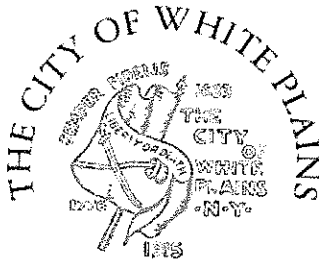




**COMMON COUNCIL
AGENDA
SPECIAL MEETING
March 15, 2017
6:00 PM**

RESOLUTIONS:

1. Communication from Commissioner of Planning in relation to the application submitted on behalf of the French American School of New York for site plan and special permit approval for the operation of a “Private Secondary School” with accessory tennis court structures on property known as 336 Ridgeway, White Plains, and determining that the same involves an environmentally sensitive site as defined in Section 2.4 of the Zoning Ordinance.
2. Resolution of the Common Council of the City of White Plains determining that the application submitted on behalf of the French American School of New York for site plan and special permit approval for the operation of a “Private Secondary School” with accessory tennis court structures on property known as 336 Ridgeway, White Plains, New York, involves an environmentally sensitive site as defined in Section 2.4 of the Zoning Ordinance.
3. Communication from Corporation Counsel in relation to the scheduling of concurrent public hearings for April 5, 2017 at 6:00 p.m. in the White Plains Performing Arts Center, in relation to an application submitted on behalf of the French American School of New York for a special permit for a “Private Secondary School” with accessory tennis court structures at 336 Ridgeway, White Plains, New York, which is an environmentally sensitive site as defined by Chapter 3-5 of the White Plains Municipal Code.
4. Resolution of the Common Council of the City of White Plains scheduling concurrent public hearings for April 5, 2017 in relation to an application submitted on behalf of the French American School of New York for a special permit for a “Private Secondary School” with accessory tennis court structures at 336 Ridgeway, White Plains, New York, which is an environmentally sensitive site as defined by Chapter 3-5 of the White Plains Municipal Code.



PLANNING DEPARTMENT
70 Church Street, White Plains, New York 10601
(914) 422-1300 Fax: (914) 422-1301
E-Mail: Planning@whiteplainsny.gov

THOMAS M. ROACH
MAYOR

CHRISTOPHER N. GOMEZ, AICP
COMMISSIONER

LINDA K. PUOPLO
DEPUTY COMMISSIONER

March 10, 2017

TO: THE HONORABLE MAYOR AND MEMBERS OF THE COMMON COUNCIL

SUBJECT: FRENCH AMERICAN SCHOOL OF NEW YORK ("FASNY")
336 RIDGEWAY (SECTION 131.14, BLOCK 9, LOT 3, "FORMER PARCEL A")
ALTERNATIVE SITE PLAN/SPECIAL PERMIT APPLICATION
DETERMINATION OF ENVIRONMENTAL SENSITIVITY PURSUANT TO
CHAPTER 3-5 OF THE MUNICIPAL CODE

By letter dated November 2, 2016, Michael D. Zarin on behalf of the French-American School of New York ("FASNY"), the "Applicant," submitted a modified reduced density Application (the "Alternative Plan Application") for Site Plan and Special Permit Approval for a "private secondary school" and "accessory tennis court" to be located on a 27.75-acre parcel at 336 Ridgeway (Section 131.14, Block 9, Lot 3 – "former Parcel A").

The Alternative Plan Application seeks approval for development of an "Upper School" with a maximum enrollment of 640 students, ancillary athletic fields, tennis courts, and 248 surface parking spaces as presented by the Applicant in the following documents:

- Building Permit Application, prepared by JMC, dated October 31, 2016;
- Full Environmental Assessment Form, Part 1, prepared by AKRF Inc., dated October 31, 2016;
- Environmental Analysis, prepared by AKRF, Inc., dated October 31, 2016;
- Amended Transportation Management Plan, prepared by AKRF, Inc., dated October 31, 2016;
- Amended Construction Management Plan, prepared by Turner Construction Company, dated October 31, 2016;

- Amended Sustainability Checklist, prepared by AKRF, Inc., dated October 31, 2016;
- Stormwater Pollution Prevention Plan, prepared by JMC, dated October 31, 2016;
- Amended Site Plans, prepared by JMC, dated October 31, 2016;
- Landscaping Plan, prepared by Stantec Architecture & Engineer LLC, dated October 31, 2016;
- Architectural Plans, prepared by Stantec Architecture & Engineer LLC, dated October 31, 2016, and;
- Construction Cost Estimate (Public Improvements), prepared by JMC, dated October 31, 2016.

