ANC 3F Forest Hills/North Cleveland Park
Phil Kogan, SMD 3F01
Karen Perry, SMD 3F02
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November 7, 2000

Board of Zoning Adjustment
for the District of Columbia
441 4th Street NW
Suite 210-S
Washington, DC 20001

BZA
Case No. 16611
Exhibit No. 49

Re: Board of Zoning Adjustment Application No. 16611, Edmund Burke School

Dear Members of the Board:

ANC 3F received the pre-hearing statement accompanying the referenced application on September 26, 2000. This submission proposes construction of an addition to the Edmund Burke School at 2955 Upton Street NW. Two ANC 3F Commissioners and several Burke School neighbors initiated a meeting with representatives of the Burke School on Sunday, October 29. These discussions reflected ongoing ANC 3F and neighborhood efforts to find a way to accommodate the needs of Burke's residential neighbors as the school pursues its expansion plans. The neighbors made suggestions for a redesign of the Burke School project as proposed in the referenced application to achieve several key objectives which included the following:

(1) remove the traffic burden from Van Ness and Upton Streets and the alley that runs between these two streets by directing drop off and pick up activity to the Connecticut Avenue side of the new building;
(2) accommodate the required 72 parking spaces on-site in the new building;
(3) maintain the landscaped buffer between the Burke School and the residential community.

On November 3, 2000, the Burke School through their attorney Mr. Phil Feola responded with updated plans for the proposed Burke School expansion. Mr. Feola stated that the School intends to ask the Board of Zoning Adjustment to amend its application at the November 14 public hearing to accommodate the updated plans. This letter and the attached ANC 3F resolution respond to the September 26 pre-hearing statement accompanying Application 16611. In order to meet the filing deadline for this statement, there was not adequate time to analyze the updated plans. We request, however, that the Board assess any updated plans within the context of ANC 3F's objections to traffic, parking, and compliance problems associated with the September 26 pre-hearing statement.

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Board of Zoning Adjustment
District of Columbia
CASE NO.16611
EXHIBIT NO.49

Application 16611 was filed with the BZA on July 7, 2000, using BZA Certification Form 1, Zoning Self-Certification Form. The referenced application requests relief in the form of a special exception for use as a private school for lots 27, 28, and 65 in Square 2243. These lots are located at the northeast corner of Upton Streets and Connecticut Avenue. Lot 27 fronts on Upton Street to the south; lot 28 is a corner lot that fronts on Upton Street to the south and Connecticut Avenue to the west; and lot 65 fronts on Connecticut Avenue to the west. Each of the lots is bounded on the east by a public alley that accommodates one-way south bound traffic between Van Ness Street and Upton Street.

The area to the immediate north, south, and east of these lots is a densely populated residential area with a mix of apartment buildings on Connecticut Avenue and Van Ness Street and single family homes on Upton Street. The special exception is requested in order for the Edmund Burke School to construct, in a residential zoned area, an additional building for the existing school located at 2955 Upton Street NW. The proposed addition will have 38,000 feet including14,000 square feet underground.

ANC 3F considered the Burke School application at three separate meetings. Two of these were regular business meetings and one was a special meeting devoted primarily to the Burke School application. Representatives of the Edmund Burke School appeared at meetings of ANC3F on March 13 and October 11, 2000. These meetings were duly noticed and with seven commissioners of a total seven elected present at each meeting, a quorum was present. One commissioner recused himself from the Burke issue. Representatives of the Edmund Burke School presented information describing the proposed project at the March 13 meeting. At the October 11 meeting Edmund Burke School representatives presented a substantially revised project. Residents of ANC 3F presented their views on the proposed addition at each meeting.

On October 16, 2000, ANC 3F convened a duly noticed public meeting with seven commissioners present of seven elected thereby constituting a quorum. At this meeting ANC 3F, after considering the information presented at the March 13 and October 11, 2000, meetings, voted five in favor, one opposed, one recused to recommend that the Board of Zoning Adjustment deny the request for a special exception contained in Application 16611. See enclosed resolution.

