special Public Meeting of 16 December, 2003 for the Board of Zoning Adjustments of the District of Columbia.

We have one decision making to take place this morning and then we will get to our full schedule, and I will call our Public Hearing at that point, also introduce the staff and the Board Members participating in that. But I would like to go quickly to our first decision making of the morning.

Good morning, Mr. Chairman and members of the Board. The first case for decision making us Application No., 17082 of Washington International School, pursuant to 11 DCMR § 3104.1, for a special exception to allow an existing private school to amend Condition No. 3 of BZA Order No. 16189, to allow a maximum of 92 faculty and staff under section 206, in the R-5-A District at premises 3100 Macomb Street, N.W. in Square 2084, Lot 837.

On December 9, 2003 the Board completed

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1 testimony on the case, on the application and  
2 scheduled its decision on December 16, 2003. The  
3 Board requested that the Applicant submit  
4 verification of the total number of faculty and  
5 staff at the school, and this the Applicant did do  
6 by submitting their post-hearing document. That's  
7 in your case folders as Exhibit 36.

8 And that completed my briefing, Mr.  
9 Chairman.

10 CHAIRMAN GRIFFIS: Good. Thank you very  
11 much, Mr. Moy.

12 It's clear we have heard all the facts  
13 in this case. We had asked for an additional  
14 submission, of which we have received, that has  
15 certified the total number of faculty and staff.  
16 Obviously the issue before the Board was how to  
17 determine the cap number -- or rather -- well, yes  
18 indeed. In order to continue with this.

19 I think it should be said that clearly  
20 with the special exceptions we're looking at  
21 impacts; impacts and anything that would tend to  
22 adversely impact the surrounding neighborhood.

23 When we look at the amount of faculty  
24 and staff going to a site, I think it's pretty

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1 important to realize what is being measured in terms  
2 of impact. And I think the critical piece in this  
3 application, and perhaps in others, is trip  
4 generation and parking.

5 I think it's very difficult for the  
6 Board to focus clearly on assessing the measure and  
7 the levels of impact if we look at full-time  
8 equivalence, because that doesn't directly translate  
9 into trip generation or parking requirements. What  
10 I believe is a stronger utilization of a count would  
11 be for the total persons; total persons of faculty  
12 and staff in order to establish a level of  
13 measurement. One for compliance, which of course is  
14 very important in any condition that the Board would  
15 impose, but second and also important the fact of  
16 how we would start to assess any impacts.

17 And thirdly, an important aspect of the  
18 Zoning regulations, of course, establishing the  
19 parking speaks to among some things but among  
20 several things, it speaks directly to faculty and  
21 staff. It does not do a breakdown in terms of part-  
22 time, quarter-time, full-time and over extended  
23 employees. And so for our own measurement we would  
24 clearly have to look at the parking requirements as

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1 outlined in the regulation and vary from that  
2 whether it be below or above or assessment it. But  
3 how do we set that as a benchmark of our  
4 deliberations if we don't actually have a comparable  
5 number.

6 And therefore, I would with that note,  
7 move approval of Application 17082 to the Washington  
8 International School for the special exception to  
9 allow the existing private school to amend Condition  
10 No. 3 of the BZA Order No. 16189 that would allow a  
11 maximum of 102 faculty and staff under section 206,  
12 at the premises 3100 Macomb Street, N.W. And I'd  
13 ask for a second.

14 MEMBER MILLER: Second.

15 CHAIRMAN GRIFFIS: Thank you

16 The issue -- well, there are several  
17 things. First of all, the Board had looked at  
18 delving into the entire previous Order 16189 and its  
19 conditions and trying to update and make them a  
20 little bit current. There are clearly some that  
21 have expired and could be removed. I think it was  
22 wise that the Board did not go in that direction, in  
23 that it opens up an awful lot of difficulty. Having  
24 not heard the entire record before, we would

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1 actually be -- although it may seem as a simple move  
2 to change some language, we may in fact  
3 fundamentally be changing the substance of some of  
4 the conditions. And the Board I don't think is  
5 prepared to do that without hearing the entire  
6 record.

7 In terms of a question that may arise is  
8 whether we are, perhaps, even amending the  
9 application just looking at the count. I think that  
10 there is a clarification of the application. And I  
11 think the motion that's before us makes it very  
12 definitive of what we are approving and in fact what  
13 we heard on the record in terms of the presentation  
14 of the application.