As required by the Stipulation of Settlement which the Common Council authorized at its September 6, 2016 Meeting, the Council must make a determination as to whether the submitted Alternative Plan Application is classified as an “Environmentally Sensitive Site or Feature” pursuant to Chapter 2.4 of the Zoning Ordinance and *Chapter 3-5 Standards and Regulations to Protect and Preserve Environmentally Sensitive Sites and Features* of the Municipal Code.

Adopted by the Common Council on December 18, 1989, the legislative intent of Chapter 3.5 was to protect the City’s natural resources, ecological systems, open spaces, natural beauty, and the value of property through the protection of water bodies, watercourses and watersheds, wetlands and aquifer recharge areas, mature trees, habitat for flora and fauna, steep slopes, highly erodible soils, rock outcroppings, and other natural features of the land. Moreover, *Section 3.5.1. - Findings and legislative intent* specifically states that “the protection of the features stabilizes and preserves real property values, encourages passive recreation and appreciation of aesthetic and scenic beauty, and safeguards the public from flooding and erosion.”

Section 3-5-2. - Environmentally sensitive sites and features lists seven discrete environmental feature classifications: (a) Water Resources, (b) Wetlands, (c) Floodplains, (d) Aquifer Recharge Areas, (e) Erodible Soils, (f) Steep Slopes, and (g) Rock Outcroppings that when present on or within stated distances of a particular parcel of land at or in excess of the threshold quantities set forth in *Section 3-5-3. – Thresholds, criteria, measurements*, deem a particular parcel environmentally sensitive. The following analysis includes identification of each of the seven environmental features listed in *Section 3-5-2* as well as a determination as to whether presence of such features on or within stated distances of 336 Ridgeway meets or exceeds the associated threshold measure for each feature as itemized in *Section 3-5-3*.

Water Resources

Section 3-5-2

- (a) Water resources, including perennial or intermittent watercourses, ponds, lakes, reservoirs, retention basins and watersheds therefor.

336 Ridgeway itself does not contain any intermittent watercourses, ponds, lakes reservoirs, retention basins and watersheds therefor.

Section 3-5-3

- (a) Any site, property or location which is traversed by, on the bank of, or within one hundred (100) feet of any river, creek, stream, brook or other flowing watercourse.

The southern boundary of 336 Ridgeway is located within approximately 70 feet of a stream on the south side of Ridgeway on the Westchester Hills Golf Club property. The stream is clearly identified in the Westchester County Geographic Information Systems (GIS) database (bmstream.shp photogrammetric data 2004), the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 36119C0288F (effective 9/28/07), and the National Resource Inventory (NRI) database published by the U.S. Department of Agriculture's Natural Resources Conservation Services (NRCS) published in 2012.

Further, Chapter 4: Wetlands, Hydrology and Stormwater page 4.4 of the Applicant's Draft Environmental Impact Statement, dated August 6, 2012, clearly identifies the feature as a stream as follows, "Although not mapped by the State, the on-Site subsurface drainage network that currently exists in the southwestern portion of the Project Site also discharges as a surface water stream immediately off-Site onto the Westchester Hills Golf Club property. Both the on-Site stream and the unmapped piped discharge that emerges as a stream on the Westchester Hills Golf Club property convey flows from the Site and adjacent properties southwards, eventually discharging to the Mamaroneck River approximately 1.5 miles from the Project Site in the vicinity of the Hutchinson River Parkway."

336 Ridgeway meets the Water Resources threshold of Section 3.5.3(a) to be classified as an environmentally sensitive site.