As noted above the BZA Certification Form 1, Zoning Self-Certification Form filed by the applicant requests only approval of a special exception for an addition to a private school in an R-5-D Zone District pursuant to Section 206 of the zoning regulations. As pointed out below, the Edmund Burke proposal does not comply with the zoning regulation for parking and the applicant did not request relief from the parking requirements of Chapter 21 of the regulations. In a September 28, 2000, letter to the Board ANC 3F requested that the BZA refer Application 16611 to the Department of Consumer and Regulatory Affairs (DCRA) in order that DCRA could conduct a complete review of the application and determine the relief required from the zoning requirements. ANC 3F again requests that the BZA reject the application and direct the

applicant to file an application for review by the DCRA.

During development of the proposed expansion and new building, the staff of the Edmund Burke School discussed it with neighbors in the community and members of the ANC. We appreciate the School's efforts in this regard. However, after considering the negative impacts of the proposed project on the neighborhood, ANC 3F concludes that it must strongly object to the referenced application. Section 206 of the zoning regulations provides the applicable rules for locating private schools. It states that "The private school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of . . . noise, traffic, number of students or otherwise objectionable conditions." If granted, the requested exception will produce permanent negative impacts relating to noise, traffic, parking, and quality of life for several thousand ANC 3F residents. These conditions are clearly objectionable under the meaning of the zoning regulations. The application would create these objectionable conditions by adding to the already heavy flow of traffic and further limiting parking on already overburdened residential side streets. These conditions are objectionable within the meaning of the Section 206 of the zoning code.

In addition, the Burke expansion plan as described in the pre-hearing statement accompanying Application 16611 fails to provide "ample" parking (Section 206.3) and does not provide the minimum amount of parking required by the zoning regulations. The application should be denied on this basis as well. ANC 3F also notes Edmund Burke School's failure to comply with substantial elements of BZA Order 13986 issued October 4, 1983. The pre-hearing statement supporting the referenced application includes parking and traffic management plans directed at managing the 595 trips to and from the school each day and the increased parking demand that would be generated if the referenced application were approved. The success of these plans would hinge on voluntary compliance by the Burke School. Given the school's record of non-compliance with the 1983 BZA Order ANC 3F does not believe these plans can be successfully implemented.

The Burke expansion plan also includes converting an existing green space buffer between the school and the residential neighborhood to use as a paved traffic lane and parking area. The conversion is objectionable because the green space buffer provides a physical and visual separation between the residences and the school that a paved alleyway does not.

In sum, the applicant proposes to construct a building of significant size and mass within a neighborhood zoned for residential uses. This facility will generate additional parking and traffic demands primarily on residential side streets. Yet the applicant does not propose to use any part of the proposed structure itself to meet these demands. No underground or above ground parking is provided as would be required if the site were developed for R-5-D residential use. While the proposal would make use of new space adjoining the proposed addition for temporary visitor parking spaces, these spaces do not count toward the minimum required by the zoning rules since they would not be available during drop off and pick up periods and therefore not be "accessible at all times." No automobile access is provided into the building itself. Rather, the new space

will house only educational functions while the traffic and parking burden will be shifted to neighborhood streets. The application does not propose to move any of the drop off and pick up activity that is now extremely disruptive to the surrounding neighborhood to the new facility or to an offsite location. Drop off and pick up would continue to be objectionable and the increase in intensity of the disruption would be significant.

The referenced application presents a clear choice between educational priorities and residential priorities. We support the Burke School's continued operation as an educational institution under the terms of the 1983 BZA Order. However, granting the requested exception could permanently and seriously degrade the quality of residential life for thousands of residents living in the densely populated neighborhood in the vicinity of the Burke School thereby creating conditions that are objectionable within the meaning of the zoning regulations. The proposed plan offers nothing to the neighborhood other than more disruption, congestion, noise, traffic, and parking problems. The removal of an existing side yard that provides a green space buffer and the fact that about 40 percent of the new facility would front on Upton would bring an institutional presence too deeply into the neighborhood. For these reasons, ANC 3F urges that the Board deny this application. A detailed discussion of ANC 3F's position on the major issues in this application follows.

