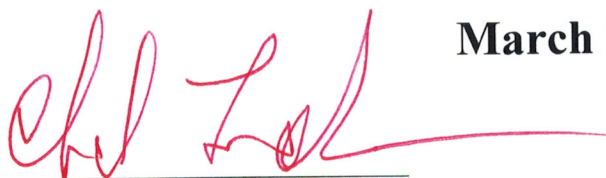


Testimony: Springland Farm Community LLC BZA Case 17703A: Application of Sidwell Friends School

Comments Regarding Condition # 6



March 21, 2016

Chuck Ludlam

Secretary Springland Farm Community

Madam Chair Person and Members of the Board of Zoning Adjustment

The BZA has asked which, if any, traffic safety measures mentioned in the DDOT report might be referenced in the BZA order Condition #6 (\$100,000 fund) – proposed by Sidwell Friends School.

We submit that the only measures it should reference are the ones where there is **an agreement among the parties**; this does **NOT** include any reference to the traffic calming diverter at Wisconsin and Upton.

In our February 15 prepared statement filed with the BZA (see Exhibits 24, 25 and 26) and our March 1 testimony, we vigorously opposed any mention in the BZA order of elements of the **DDOT 2003-2008 traffic calming plan – unless it's a mention confirming this plan. The traffic diverter is the linchpin to that plan.** It is not appropriate or a good use of its time for the BZA to relitigate a traffic calming plan that took five years propose, approve, and implement by DDOT. To do so introduces an element of controversy that easily can be avoided.

There are traffic calming measures that could be referenced in Condition #6 – there are nine of them where the parties agree. These include the four raised crosswalks: Upton and 38th, Upton and 37th Street, 37th and Tilden, and 37th and Quebec. These also include the following upgrades: 1) Stripe parallel line crosswalks on the eastern (Sidwell) and western (Rodman Street) leg of the Wisconsin Avenue/Rodman Street intersection with adjusted stop bars and meeting ADA compatibility; 2) Detectable warnings to the eastern leg of the Wisconsin Avenue/Rodman Street intersection; 3) Stripe parallel line crosswalks, add detectable warnings, and add pedestrian signal heads on the eastern and western legs of the Wisconsin Avenue/Post Office / Sidwell intersection meeting ADA compatibility; 4) A pedestrian path/sidewalk into the school property from the Wisconsin Avenue/Post Office/Sidwell intersection and the next service drive / entrance to the south; and 5) New sidewalk where it is missing along 37th Street north of the school (from Upton Street past the alley, on the west side of the street).

None of these nine projects is controversial among the parties. These measures are supported by

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EXHIBIT NO.42

all of the parties because they would **supplement** the traffic calming around the Sidwell Lower School. Removing the diverter would **subtract** from the current traffic calming measures and undermine all that we have achieved in the Sidwell traffic plan.

In any event, for the BZA to include a mention of the diverter would interrupt and end a continuing DDOT assessment of the diverter in which we are very active participants. **A compendium of our emails with DDOT regarding the diverter is printed in an appendix filed with the BZA.** Any mention of the diverter in the BZA order would effectively violate our rights to participate in this DDOT assessment. It would also violate our rights under FOIA – where we have a pending request for data regarding crashes at the Wisconsin-Upton intersection – and our rights to petition the DC government – where we have pending multiple 311 requests for safety upgrades at this intersection. It is best for the BZA to leave the technicalities of the traffic diverter to DDOT.

Relitigating the 2003-2008 DDOT Traffic Calming Plan

Two weeks prior to the March 1 hearing the Springland Farm Community LLC submitted detailed testimony and proposed findings of fact and conclusions of law that it **opposes any reference in the BZA order to the traffic safety and calming measures proposed, adopted, and implemented by DDOT (2003-2008) – unless the order confirms these measures.**

Surely you have read this testimony and understand that it states our vehement opposition to any mention of the diverter in the BZA Order, including Condition #6. You heard us echo this viewpoint in our oral statements.

One of these measures that we opposed – explicitly emphasized in our prepared testimony (written and oral) – is any mention of removing the traffic calming diverter at Wisconsin and Upton.