Wetlands

Section 3-5-2

- (b) Wetlands, defined as any area which meets one or more of the following criteria:
1. Lands and waters of the state that meet the definition provided in subdivision 24-0107.1 of the New York State Freshwater Wetlands Act (Article 24 of the New York

Environmental Conservation Law (ECL)) but without regard to the minimum size standards set forth in the ECL; and

2. Lands and waters of the state that meet the definition of wetlands provided in a report dated January 10, 1989, and entitled Federal Agency Committee for Wetland Delineation, 1989. Federal Manual for Identifying and Delineating Jurisdictional Wetlands. U.S. Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and the U.S.D.A. Soil Conservation Service, Washington, D.C. Cooperative Technical Publication.

The 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989 Manual) states in Part II. Mandatory Technical Criteria for Wetland Identification that Wetlands possess three essential characteristics: (1) Hydrophytic Vegetation (2) Hydric Soils, and (3) Wetland Hydrology. These three technical criteria specified are mandatory and must all be met for an area to be identified as a wetland.

- (1) *Hydrophytic Vegetation is defined in the 1989 Manual as plants that have adapted to life in water or waterlogged substrates. Part 3.6 identifies five field indicators with various levels of obligatory and facultative vegetation that must be present to qualify. Specifically, contains hydrophytic vegetation when, under normal circumstances: (1) more than 50% of the composition of the dominant (most abundant) plant species from all strata are obligate wetland (OBL - plants found almost always in wetlands, >99% probability), facultative wetland (FACW - plants mostly found in wetlands, 67-99% probability), and/or facultative species (FAC - plants found equally in wetlands and non- wetlands 34-66% probability) or (2) a frequency analysis of all species within a community yields a prevalence index value of less than three based on a stratum inventory methodology consistent with Parts 2.3 and 2.4 Hydrophytic Vegetation Criterion of the 1989 Manual.*

*The site has historically been maintained as a golf course dating from the 1920's, comprising mainly of lawn with very few mature ornamental trees such as Weeping Willows (*Salix babylonica*) and Pin Oaks (*Quercus palustris*) dividing former fairway areas. While both species qualify as facultative wetland, their appearance alone does not constitute a dominant species when balanced against the prevalence of existing moss and grass species present in the lowland fairway area. Further, none of the site observation areas presented by the applicant on mowed/developed portions of the golf course meet the "Plant Community Assessment Procedure" for the appearance of hydrophytic vegetation as indicated in Part 4.11 of the 1989 Manual.*

- (2) *Hydric Soils are defined in the 1989 Manual as "...soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part...In general, hydric soils are flooded, ponded, or saturated for usually one week or more during the period when soil temperatures are above biological zero (41°F)."*

It is clear that hydric soils are present on portions of the site as indicated in the Applicant's Draft Environmental Impact Statement Chapter 4: Wetlands, Hydrology and Stormwater page 4.4, dated August 6, 2012, and the Westchester County Geographic Information Systems (GIS) database, 2006 Westchester County Soil Survey, and U.S. Department of Agriculture, Soil Conservation Service. The western portion of the site in the lower concave

portions of the former golf course fairways in particular contains poorly drained to somewhat poorly drained Ridgebury soil that meet the aforementioned hydric soil criteria.

- (3) *Wetland Hydrology is defined in Part 2.8 of the 1989 Manual as areas with “permanent or periodic inundation, or soil saturation to the surface, at least seasonally.” The Wetland Hydrology criteria are then further defined by specific soil permeability class.*

Applicant dug a total of 32 soil investigative pits on December 22, 2010 and August 15, 2011, of which 12 were located on former Parcel A. Of the 12 pits analyzed in the wetland delineation report dated May 9, 2012, only four indicated hydric soils and none met the hydrology criteria identified in the 1989 Manual for the specific soil permeability class.

Section 3-5-3

- (b) An area of one thousand (1,000) square feet, or a combination or aggregation of areas each at least one hundred (100) square feet and totaling one thousand (1,000) square feet, of pond, lake, standing water, marsh, bog, swamp, or wetland as such terms are defined pursuant to the 1989 Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

Given the 1989 Manual’s criteria for identifying wetlands under normal circumstances and the site’s present condition, the testing and data submitted by the applicant has been appropriately applied in reaching the conclusion that the site does not contain 1,000 square feet, or a combination or aggregation of areas each at least 100 square feet and totaling 1,000 square feet of pond, lake, standing water, marsh, bog, swamp, or wetland pursuant to the 1989 Federal Manual. Therefore 336 Ridgeway does not meet the wetland threshold of Section 3.5.3(b) to be classified as an environmentally sensitive site.