1. Traffic. The referenced application, if approved, would result in exacerbation of already extremely difficult traffic conditions near the Burke School and would, therefore, be objectionable under the meaning of Section 206 of the zoning regulations. The referenced application requests a special exception for private school use for three parcels located at the intersection of Upton Streets and Connecticut Avenue Northwest. These parcels front on Upton Street and Connecticut Avenue. They also adjoin an alley that connects Upton and Van Ness Streets. The Connecticut/Upton and Connecticut/Van Ness intersections are heavily used and traffic volumes are high. The applicant's own traffic study determined that the intersection of Van Ness and Connecticut and the westbound intersection of Upton and Connecticut have a level of service of F, the lowest grade possible, during at least part of the day. ANC 3F neighbors in the vicinity of the Burke School know that both of these intersections cause frequent and time consuming delays throughout the day and evening. Further, these intersections feed the residential side streets of Van Ness, Upton, and 29th Street that are already overburdened with traffic generated by several large institutional neighbors. The Burke School application proposes to increase traffic volume generated by the school by 20 percent. As discussed below, the applicant's plan for managing the 20 percent increase is not workable and therefore not acceptable. The BZA should not approve the application on this basis.

   It is important to understand the traffic context for ANC 3F's residential neighbors in the vicinity of the Burke School. In addition to the Edmund Burke School, Howard University Law School, the Levine School of Music, the Embassy of The Netherlands, and the Hillwood Museum are all located within approximately one half mile to the east of the Van Ness/Connecticut and Upton/Connecticut intersections. Howard University Law School

alone schedules 300 events each year.

It is also important to note that the traffic study included in the applicant's pre-hearing statement understates traffic volumes since the Hillwood Museum was closed for renovation at the time traffic counts for the study were taken. This museum is permitted 250 visitors per day many of whom arrive and leave by automobile. The study also fails to take traffic counts in the alleys that are an integral part of the school's traffic plan. In understanding the neighborhood context within which this application is made, it is also important to recognize that the Burke School has no campus. The school's existing building fronts on Upton Street, a residential side street. Access to the school via automobile is provided directly from the street and sidewalk of Upton Street. Burke is a significant source of traffic generation in this neighborhood particularly during the morning and evening drop off and pick up periods. During both times of day neighbors find themselves competing with school generated traffic in order to enter or leave their own neighborhood. The evening pick up period is particularly troublesome since after school activities extend to the evening rush hour. In addition, Burke is one of several institutional sources of the substantial traffic volume on residential streets in this neighborhood.

Several thousand ANC 3F residents live within a short distance of the five institutional neighbors which generate very heavy traffic demands on Upton Street, Van Ness Street, Tilden Street, and 29th Street east of Connecticut Avenue as well as on Connecticut Avenue itself. The building proposed by the Burke School in addition to classroom and educational space will contain a 150 seat auditorium. Events at this facility will further complicate traffic and parking problems for our neighbors. The intersection of Connecticut and Upton, which is not controlled by traffic signals, is located one block south of the intersection of Connecticut and Van Ness. The Connecticut/Van Ness intersection as well as the corridor running from the Connecticut/Van Ness intersection to the intersection of Connecticut and Albemarle Street is characterized by major traffic congestion on a daily basis leading to costly delays for thousands of commuters and residents. This traffic back up at the Connecticut and Van Ness intersection often flows to the Connecticut/Upton intersection which is only 350 feet south of Connecticut/Van Ness. The applicant's traffic study classifies the level of service (LOS) at this intersection as F, or unsatisfactory. The westbound intersection of Upton and Connecticut also receives an F, the worst rating possible. The BZA should not approve an application that will significantly increase traffic volume at these intersections and on the surrounding side streets.

These traffic conditions can only worsen given ongoing development activity around the Connecticut/Van Ness and Connecticut/Upton corridor. This includes the completion of the International Chancery Center which will eventually house 23 chanceries generating more than 2,000 automobile trips per day in the corridor; the recent construction of an apartment building at 4025 Connecticut Avenue just south of the Connecticut/Upton intersection; recent construction of the Park Connecticut apartment building at 4221 Connecticut Avenue NW; the acquisition, upgrading, and use of 4250 Connecticut Avenue by Fannie Mae; proposed

construction of a 169 unit high rise residential project at 3883 Connecticut Avenue; increased occupancy of the Intelsat building at 4100 Connecticut Avenue; and possible construction of a 300 seat performance theater at the Levine School of Music.

