



ADVISORY NEIGHBORHOOD COMMISSION 3E

**TENLEYTOWN
CHEVY CHASE**

**AMERICAN UNIVERSITY PARK
WAKEFIELD**

**FRIENDSHIP HEIGHTS
FORT GAINES**

c/o Lisner-Louise-Dickson-Hurt Home 5425 Western Avenue, NW Washington, DC 20015

<https://anc3e.org>

Meeting Minutes February 9, 2023, 7:30 pm

The meeting convened via Zoom at 7:34 PM. Commissioners Bender, Carney, Cohen, Denny, Gianinno, Hall and Quinn were in attendance. Commissioner Ghosh joined later.

Announcements / Open Forum– opportunity for members of the community to raise issues of concern or importance to the 3E neighborhood

Two attendees wanted to discuss GDS's traffic enforcement and violation of their enrollment limits. Commissioner Bender asked them to hold their comments until later in the meeting when that item is heard. Nonetheless one attendee stated that she believed GDS had cheated and that that was inconsistent with the honor code GDS likely requires of its students. The other attendee took issue with this contention.

Maria Barry Director of Community Relations at AU stated that they are beginning to engage with the community regarding the Meltzer Sports Center. They filed their notice of intent (NOI) on January 31, and they will attend the ANC3E March meeting to provide the community with their pre-filing presentation.

Liz Sterling, the Manager at Tenley-Friendship Library, stated that they have finished their roof project. They recently started a project to fix the lighting in the library. That project is expected to ramp up around February 23 and once that happens, the children's computers will not be available for about a week.

Presentation by 2nd District Police

Lt Murphy provided an update on crime in PSA 202. Over the last 30 days there was one sexual assault by a known suspect, two robberies and three motor vehicle thefts.

Attendees asked:

- About car thefts that occurred in Maryland and the suspects fled into DC. Murphy stated they recovered a few cars that were stolen in Maryland and found in DC.
- If there was any follow up on the shooting that occurred on 42nd Street in January between two moving vehicles. The case is still open and being investigated by detectives.

Commissioners:

- Asked if there were any updates to the shooting that took place near Jackson-Reed High School. Murphy did not have any updates to share.
- Noted that there was a decreased police presence in Tenleytown at school drop-off and dismissal. Murphy stated they had some staffing issues but will make sure to detail police to Tenleytown.
- Stated that the Mayor announced staffing at Metro hotspots and noted that the Tenley station was not on that list.

- Asked for an update at the robbery that took place at 42nd and River. Murphy stated that the complainant refused to cooperate, and the investigation was suspended.

Lt Murphy can be reached via email at mchauley.murphy@dc.gov with any additional questions or concerns.

Discussion with Georgetown Day School regarding its non-compliance with the zoning order governing its operations, and discussion of and possible vote on resolution finding GDS in violation of its legal obligations and authorizing the ANC to take administrative action regarding same

Commissioner Bender stated that the Commission is considering whether to ask for an enforcement action or seek other administrative relief against GDS for violating its zoning order. The Commission has tried to find an amicable resolution with GDS and will continue to do so. ANC3E had extensive discussions with GDS over several years regarding the move of their lower and middle school to the Tenleytown campus. The biggest issue was the number of car trips private school generate, a number that considerably exceeds the number of trips generated by typical mixed-use development. In exchange for the ANC's support of its application, GDS agreed to limits on the number of car trips to and from the campus and GDS was given a few years to meet these trip limits. The agreement between the ANC and GDS tied their enrollment to meeting the trip counts. GDS would be allowed to enroll 1075 students when they opened. If they met their trip counts for two years consecutively, they would be allowed to increase enrollment to 1125 students, and if they met their trip counts for another two years consecutively, they would then be allowed to increase their enrollment to 1200 students. GDS stated that the revenue from the enrollment increases was important to school and that was their incentive to meet their trip caps. The traffic management plan (TMP) GDS submitted to both ANC3E and DDOT also stated that students would be required to carpool to campus and there would be no pickup and drop-off (PUDO) on public streets. The BZA approved the application in 2017 and required GDS to report their enrollment and car trips to both ANC3E and DDOT.

GDS open the combined campus in the fall of 2020. They told the ANC that they were having trouble fulfilling their TMP obligations in 2020-21 because of COVID. The ANC told GDS it understood the situation and did not expect the school to comply that school year. GDS promised, however, to meet all requirements the following year. They have never met their trip counts. Moreover, despite not meeting their trips caps for a single year, much less 2 years consecutively, GDS enrolled about 1125 students in both the 2021-2022 and 2022-2023 school years.

Bender noted that other educational institutions such as American University and Georgetown University were overenrolled in 2021-22, but those schools promptly notified the community and the Zoning Administrator of their over enrollment and worked to get back in compliance for 2022-23. GDS, by contrast, kept its over enrollment in 2021-2022 secret during that school year, despite a specific obligation to notify the ANC, and then maintained that over enrollment for a second year in a row, disclosing it to the ANC only after it was a *fait accompli*.