Floodplains

Section 3-5-2

- (c) Floodplains, as mapped by the Federal Emergency Management Agency and/or as determined by the commissioner of building, the commissioner of planning or the commissioner of public works to exhibit the characteristics of floodplains, including without limitation, horizontal and vertical proximity to watercourses and water bodies such that there is a reasonable probability of inundation at times of high water.

According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 36119C0288F, effective 9/28/07, no floodplains exist on the property. Therefore 336 Ridgeway does not meet the floodplain threshold of Section 3.5.2(c) to be classified as an environmentally sensitive site.

Aquifer Recharge Areas

Section 3-5-2

- (d) Aquifer recharge areas, as identified by the Soils Conservationist of the United States Soil Conservation Service in Westchester County by the action of the Westchester County Soil Conservation Board.

According to the Westchester County Geographic Information System (GIS), the subject site is not located within an aquifer recharge area. Therefore 336 Ridgeway does not meet the Aquifer Recharge Area threshold of Section 3.5.2(d) to be classified as an environmentally sensitive site.

Erodible Soils

Section 3-5-2

- (e) Erodible soils according to the United States Soil Conservation Service criteria.

According to the Natural Resource Conservation Service (formerly the Soil Conservation Service) current web soil survey, the site primarily contains Paxton fine sandy loam (PnB) and Ridgebury loam (RdB) soils. The National Resource Conservation Service publishes two soil erosion factors, K-factor and the Wind Erodibility Group, which indicate susceptibility of a particular soil type of erosion by water and wind respectively. The K-Factor value of Paxton fine sandy loam soils (PnB) is .28 while Ridgebury loam (RdB) exhibits a K-Factor of .24, both values within the .02-.69 K-Factor range meaning that neither soil is highly erodible to water. With respect to Wind Erodibility Group, Paxton fine sandy loam soils (PnB) exhibits a value of 3, and Ridgebury loam (RdB) a 5, both within the 1-8 range indicating neither is highly erodible to wind.

Based on the analysis above, 336 Ridgeway does not meet the Erodible Soil threshold of Section 3-5-2 (e) to be classified as an environmentally sensitive site.

Steep Slopes

Section 3-5-2

- (f) Steep slope areas.

The 27.75-acre site is relatively flat and exhibits limited areas of steep slopes as indicated by the official 2-foot contour Westchester County Geographic Information System (GIS) database, White Plains GIS, and current photogrammetric aerial topography. Only former man-made tee boxes and sand traps would qualify as steep slopes greater than 20%

Section 3-5-3

- (c) An area or a combination or aggregation of areas amounting to ten (10) percent of the site, property or location, which slopes in any direction or combination of directions by twenty (20) percent or more, as measured in accordance with the following methodology:

- (1) *Vertical measurement:* Vertical measurement shall be determined by utilizing two-foot contours as documented and determined by on-site survey or the use of photogrammetric aerial topography.
- (2) *Horizontal measurement:* Horizontal measurement shall be determined by the use of an appropriate scale, which unless directed otherwise by the City of White Plains Department of Building, shall be one (1) inch for fifty (50) feet measuring a minimum horizontal section thirty (30) feet in length.
- (3) *Application of vertical and horizontal measurements:* The vertical and horizontal measurements are utilized to determine the slope by measuring the vertical rise, on the basis of two-foot contours, in a thirty-foot horizontal length. All surveys, calculations and documents shall be performed and submitted by, and shall bear the seal and original signature of, a professional engineer or land surveyor licensed to practice in the State of New York.

Less than one percent or 9,877 of the total 120,879 square foot parcel area contains slopes greater than 20%. Therefore 336 Ridgeway does not meet the steep slope threshold of Section 3.5.3(c) to be classified as an environmentally sensitive site.