Granting the requested special exception would contribute to traffic conditions becoming markedly worse. The pre-hearing statement accompanying Application 16611 proposes that Burke's enrollment be raised to 360, a 33 percent increase over the maximum of 270 students specified in BZA Order 13986. The applicant's traffic study addresses only a 20 percent increase in students and states that this increase will produce only a 20 percent increase in the number of trips per day generated by the school. The study ignored the fact that the school has 29 students more than approved by the BZA in 1983. The number of trips generated by Burke is expected to increase to 595 from the current level of 500. Almost all of this additional traffic will be directed to Upton, Van Ness, 29th and Tilden Streets where it will add to the existing heavy flow generated by Burke as well as Howard Law School, Levine School of Music, the Netherlands Embassy, and the Hillwood Museum.

The applicant's pre-hearing statement recognizes that significant traffic problems would be created if the application is approved. The pre-hearing statement addresses these problems by proposing to convert an existing side yard on the east side of the school to an active traffic lane and parking area that would form one leg of a traffic "loop" that would connect with the existing rear alley as a second leg, the alley between Upton and Van Ness Streets as a third leg, and Upton Street itself as the fourth leg. The pre-hearing statement proposes that this loop would be active for the morning drop off and the evening pick up of students. ANC 3F is very skeptical that such a scheme would accommodate the significant traffic volumes generated by the Burke School.

First, the loop plan would require school staff to be present to monitor incoming and exiting vehicles to ensure that traffic is kept moving at all times. In the past, the Burke School has failed to comply with similar commitments to monitor drop off and pick up.

Second, school drop off and pick up activity is characterized by constant stop and go as parents wait for children to depart from or arrive at a vehicle and safely and securely alight or enter. This creates countless opportunities for delays and breakdowns in the loop. These will surely occur with Van Ness and Upton Streets being required to absorb the resulting backups.

Third, the rear alley and the alley between Van Ness and Upton Streets are frequently used by vehicles other than those generated by the Burke School. For the residents of six homes on the north side of Upton Street the rear alley is the only means of egress and entry to and from their garages. Trash trucks and other service vehicles frequently use these alleys during the morning and afternoon hours. Emergency vehicles must be able to use these alleys. Such uses are difficult to coordinate with the use of these alleys as legs of a traffic loop for substantial parts of the day.

Fourth, the converted side yard would serve two purposes under the plan. In addition to forming part of the traffic loop, it would provide 14 parallel parking spaces for faculty and staff. Any vehicles attempting to enter or leave parking spaces while the loop is active would lead to delays and potential traffic backups on Upton and Van Ness Streets. The applicant's assertion that these comings and goings would be carefully controlled does not hold up in view of ineffective management of existing parking and traffic conditions.

The proposed conversion of the existing side yard as a paved alleyway is of particular concern to ANC 3F. The findings of fact accompanying BZA Order 13986 identified this 34 foot wide side yard with its four foot grade as a "buffer" between the school and the adjacent residential properties. The Order stated "There is also a four foot grade increase in this side yard making it inappropriate for parking." The applicant's pre-hearing statement proposes to regrade this side yard, pave it over, and use it as a for parking and vehicular access to the rear alley. This does away with the landscaped buffer between the school and its residential neighbors. It is particularly deleterious to Ms. Linda Jay whose house at 2951 Upton Street immediately adjoins the existing side yard and who will be subjected to intolerable levels of noxious fumes and noise if this side yard is converted to an active alleyway handling several hundred vehicles each day. This issue is discussed further below.

The loop-based traffic management proposal is fragile and greatly dependent on the daily presence and active intervention of Burke School staff. Any failure in the management effort – and there likely will be many – will lead to additional traffic congestion on Upton and Van Ness Streets.

In sum, the applicant's proposal would result in a significant increase in traffic in an already overburdened residential neighborhood. The conditions resulting from the increase would be highly objectionable to neighbors and the application should be rejected on this basis alone.