At the hearing on March 1 we testified that is not appropriate or wise for the **BZA to relitigate DDOT's traffic calming plan for Upton (2003-2008).** For the BZA to include a reference to specific elements of that traffic calming plan – including a reference to the diverter at Wisconsin and Upton – would have the BZA, in effect, take the lead to relitigate this DDOT 2003-2008 traffic calming plan.

Sidwell Plan and ANC Resolution Assume Continuation of Existing Traffic Calming Plan

The Sidwell plan and the ANC resolution both **assume** that the DDOT 2003-2008 traffic calming plan, including the diverter, will be continued. For them this existing, long-standing traffic calming plan is a **baseline** for the traffic plan submitted by Sidwell in the pending case.

Indeed, if this baseline were to be abandoned, it would fundamentally compromise the Sidwell traffic plan's effectiveness in **reducing** traffic in the neighborhood. To relitigate the DDOT 2003-2008 traffic calming plan would be to **increase** traffic in the neighborhood. A zero sum proposition.

Assuming the continuation of the current traffic calming plan is entirely appropriate. In our earlier testimony we pointed out that the DDOT 2003-2008 traffic calming plan was, and remains, consistent with the purpose of the District's traffic calming program: "improving the quality of life in our neighborhoods and addressing traffic-related safety issues throughout the city." Control of cut-through traffic lies at the heart of the City's traffic calming program.

The reason DDOT installed the traffic diverter on Upton is that our street – **unlike any other street between Western and M Street** – is the site for three large and adjacent institutions that generate huge amounts of traffic – Hearst Elementary School, Sidwell Friends School and the Washington Home.

Soon our neighborhood will be the site for two elementary schools, so the urgency of traffic calming will increase. There is no other site in the District where two elementary schools are located back-to-back. Surely this means that there is no site in the District more in need of traffic calming and more in need of continuity for the 2003-2008 traffic calming plan.

Boomerang Effect on Safety

We are concerned that any move to reconfigure the diverter with the intent of reducing safety issues at Upton / Wisconsin would have a **boomerang effect** of increasing the number and severity of safety incidents "downstream" of the diverter. We are especially concerned about the safety at Upton / 37th where we have a consensus for installation of a raised crosswalk to protect the students and their parents. If there's a consensus on installing raised crosswalks on Upton, surely it makes no sense to introduce vast volumes of cut through traffic on Upton. We not only have elementary school students at risk, we have local residents at risk; Springland Farm homeowners on the 3700 block of Upton have 11 children and there are 23 more on the 3600 block of Upton.

We know now only that there have been "53 crashes" at the Wisconsin and Upton "intersection." We have no specifics on whether these involved the diverter. We have a FOIA request pending with DDOT for the 53 police reports so we can see what happened. We have not seen any DDOT report analyzing these crashes. Or any report from the Van Ness Coalition analyzing them. When we have the data on the crashes, we then need to determine what actions will remediate the problem – focusing on those actions that will not inadvertently introduce cut-through traffic on Upton that creates safety issues "downstream" of the diverter. We have proffered to DDOT multiple options for the diverter that will not encourage or permit cut-through traffic on Upton.

In terms of cut-through traffic, the beauty of the traffic diverter, of course, is that it's self enforcing. We don't need to demand MPD enforcement to secure compliance. It reduces cut-through traffic whether or not there is enforcement. That's the most effective way to reduce cut-through traffic.

Leaving us with no diverter would simply invite violation of the signage that limits cut-through traffic and, worse yet, lead to additional – perhaps much more consequential – traffic accidents, i.e. head on collisions arising from illegal left turns by southbound Wisconsin traffic and pedestrian crashes on Upton Street.

Needless to say, turning the Wisconsin/Upton intersection into a four way intersection would surely give rise to many more safety incidents. With the current signage and diverter, we have a fairly simple intersection with a minimum number of phases.

Surely these are controversial issues among the parties that the BZA should not wade in to resolve.