15 There was a party involved in this, the  
16 Friends of Tragarin that presented a letter of  
17 concern and were present for the hearing, and were  
18 present in fact for our discussion on whether full-  
19 time equivalent or total person count should be  
20 utilized, we did ask them for comment on that and  
21 did receive it orally during the testimony. So I  
22 don't think this is a fundamental and substantive  
23 amendment to the entire application, but rather is  
24 in fact appropriate for the special exception as we

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1 craft our own condition and amendment to Condition  
2 No. 3.

3 Others? Yes, Mr. Zaidain?

4 MEMBER ZAIDAIN: Well, I'm glad you  
5 touched on that point. That was my concern that, in  
6 essence, were de facto denying the application and  
7 substituting our own judgment. But that's not the  
8 case, or at least that's my position that it's not  
9 the case. And the dialogue through the hearing there  
10 was discussion on alternative terminology to be used  
11 for assessing parking. And I think the Applicant  
12 understood that we were trying to -- we were  
13 struggling with what classification we should use,  
14 FTE, you know, most people on site or whatever. And  
15 it was my understanding that we -- and I think the  
16 Board's understanding that it was our judgment to  
17 make on what terminology to use for assessing  
18 parking.

19 In terms of using full staff, I support  
20 that way to go. I do think there are other ways to  
21 assess impacts and a way to craft conditions that  
22 can manage the faculty and staff of a school while  
23 assessing the impacts and dealing with that;  
24 however, I think that using full count of staff is

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1 the best way to go because it's clearly consistent  
2 with our regulations.

3 So, I would support the motion, Mr.  
4 Chair.

5 CHAIRMAN GRIFFIS: Thank you.

6 Others? Ms. Miller?

7 MEMBER MILLER: I just want to make a  
8 few points.

9 First, that the full staff number does  
10 allow them to have the number of full time  
11 equivalence that they were seeking in the  
12 application. They still have that flexibility, it  
13 just puts a cap on the total number of faculty for  
14 the parking spaces.

15 Also, the Applicant did come in out of  
16 compliance with the previous order's enrollment cap,  
17 which was 70, but the community through the ANC and  
18 Friends of Tragarin had no objection because there  
19 was no adverse impact, in their opinion, on the  
20 community with the number of faculty and staff  
21 that's in existence today.

22 CHAIRMAN GRIFFIS: Yes?

23 MEMBER ZAIDAIN: Just to touch on that.

24 That was a concern of mine seeing in the submittal

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1 that they had been out of compliance since 1997 and  
2 allegedly it was from not knowing what the condition  
3 was. I found that all a little troubling. However,  
4 we cannot deny them a hearing based on that  
5 noncompliance. And we did not receive any testimony  
6 regarding any negative impacts stemming from them  
7 being out of compliance in the existing staff  
8 levels. However, I would encourage them not to do  
9 that again.

10 CHAIRMAN GRIFFIS: Good. And, you know,  
11 I'm appreciative that you brought that up because it  
12 brings up another issue that we had talked about in  
13 the hearing, and that is one of the reasons for  
14 noncompliance is they said that they unaware of  
15 actually how many people they employ. And there's  
16 two points to this.

17 First of all, I think by putting a full  
18 person count, compliance and measurement is going to  
19 be much earlier.

20 Secondly, I think that if I can amend my  
21 own motion, I would add to Condition No. 3 the 102,  
22 and there's a digression point here. The 102 was  
23 established to give a little bit of flexibility as  
24 they were looking at full-time equivalence and we

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1 asked for a full person count. And that, obviously,  
2 a full-time equivalence gives them flexibility of  
3 hiring part-times to full-time.

4 Just going on extra full body allows the  
5 flexibility --

6 MEMBER ZAIDAIN: So it would be one  
7 part-time or one full-time?

8 CHAIRMAN GRIFFIS: That's correct.

9 MEMBER ZAIDAIN: Right. Okay.

10 CHAIRMAN GRIFFIS: That's correct.

11 There wouldn't be the flexibility of splitting an  
12 FTE number into two --

13 MEMBER ZAIDAIN: It's just warm bodies?

14 CHAIRMAN GRIFFIS: This is total bodies,  
15 102. That's the digressive point.

16 The specific point that I was trying to  
17 bring up is that I think we ought to amend the  
18 Condition No. 3 as stated and to add that there be a  
19 submission to the Board annually on a certified  
20 count of faculty and staff. And we had asked the  
21 Applicant that in the hearing and they said that  
22 that would not be a difficulty. And so I think that  
23 would be an excellent point to start to establish,  
24 if that's amenable. Any objection.