2. Noise. The use of the side yard as an active alleyway through which vehicles picking up and discharging students will circulate would generate objectionable noise for the nearby residents. Doors slamming, students greeting one another, automobile horns, and other vehicle and student noise would be intolerable and highly objectionable for the residents.

3. Parking. The applicant's parking plan falls far short of the requirements of the zoning regulations and the application should be rejected on this basis. The applicant proposes that the 1983 BZA Order should be the starting point for calculating parking requirements and that parking for the proposed addition should be determined as though existing parking needs are sufficiently met. This is not the case. If the referenced application is approved, the Burke School will reorganize its operations. The starting point for determining parking requirements for this application is the amount of parking demand generated by the entirety of the reorganized school. A basic purpose for including parking requirements in the zoning regulations is to ensure the adequacy of parking for the proposed zoning use. The applicant's approach defeats this purpose. The existing 24 parking spaces allowed under BZA Order

13986 are simply not sufficient to meet the parking demands generated by the Burke School. Similarly, the proposed 48 spaces would fall far short of demands generated by a larger school. Even worse for the Burke neighbors is that a review of the applicant's pre-hearing statement shows that 33 of these 48 spaces do not qualify as parking under the zoning regulations leaving a mere 15 spaces that would be provided within the meaning of the zoning rules. The bottom line is that the applicant's parking plan is insufficient to handle the load generated by the new facility, which means the burden of additional volume generated by the expansion falls onto the neighborhood.

The zoning regulations provide clear guidance on parking requirements. Section 206.3 states that *"ample* [emphasis added] parking space, but not less than that required in Chapter 21. . .shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile." Section 2101.1 states that the number of parking spaces required for high school and accessory uses shall be "at a minimum 2 for each 3 teachers and other employees, plus . . . 1 for each 10 seats in the largest . . . area usable for public assembly. . . ." Given a proposed faculty/staff of 70, a minimum 47 parking spaces would need to be provided. Using the existing gymnasium with a capacity of 250 as the largest assembly area, an additional 25 parking spaces would need to be provided yielding a total 72 parking spaces. The applicant's parking proposal falls far short of amount of parking required by the zoning regulations. The applicant proposes a reorganization of the existing Burke School operation. The existing operations already place too much of Burke's parking demand onto neighborhood streets. The BZA should review the parking required to be provided under this application based on the relevant zoning requirements as they apply to the total size of the reorganized facility. The BZA should reject the applicant's notion that 24 parking spaces required under the previous BZA Order are somehow "grandfathered" into this project and establish the beginning point for determining additional parking for the reorganized Burke School. Parking requirements for the proposed project must be assessed based on the total demand generated if the application were to be approved. Doing less would be grossly unfair to the neighborhood. This application, if approved as submitted, would require the neighborhood to bear the unreasonable burden of absorbing additional parking demand generated by the Burke School. The application should be rejected for this reason.

The 48 parking spaces proposed to be provided would be insufficient to meet demand. Within the meaning of the zoning regulations, however, the amount of parking that actually will be provided is grossly overstated. Section 2117.4 states that "each required parking space shall be accessible at all times. . . ." The applicant's traffic management plan proposes that the converted side yard on the east side of the school would serve two purposes. In addition to forming part of the traffic loop, it would provide 14 parking spaces for faculty and staff. Since the zoning regulations require that parking spaces shall be accessible at all times, these 14 parking spaces cannot be counted toward the minimum required. This reduces the amount of parking that the applicant proposes to provide to 34 spaces (48 minus 14).