Bender stated that GDS could have received as much as \$4 million in revenues from the extra 50 students over two years, though they probably received somewhat less given that they offer financial aid to about a quarter of their students. GDS did offer a few amenities to the Commission in exchange for

the over enrollment, but none of the amenities offered to the community would come close to deterring the school from violating the enrollment caps again. GDS recently purchased the Metro chiller plant at the corner of Wisconsin and Ellicott and Commissioner Quinn suggested GDS build deeply affordable housing on that site that could be used to house some of their faculty and staff. This would be benefit to the community and GDS could receive financing from the city to build this. GDS replied that it would be too expensive. Bender stated that he then asked what else GDS would offer and GDS replied that they would not offer anything to the community, and they will meet their enrollment cap of 1075 students for the 2023-2024 school year.

Commissioner Bender reminded those in attendance that the River School has offered the same kind traffic management plan as GDS.

Bender continued that despite assuring ANC3E and DDOT they would not allow PUDO on public streets, the Commission learned that the map of GDS's website indicated to parents that it was ok to park and drop off on Wisconsin Ave and points east of it. This (1) encourages parents who don't want to carpool to drop off on Wisconsin Ave or side streets next to it so that GDS is not able to enforce its carpool requirements, and (2) because GDS does all traffic counts on campus, renders the counts unreliable. DDOT told the Commission that GDS had not submitted the required traffic reports over the last two years.

Russell Shaw replied that he lives here and GDS is a part of the Tenleytown community. He acknowledged that their enrollment and traffic management missteps have eroded trust with ANC. He stated that GDS's over enrollment was inadvertent, and they know they did not submit the required reports. They faced an extraordinary set of circumstances during COVID, and this is their first year of school post-COVID. He promised they will be in compliance next year. Regarding traffic management, he said they spend \$1.5 million each year to enforce their TMP. They run 11 bus lines rather than the three they were required to run and have 46 faculty and staff assist with pickup and drop-off. He stated they are meeting their TMP in most areas and were given an award from DDOT for being the best in their class for traffic management. Moreover, they have heard from just five community members who had complaints about traffic. Shaw stated they will strengthen their monitoring of traffic and would welcome working with DDOT.

Commissioners:

- Asked if GDS told parents it is ok to PUDO on Wisconsin Ave and streets to the east and, given that all trip counts are done on campus, asked if GDS wanted parents to be able to avoid being part of trip counts by doing PUDO off campus.
- Asked whether anybody on the board suggested that the board or GDS administration reach out to the ANC, DDOT, and/or the Zoning Administrator during the first year of over enrollment or before the second year of over enrollment began. GDS did not answer this question.
- Asked if GDS thought they should be able to keep the revenue they gained from the over enrollment or if they should contribute it to the community.
- Stated that at end of the day you can both provide good things to the community and violate the agreement. There should be a penalty for their ill-gotten gains.
- Stated that they value the school as a part of the community but that many of their constituents are concerned about traffic that will be generated by the River School and any school that might

open at the former Swedish Ambassador's Residence. They asked why any other school would comply with their agreement if GDS faced no significant consequences for the over enrollment.

- Stated that they represent a constituency that is made up of mostly non-drivers. What GDS did was not fair to residents who do not have the option of driving in the community.
- Stated they are disappointed with how GDS has handled the situation. GDS disregarded their agreement, and they need to be held accountable for their actions.
- Reiterated that the River School has the same attorney and the same kind of TMP. GDS repeatedly stated that all PUDO will happen on campus. On November 7, 2017, GDS said in the TMP it filed with DDOT that all PUDO will happen on campus (GDS also made that representation in its Comprehensive Traffic Review). Both DDOT and the ANC relied on that promise. On the eve of the BZA hearing, an amended TMP was filed by GDS, and that provision was changed. When that provision was stricken, the trip counts were then rendered meaningless.
- Noted that GDS also has a faculty and staff traffic cap and those limits have never been reported by GDS.

Attendees:

- Asked that if the community matters, why disregard for multiple years in a row.
- Stated that GDS made an agreement with the community, and they need to be held to it.
- A GDS parent stated that they sent out an email earlier in the day reminding parents of their traffic commitments.
- Believes it is important to separate the violation of the zoning order from the parking and traffic issues and felt there is no actual measurements of the traffic. They thanked GDS for trying to implement a sophisticated TMP.
- Stated that they live across the street from GDS, and a lot of parents cut through her alley and cut through the neighborhood. They noted that there is also a problem with traffic during afterschool activities.
- Clarified that Pre-K and K students can come to campus with just one student per car. They also stated that years ago, the GDS HS had a problem with an attendance cap and not an enrollment cap. Commissioner stated that they didn't know the difference between an enrollment and attendance cap, but whatever that meant, GDS didn't timely report the violation.
- A parent stated they are committed to the TMP and reminding parents what their obligations are.
- A resident said they are concerned about the precedent this sets for other schools.
- Stated they had concerns about illegal parking and was almost hit by a cars twice.
- Stated that no one disputes the violation of the enrollment cap. GDS gained significant amount of revenue and it really is important for GDS to do something to the community to make up for that gain. They really want GDS to reconsider building affordable housing over the WMATA chiller.
- A nearby neighbor stated that they did not see any negative impacts from the school.
- Would like the Commission to tone down their rhetoric regarding the school.
- A resident on 42nd St stated that they are concerned about the impacts of traffic from GDS and The River School and is concerned that there might be no way to enforce the TMPs.
- A teacher at GDS and Janney parent said that they never see the traffic problems that some people are reporting and asked if an independent traffic assessment can be conducted.

Commissioner Bender moved, and Commissioner Quinn seconded a motion to approve the resolution finding GDS in violation of its Zoning Order and authorizing the ANC to take administrative action. The motion was approved by a vote of 7-0-1 with Commissioner Gianinno abstaining.

Presentation by Clarion Partners regarding modification of the PUD for Chevy Chase Pavilion that it expects to seek to change the Pavilion's configuration to permit a grocery store to become a tenant

Sean O'Conner, Senior Vice President with Clarion Partners, Harris Markowitz, Senior Vice President with Clarion Partners and Cynthia Giordiano, attorney with Saul Ewing LLP presented their plans for Chevy Chase Pavilion. They are negotiating with a national specialty grocery tenant to rent a portion of the main floor. The prospective tenant wants to know that the changes they need will be permitted before signing the lease. Clarion plans to remove the white cladding on the front (where H&M used to be) and creating a new entrance for the tenant. The grocer would like the door to be where the right bay currently is, and they would install a small ramp for ADA compliance. On the inside, the atrium will be preserved but they will close off some of the circulation around the atrium and make that hall space part of the store. To make the exterior and interior changes, Clarion would need to obtain a minor amendment to their PUD, and they plan to fast track the application.

Attendees:

- Asked how shoppers will access the space. They will have 100 designated parking spaces in the garage (out of 1000 total parking spaces) and there will be a direct access elevator from those parking spaces. Shoppers will receive a 90-minute parking validation.
- Urged the ANC to require Clarion to install bike racks in front.
- Hoped the grocery store will not allow the shopping carts to be removed from the store.
- Stated there were public benefits associated with the original PUD and wanted to know what changes would be made to them given the new tenant. Clarion stated they are not proposing to make any changes to them. Commissioner Bender stated that some benefits have fallen away over the years and will need to be addressed.
- Asked what their plans are for the rest of the retail space. Ideally, they would rent the J Crew space to a restaurant with some outdoor seating and rent both the Metro-level and second floor to other tenants. Commissioner Bender stated Clarion is exploring the possibility of renting part of the space to a childcare center but that would be a modification of consequence, would require a larger discussion with the community and a hearing with BZA.
- Asked for further clarification about the use of the parking spaces and if any of the parking spaces can be repurposed. There are 1000 parking spaces - 400 are reserved for the hotel, 200 are reserved for the office tower and 10 are for the condominiums.

Commissioners:

- Asked for clarification on the length of the ADA ramp and if it will be just in front of the bay with the doorway. It will.
- Asked if they want the zoning relief if the grocer does not sign a lease with them. They probably won't as these changes are specific for that tenant. and understand that this is a cart before the horse. The ANC asked that they state in their application that these changes won't take place if the tenant doesn't go through with the lease.
- Stated they hoped the jobs created by the grocer would be union jobs.

- Asked Clarion to target minority and woman owned retailers for the remaining retail space.
- Asked about the design for the three bays to the north of door and would like that space to connect the inside of the store to street.
- Asked if there will be an entrance to the store through the mall. There will be no other entrances to the grocery store from inside the mall. Pedestrians will still be able to walk inside the mall between the Military Rd and Military/Wisconsin entrances.
- Asked if the grocer would offer a discount if a customer doesn't park in the garage in lieu of a parking validation.
- Asked that given the number of buses that go by that location, they monitor the space around the grocery store for nuisance parking.
- Noted that there is an un-honored amenity for a meeting space in the PUD that has not been honored for a few years.

ANC Business

- Approval of January 2023 regular Meeting Minutes - Commissioner Bender moved, and Commissioner Ghosh seconded a motion to approve the Draft January 2023 Meeting Minutes. The motion was approved by a vote of 8-0-0.
- Approval of expenditures - Commissioner Quinn moved, and Commissioner Bender seconded a motion to approve payments of 450.00 to Sherry Cohen for administrative services. The motion was approved by a vote of 8-0-0.

The meeting was adjourned by acclamation at 10:45 PM.