Rock Outcroppings

Section 3-5-2

- (g) Rock outcroppings at or above the surface of the ground evidencing the original natural rock outcropping geological features indigenous to White Plains.

The site contains no visible natural rock outcroppings.

Section 3-5-3

- (d) An area of five hundred (500) square feet, or a combination or aggregation of areas each at least fifty (50) square feet and totaling five hundred (500) square feet, of exposed rock.

336 Ridgeway does not contain at least 500 square feet of exposed rock and therefore does not meet the rock outcropping threshold of Section 3-5-3(d) to be classified as an environmentally sensitive site.

Based on the analysis above, it is recommended that the Common Council make the requisite finding that the subject property, 336 Ridgeway (Section 131.4, Block 9, Lot 3, a/k/a “former Parcel A”), is located within approximately 70 feet from a stream and therefore meets the water resource threshold of *Section 3-5-3 (a)* “Any site, property or location which is traversed by, on the bank of, or within one hundred (100) feet of any river, creek, stream, brook or other flowing watercourse,” to be classified as an environmentally sensitive site pursuant to *Chapter 3-5 Standards and Regulations to Protect and Preserve Environmentally Sensitive Sites and Features* of the Municipal Code.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris N. Gomez", written in a cursive style.

Christopher N. Gomez, AICP
Commissioner of Planning

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WHITE PLAINS DETERMINING THAT THE APPLICATION SUBMITTED ON BEHALF OF THE FRENCH AMERICAN SCHOOL OF NEW YORK FOR SITE PLAN AND SPECIAL PERMIT APPROVAL FOR THE OPERATION OF A "PRIVATE SECONDARY SCHOOL" WITH ACCESSORY TENNIS COURT STRUCTURES ON PROPERTY KNOWN AS 336 RIDGEWAY, WHITE PLAINS, NEW YORK INVOLVES AN ENVIRONMENTALLY SENSITIVE SITE AS DEFINED IN SECTION 2.4 OF THE ZONING ORDINANCE.

WHEREAS, on September 6, 2016, the Common Council authorized entering into a Stipulation of Settlement (the "Stipulation") that stayed the hybrid proceeding brought by the French American School of New York against Mayor Roach and the Common Council of the City of White Plains (the "City") under Index Number 2967/15 in the Supreme Court of the State of New York, County of Westchester; and

WHEREAS, in accordance with the Stipulation, Michael D. Zarin, Esq. submitted an application on behalf of the French American School of New York ("FASNY" or "Applicant") for a reduced density application (the "Alternative Plan Application") for Special Permit and Site Plan Approval for a "private secondary school" with accessory tennis court structures and ancillary athletic fields to be located on a 27.75 acre parcel at 336 Ridgeway, designated on the Official Tax Assessment Map of the City of White Plains as Section 131.14-9-3 (formally referred to as Parcel A in the original Application); and

WHEREAS, the Stipulation provides that the Common Council shall determine whether the Alternative Plan Application is on, involves or affects any "Environmentally Sensitive Site of Feature" as defined in Section 2.4 of the Zoning Ordinance of the City of White Plains; and

WHEREAS, an "Environmentally Sensitive Site," as defined in Section 2.4 of the Zoning Ordinance, is one that meets any threshold of Section 3-5 of the Municipal Code of the City of White Plains; and

WHEREAS, Section 3-5-3(a) of the Municipal Code provides that a site is environmentally sensitive if it "is traversed by, on the bank of, or within one (100) feet of any river, creek, stream, brook or other flowing watercourse"; and

WHEREAS, by communication, dated March 10, 2017, Christopher N. Gomez, AICP, Commissioner of Planning, stated that 336 Ridgeway is located approximately 70 feet from a stream on the south side of Ridgeway on the Westchester Hills Golf Club property, which stream is identified on the Westchester County Geographic Information Systems

database, the Federal Emergency Management Agency Flood Insurance Rate Map, the National Resource Inventory database published by the U.S. Department of Agriculture's Natural Resources Conservation Services and in Chapter 4 of the Applicant's Draft Environmental Impact Statement, dated August 6, 2012; NOW, THEREFORE BE IT

RESOLVED, that the Alternative Plan Application involves an "Environmentally Sensitive Site" as defined in Section 2.4 of the Zoning Ordinance as it is within 100 feet of a river, creek, stream, brook or other flowing watercourse.