A related problem arises with regard to 11 parking spaces the applicant proposes to provide on the east side of the new building adjoining the Upton-Van Ness alley. Since these parking spaces would become a drop off and pick up area that is fed by the traffic loop, they can not be used at all for parking during drop off and pick up times. Clearly, these 11 spaces would not be "accessible at all times" and can not be counted toward the required minimum required parking spaces. This further reduces the amount of parking the applicant would provide to 23 spaces within the meaning of the zone regulations (34 minus 11). The applicant contends that these 11 spaces would provide visitor parking spaces that are accessible some of the time and that this parking would be managed to ensure that they would not be in use during morning and evening drop off and pick up. There are several problems with this response. *First*, the zoning rules do not provide for a separate category of visitor parking spaces as the applicant proposes. Under the rules, all parking is required to be accessible. Given the existing short supply of parking in this neighborhood, it is very important that the rules be strictly applied in this case. *Second*, the applicant's record of compliance in enforcing existing parking restrictions is poor. The most likely scenario for the neighborhood should this application be approved is that visitors will arrive at the school during the drop off and pick up periods visitors and, if visitor parking is not available, these visitors will park on neighborhood streets. Alternatively, use of visitor parking spaces during drop off and pick up periods will interrupt the traffic loop and potentially create traffic backups on Upton and Van Ness Streets. In either case, the neighborhood will bear the burden of Burke's expansion. Under either of the scenarios described above, demand for parking will be shifted from the Burke School to Van Ness and Upton Streets.

There are other problems with the sufficiency of parking proposed by the applicant. Within the total 48 parking spaces proposed to be provided, eight would be stacked spaces. Two of these would be at the rear of the new building and six would be at the rear of the existing building. Since stacked spaces are not "accessible at all times", this further reduces the amount of parking proposed to be provided to 15 spaces (23 minus 8). The applicant's proposal also fails to provide the minimum two handicapped accessible parking spaces required by the Americans with Disabilities Act.

This applicant recognizes that parking problems would be created at the expense of the neighborhood. In response to this, the applicant proposes to lease 23 parking spaces to supplement the alleged 48 parking spaces that would be provided on site. This plan will not work for several reasons.

First, there is increasing demand for the limited supply of commercial parking spaces in the Van Ness neighborhood. Fannie Mae acquired and occupied the office building at 4250 Connecticut Avenue this past year. Under Fannie Mae's plan this facility will house 500 employees. It is Fannie Mae's policy to provide free parking to all of their employees and it plans to do so at this location by leasing parking spaces in the vicinity of their building. . This means that Burke would be competing with Fannie Mae for a very limited number of parking spaces. Fannie Mae has met with some success. Given the limited supply, however,

Fannie Mae's success does not bode well for the Burke School's proposal to lease 23 off site spaces.

Second, the applicant proposes to lease parking during the school year only. Leases would be on a nine month basis, from September to June. Under this scenario Burke would give up its leased parking each June and seek to lease 23 spaces again the following September. It is unlikely that Burke will be able to negotiate such an arrangement each year for the life of the new building. Failure by Burke to renew the lease would shift the parking burden onto the neighborhood.

Third, even if Burke is successful in leasing 23 parking spaces on a school year basis, the people to whom these spaces are assigned may choose not to use them. The choicest spaces for those persons using the Burke facility will continue to be those spaces closest to the school, particularly spaces on Upton and Van Ness Streets. Even if there were 23 leased parking spaces, this would not necessarily relieve the parking burden on the Upton/Van Ness neighborhood.

Fourth, even if the applicant is able to lease 23 off site spaces, there is no assurance that these spaces would be available for evening event parking, a major source of parking demand on the Upton/Van Ness neighborhood and a significant problem for Burke's residential neighbors. Colonial Parking, which is a major provider of commercial parking in the Van Ness neighborhood, closes its lot at 9 p.m.

In reviewing the Burke School's parking plan, we ask the Board to bear in mind that the Burke School is located in a densely populated urban neighborhood. At the present time the school's demand for parking exceeds the amount of parking it can provide at its site. The Burke School also has a large number of students, perhaps as many as 10 percent, who drive to school. No parking is provided for these students. Conditions would become much worse under the application which proposes a 33 percent increase in student body size (from the currently allowed 270 to 360) and 100 percent increase in faculty/staff size (from the currently allowed level of 35 to a proposed level of 70). These increases, if approved, could only drive up demand for parking and the new demand could only be met at the expense of Burke's residential neighbors. The proposal falls far short of the zoning code by failing to provide the minimum amount of parking and falls far short of providing "ample" parking. These are objectionable conditions within the meaning of the regulations and the application should be rejected on this basis.