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1 MEMBER MILLER: No objection. I'd  
2 second that also.

3 MEMBER ZAIDAIN: As an aside, I don't  
4 recall them specifically saying that, but I trust  
5 your recollection and I support that.

6 CHAIRMAN GRIFFIS: Well, let me fresh  
7 your memory then.

8 MEMBER ZAIDAIN: Okay.

9 CHAIRMAN GRIFFIS: Because we had talked  
10 about they are a -- if I'm also recalling correctly,  
11 they do their meetings with the Friends and the ANC,  
12 and that there are certain things that they report  
13 them.

14 MEMBER ZAIDAIN: Right.

15 CHAIRMAN GRIFFIS: And in addition, they  
16 could do one submission to the Board. And I don't  
17 believe I'm mistaken, but I asked that.

18 MEMBER ZAIDAIN: I know, and I think  
19 that's a good way to do it. I mean, we struggle  
20 quite often on how to deal with this issue of  
21 noncompliance. And I think this might be a good  
22 direction to proceed in.

23 CHAIRMAN GRIFFIS: Good. I appreciate  
24 that. And I think we have a good consensus on the

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1 Board.

2 Let me just make one comment then, and I  
3 think that although we've had strong discussion of  
4 not utilizing the FTEs in this application, and I  
5 think for a private school of this nature it makes a  
6 lot of sense not to, I think there is a valuable use  
7 for FTEs. And without going into a further  
8 discussion that's outside the scope, the utilization  
9 of FTEs, of course it's done in the campus plans of  
10 which they have a much larger population, a much  
11 more diverse part-time employees/part-time  
12 students/night classes, etcetera. And I think it is  
13 a valuable way to look at those. However, in this  
14 application it does not point to that.

15 That being said, is there anything  
16 further? Anything else? Then I think we can ask  
17 for all those in favor to signify by saying aye.

18 ALL: Aye.

19 CHAIRMAN GRIFFIS: And opposed?

20 Abstain.

21 Let's record the vote.

22 MR. MOY: The staff would record the  
23 vote as three/zero/two on motion of the Chairman to  
24 -- and seconded by Ms. Miller to approve the case

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1 application and to amend the application in two  
2 ways.

3 First, amend to record approve a count,  
4 a full persons count of 102 faculty and staff. And  
5 second, that the applicant submit to the Board on an  
6 annual basis the status of their persons count  
7 including faculty and staff.

8 The two abstaining is a Mayoral  
9 appointee and a Zoning Commission member not  
10 present, not voting. In favor of the application  
11 the Chairman, Ms. Miller and Mr. Zaidain.

12 CHAIRMAN GRIFFIS: Okay. Mr. Moy, we  
13 didn't have any abstaining, is that correct?

14 MR. MOY: That's correct. I'm sorry.

15 CHAIRMAN GRIFFIS: They's just not  
16 present?

17 MR. MOY: Not present.

18 CHAIRMAN GRIFFIS: Not voting? Okay.  
19 Very well.

20 MS. BAILEY: Mr. Chairman?

21 CHAIRMAN GRIFFIS: Yes.

22 MS. BAILEY: I'm sorry. Just so that  
23 staff can be completely clear, you added something  
24 about the Applicant having the flexibility to add

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1 one additional part or full-time employee? Am I  
2 correct?

3 CHAIRMAN GRIFFIS: No. That would be in  
4 the discussion point. But the flexibility is  
5 integral to the count, which is 102.

6 MS. BAILEY: 102. Okay.

7 CHAIRMAN GRIFFIS: Right.

8 MS. BAILEY: And then finally they  
9 report into the Board on an annual basis. Would we  
10 set a specific time when that should be done?

11 CHAIRMAN GRIFFIS: Yes. I would say it  
12 would be with the first week of January.

13 MS. BAILEY: I'm sorry, sir. I didn't  
14 hear. Please repeat that for me.

15 CHAIRMAN GRIFFIS: Within the first week  
16 of January.

17 MS. BAILEY: Thank you.

18 CHAIRMAN GRIFFIS: Anything else?

19 Very well. Mr. Moy, anything else for  
20 our Special Public Meeting?

21 MR. MOY: No, that's it for today, sir.

22 CHAIRMAN GRIFFIS: Okay. Then let's  
23 adjourn the Special Public Meeting.

24 (Whereupon, at 9:44 a.m. the Special

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Public Meeting was adjourned.)