DEPARTMENT OF LAW
MUNICIPAL BUILDING • 255 MAIN STREET • WHITE PLAINS, NEW YORK 10601

(914) 422-1241 • FAX (914) 422-1231

JOHN G. CALLAHAN
Corporation Counsel

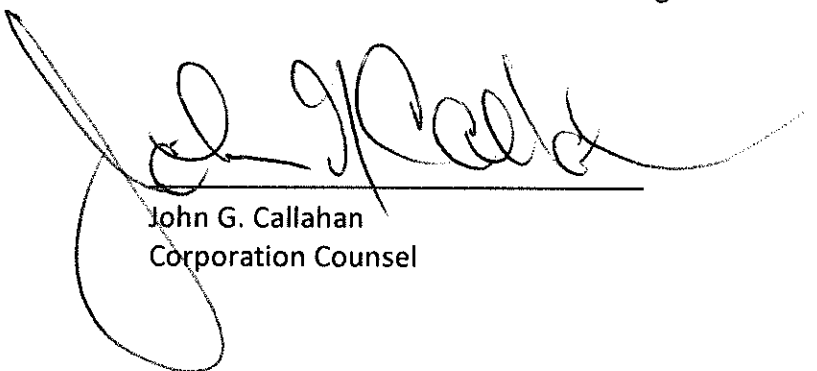
DANIEL K. SPENCER
Deputy Corporation Counsel

To the Honorable Mayor and Members of the Common Council of the City of White Plains

Pursuant to the Stipulation of Settlement authorized by the Common Council on September 6, 2016, which stayed the hybrid proceeding brought by the French American School of New York against Mayor Roach and the Common Council, the French American School of New York submitted a reduced density application (the "Alternative Plan Application") for Special Permit and Site Plan Approval for a "private secondary school" with accessory tennis court structures and ancillary athletic fields to be located on a 27.75 acre parcel at 336 Ridgeway.

The Alternative Plan Application requires the scheduling and holding of public hearings for the proposed special permit for a "private secondary school" and accessory tennis courts. In addition, a public hearing is required for an application involving or which may affect an "environmentally sensitive site." Therefore, it is recommended that the public hearings be scheduled and held concurrently.

Submitted herewith for the Common Council's consideration is a resolution scheduling the required public hearings.



John G. Callahan
Corporation Counsel

Date: March 10, 2017

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WHITE PLAINS SCHEDULING CONCURRENT PUBLIC HEARINGS FOR APRIL 5, 2017 IN RELATION TO AN APPLICATION SUBMITTED ON BEHALF OF THE FRENCH AMERICAN SCHOOL OF NEW YORK FOR A SPECIAL PERMIT FOR A "PRIVATE SECONDARY SCHOOL" WITH ACCESSORY TENNIS COURT STRUCTURES AT 336 RIDGEWAY, WHITE PLAINS, NEW YORK, WHICH IS AN ENVIRONMENTALLY SENSITIVE SITE AS DEFINED BY CHAPTER 3-5 OF THE WHITE PLAINS MUNICIPAL CODE.

RESOLVED, that concurrent public hearings in relation to the application submitted on behalf of the French American School of New York ("Applicant") for a Special Permit to operate a "private secondary school" with accessory tennis court structures at 336 Ridgeway, an environmentally sensitive site as defined by Chapter 3-5 of the White Plains Municipal Code, designated on the Official Tax Assessment Map of the City of White Plains as Section 131.14-9-3, will be held before the Common Council on April 5, 2017, at 6:00 p.m., at the White Plains Performing Arts Center, City Center, 11 City Place, White Plains, New York; and be it further

RESOLVED, that the Applicant is directed to give notice of said concurrent public hearings pursuant to and in accordance with Sections 4.4.25.4.3 and 6.4.2 of the Zoning Ordinance of the City of White Plains; and be it further

RESOLVED, that the City Clerk is hereby directed to forward a certified copy of this resolution to the Applicant.