4. Compliance. BZA Order 13986 specified conditions of approval for a Burke School addition in 1983. The school's failure to comply with key conditions of this order is of the utmost concern to ANC 3F. BZA Order 13986 required that the number of students at Burke not exceed 270, the total number of faculty and staff not exceed 35, and that the school be limited to no more than three events per month. The Burke School application states that it has 299 students and a faculty and staff of 59. The number of events far exceeds the minimum of

three allowed. One estimate is that these events occur three times a week rather than the allowed three times a month. The student body actually has grown as the proposed project has been developed. During the 1999-2000 school year, Ms. Julie Weisman, an Upton Street neighbor, was told by Burke School staff that enrollment was 290 students. On March 10, 2000, Ms. Weisman formally asked the Burke School to come into compliance with BZA Order 13986 by reducing the number of students. To Ms. Weisman's dismay and the dismay of other neighbors, enrollment at the school actually increased during the 2000-2001 school year to 299.

The referenced application proposes to substantially change the operations of the Burke School by adding 34,000 square feet of new space, adding new faculty/staff, adding new students and generating significant new traffic and parking demands on the Upton/Van Ness Neighborhood. The applicant proposes a "loop" plan that would funnel traffic around the school during morning drop off and evening pick up. This is a fragile plan and the proposed loop could break down in any number of ways. Such breakdowns would inevitably cause traffic back ups on Upton and Van Ness Streets and likely Connecticut Avenue. The applicant proposes to manage this loop through voluntary compliance mechanisms including hiring one dedicated staff person whose primary function would be traffic manager during drop off and pick up and requiring faculty and staff to perform traffic management tasks during peak periods. The ANC 3F neighborhood is very skeptical that the proposed management plan would work based on the school's history of non-compliance. In fact, the current traffic management system is a failure. This does not bode well for traffic management if the referenced application is approved and 34,000 square feet of new space is added, 90 new students are enrolled, and 35 new faculty/staff are hired.

The applicant proposes that an expanded Burke School would manage parking in ways that would limit the demands on the Burke School neighbors. Here again, past failure to comply with the previous BZA Order make it very unlikely that traffic management would improve if the referenced application is approved. It is more likely that traffic conditions for the neighborhood would, in fact, become worse.

It is also important to bear in mind that the zoning regulations do not provide for the suspension or rescission of a special exception. Ms. Jerrily Kress of the BZA advised ANC 3F on June 30, 2000, that the zoning rules do not provide for the suspension or rescission of special exception once approved even if the applicant is not in compliance with the conditions established when the exception was granted. She stated that "under Section 3205 of the Zoning Regulations, the enforcement mechanism of the conditions contained in the Board's order is through enforcement of the related building permits and/or certificates of occupancy." (See attached.) Since a special exception according to Ms. Kress is a grant of authority for use of a property subject to conditions set out by the Board and cannot be rescinded or suspended once issued, such an exception should not be granted without reasonable assurance that the applicant will abide by conditions in the special exception.

The Burke School's failure to comply with BZA Order 13896 does not bode well for the Upton/Van Ness Neighborhood should the BZA approve the referenced application. There are no assurances that the Burke School would live within the limits it has certified for itself. In fact, history suggests otherwise. The impact of a failure to live within its limits would fall directly on the Burke School's residential neighbors. Based on the applicant's failure to comply with previous BZA conditions, the BZA should not approve the referenced application. This is particularly the case because significant elements of the proposed application rely upon voluntary compliance to be effectively implemented.

5. Removal of the Landscaped Side Yard Buffer. In 1983 the BZA approved an addition to the Burke School in BZA Order 13986. Item 23 in the Findings of Fact accompanying BZA Order 13896 stated that

> The landscaped side yard east of the existing building, measuring approximately thirty-four feet in width, serves as a *buffer* [emphasis added] between the school and the adjacent properties. There is also a four foot grade increase in this side yard, thereby making it inappropriate for parking.