Boomerang Traffic Impact of Undermining Current Traffic Calming Plan

Documenting the zero sum negative impact of removing the traffic diverter, we have examined the data that underlies Sidwell's Comprehensive Transportation Review (CTR). That data indicates that if the Upton traffic diverter is removed, in just one hour – AM peak from 8:00-9:00 – we'd see a 171% increase in traffic on Upton. For PM school peak from 3:15-4:15 we'd see a 67% increase. For PM peak from 5:00-6:00 we'd see a 162% increase.

And who would benefit? These negative impacts on Upton would yield a tiny decrease in traffic on Van Ness – only a 12% decrease in volume during the AM peak hour, a 12% decrease during the PM school peak hour, and a 7% decrease during the PM commuter peak hour.

Now you can see that the interest of the Van Ness Coalition has everything to do with traffic volume, not safety at Wisconsin and Upton.

The dramatic negative impact on Upton surely is not cost effective or fair in proportionate to the trivial benefit to Van Ness. Indeed it'd mean that there would be only a 40% difference in the number of cars on Upton – a residential street – as on Van Ness – a major connector street.

Still worse, Upton Street is not the only loser – all traffic on Wisconsin will be adversely affected. According to the Sidwell CTR, the left turners from Wisconsin onto Upton would cause an average delay at the Upton / Wisconsin intersection of 15% for all of the 3,454 cars proceeding north and south at AM peak. In general, all approaches would experience some increase in delay. The approaches with the most significant increase vary by time of day. For example, during the morning peak hour, the westbound and southbound approaches would see the largest increase in delay while the eastbound approach would see the largest increase in delay during the evening peak hour. So the mix of impacts of removing the island – decidedly negative for our residential street, trivially positive for an artery street, and a 15% average delay for nearly 3,500 cars in that AM peak hour – well, it's hard to imagine any possible public policy rationale for removing this traffic island. Remember these are the harms that would be inflicted during these few hours. Adverse traffic effects would continue 24 hours a day and 365 days a year. And think about the extreme irony if this amendment were affixed to a BZA order focused on remediating traffic in the neighborhood around Sidwell's project. It's obvious that removing the island is wildly inconsistent with the issues raised by the Sidwell BZA petition and it's wildly inconsistent with the City's traffic calming priority.

Again, surely these are controversial issues among the parties that BZA should not wade in to resolve.

Undermining the Pending DDOT Assessment

At any rate, it is premature to reference the traffic diverter in Condition #6 as DDOT “will be **continuing to assess** operations at this intersection. The presence of a vehicular traffic diverter on the east leg of the Upton Street/Wisconsin Avenue intersection **may** be contributing to this intersection’s safety issues.” (Emphasis supplied)

We have been deeply engaged with DDOT regarding this assessment. Printed below is the ongoing exchange of emails regarding this assessment. **For the BZA to include a reference to the traffic diverter would, in effect, take the assessment away from DDOT and deny us our rights to participate in the safety assessment.**

Until DDOT completes its assessment, we do not know if the diverter is, in fact, contributing to these safety issues and if it is, what remediation will not create worse problems somewhere else.

With regard to this assessment the Springland Farm LLC has filed a FOIA request for all of the crash data for at Wisconsin and Upton. We suspect that some of these accidents near Wisconsin and Upton are caused by the traffic at the Post Office. Until we receive the documents that we have requested, and until we can assess whether there is a nexus with the diverter, we are not able to participate in the assessment and DDOT cannot complete its assessment. **For the BZA to include a reference to the traffic diverter would, in effect, deny us our rights under FOIA.**

In addition, we have pending a 311 request that DDOT install a yellow traffic sign with reflectors on the diverter to warn drivers of its existence. We have submitted nearly a dozen other 311 requests – including a previous one regarding installing a sign on the diverter – that DDOT has rejected. If there is a safety issue regarding the diverter, it may be DDOT that is at fault. And the simple answer is to install the sign. **For the BZA to include a reference to the traffic diverter would, in effect, deny us our rights to petition DDOT through the 311 system.**

Even if we see a nexus, it is incumbent on DDOT to assess the options for remediation. We have already suggested that there exist multiple options for remediation that do not involve removing the diverter. These including installing (finally) a yellow sign with reflectors on the diverter is an easy first step. Installing “no right turn on red” signs at the diverter might help. It might help to install a green arrow – pointing south – for southbound traffic on Wisconsin. This would augment the four no left turn signs. Reconfiguring the diverter – short of removing it – is also an option. For example, DDOT could replace it with an equally effective diverter using reflective traffic delineator / channelizer posts.

We find it unfortunate that DDOT has loosely said that it “expects the Applicant to work with DDOT to remove the diverter...” By law DDOT is required to follow a “notice of intent” process and base its recommendations, including its assessment of the alternatives to removing the diverter, on the facts in the case. To act otherwise is arbitrary and capricious and a violation of due process.

DDOT Recommendation Regarding Condition #6

Were DDOT to recommend that Condition #6 reference the traffic diverter, it would be tantamount to it attempting to use the BZA to circumvent DDOT's responsibility to give due process to those who oppose removing the diverter.

We have already expressed our concern with DDOT that its use of phrases such as "DDOT expects the applicant to work with DDOT to remove the diverter" and "in conjunction with this removal" indicates that DDOT "may have prejudged the outcome of both steps of this review and that the notice of intent public comments may be meaningless. Similarly [DDOT's] reference to 'dispersing school traffic across more streets reducing the load on others' seems to indicate that you are, in fact, intending to relitigate DDOT's 2003-2008 traffic calming plan rather than assess the safety of the diverter." (See March 4 email in appendix).

We have repeatedly inquired with DDOT regarding the due process it intends to follow in this case.

1. Once we get the traffic, crash and 311 data – requested in our FOIA applications – and have had a chance to analyze it, we have asked whether we can meet with DDOT to discuss it.
2. We have also asked whether we can discuss the options that do not invite or encourage cut-through traffic and do not create a boomerang of safety issues "downstream" of the diverter.
3. We have asked whether the next step is a notice of intent and public participation.
4. We have asked whether the notice of intent will present DDOT's report with an analysis of the traffic data, the 311 requests, and the options that won't introduce cut-through traffic or create a boomerang problem.
5. We have asked whether, after public comments are presented, DDOT will publish its response to the public comments.

DDOT has given us no indication as yet about the process.

We believe that the process implied by these questions is the due process that is required by law under the Administrative Procedure Amendment Act of 2000 (DC LAW 13-249; 48 DCR 3491 April 20, 2001). Any process that falls short of these steps will violate our due process rights any decision that results will be arbitrary and capricious. Certainly for DDOT to attempt to use the BZA process to avoid due process at DDOT would violate our due process rights and any decision that results would be arbitrary and capricious. We urge the BZA not to become a party to due process violations by DDOT.

Conclusion

For these reasons, we recommend that the BZA adopt Condition #6 and reference only those measures that are **not part of the DDOT 2003-2008 traffic calming plan**. These include the four raised crosswalks: Upton and 38th, Upton and 37th Street, 37th and Tilden, and 37th and Quebec. These also include the following upgrades: 1) Stripe parallel line crosswalks on the eastern (Sidwell) and western (Rodman Street) leg of the Wisconsin Avenue/Rodman Street intersection with adjusted stop bars and meeting ADA compatibility; 2) Detectable warnings to the eastern leg of the Wisconsin Avenue/Rodman Street intersection; 3) Stripe parallel line

crosswalks, add detectable warnings, and add pedestrian signal heads on the eastern and western legs of the Wisconsin Avenue/Post Office / Sidwell intersection meeting ADA compatibility; 4) A pedestrian path/sidewalk into the school property from the Wisconsin Avenue/Post Office/Sidwell intersection and the next service drive / entrance to the south; and 5) New sidewalk where it is missing along 37th Street north of the school (from Upton Street past the alley, on the west side of the street).

None of these nine projects is controversial among the parties. These measures are supported by all of the parties because they would **supplement** the traffic calming around the Sidwell Lower School. Removing the diverter would **subtract** from the current traffic calming measures and undermine all that we have achieved in the Sidwell traffic plan.

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