The applicant's pre-hearing statement recognizes that approval of the referenced application would result in significant traffic problems. The pre-hearing statement proposes to address these problems by converting the existing side yard referenced in the BZA's Findings of Fact to a combination of uses. The side yard would be regraded and paved over. During morning drop off and afternoon pick up the side yard would form one leg of a traffic "loop" that would connect with the existing rear alley, the alley between Upton and Van Ness Streets, and Upton Street itself. In addition to forming part of the traffic loop, the side yard would provide 14 parking spaces for faculty and staff. Conversion of the side yard buffer to a public alleyway also has a particularly deleterious effect on Ms. Linda Jay whose house at 2951 Upton Street is adjacent to the existing side yard and who will be subjected to far higher levels of noise and automobile exhaust should this side yard be converted to an alleyway handling several hundred vehicles each day.

Converting the side yard to use as a public alleyway and faculty parking area would remove an important visual buffer and physical barrier between the Upton Street residential community and the Burke School. Page 6 of the pre-hearing pre-hearing statement states that "by locating the addition on property fronting on Connecticut Avenue, the school expansion will not bring institutional use further into the residential neighborhood and will not adversely affect the character of Upton Street." This statement simply does not hold up under scrutiny. While some of the addition will front on Connecticut Avenue, about 40 percent of the proposed building will front on Upton Street." Clearly, this would bring much greater penetration of the institutional presence into the Upton Street neighborhood. When taken in combination with the removal of the existing side yard buffer, this presence would dominate the neighborhood. This is objectionable under the meaning of the zoning code and the application should be rejected on this basis.

We thank the Board for the opportunity to present the views of ANC 3F on this matter.

Sincerely,

Phil Kogan
Commissioner, ANC 3F01

Enclosures

cc: Walter Ailes, Edmund Burke School
Phil Feola, Shaw Pittman
Sarah Shaw, Shaw Pittman
Marie Sansome, Office of the Corporation Counsel
Michael Johnson, Zoning Administrator
Ms. Carlynn Fuller, Acting Director DCRA
Leslie Hotaling. Acting Director, Department of Public Works
Andrew Altman, Director, Office of Planning
Jennifer Steingasser, Office of Planning
Paul Hart, BZA

Res 00-24

ANC3F RESOLUTION OPPOSING BZA APPROVAL OF APPLICATION NO. 16611 EDMUND BURKE SCHOOL

Advisory Neighborhood Commission 3F
North Cleveland Park and Forest Hills
P.O. Box 39290, Washington, D.C. 2016-9290

WHEREAS: Application 16611 was filed with the Board of Zoning Adjustment (BZA) on behalf of the Edmund Burke School on July 7, 2000, using BZA Certification Form 1, Zoning Self-Certification Form; and

WHEREAS: Application 16611 requests a special exception for use as a private school of Lots 27, 28, and 65 in Square 2243, addressed at 4101 and 4103 Connecticut Avenue and 2969 Upton Street NW and said application indicates that this is the only relief required under the zoning regulations; and

WHEREAS: these lots are currently zoned R-5-D and are located at the intersection of Connecticut Avenue and Upton Street; and

WHEREAS: representatives of the Edmund Burke School appeared at duly noticed public meetings of ANC3F on March 13 and October 11, 2000, a quorum being present at each meeting, and presented information in support of the application and nearby residents presented their views on the proposed expansion; and

WHEREAS: the applicant furnished ANC 3F with its Pre-hearing Statement which includes a proposed construction operations plan, traffic impact analysis, traffic management plan, plans for the proposed addition and existing and proposed automobile circulation and stacking plans; and

WHEREAS: the proposed plans provide for a new 24,000 square foot building on the northeast corner of Connecticut Avenue and Upton Street and a new driveway on the east side of the existing school building at 2955 Upton Street; and

WHEREAS: Section 206 of the Zoning Regulations provide that a special exception for use as a private school may be granted if said school "is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions" and ample parking space is provided as required in chapter 21 of the zoning regulations, and

WHEREAS: the Edmund Burke School, Howard University Law School, and the Levine School of Music are all located within approximately one half mile to the east of the Connecticut Avenue and Upton Street intersection; and

WHEREAS: several thousand ANC 3F residents live within a short distance of these institutions

Government of the District of Columbia
OFFICE OF ZONING

June 30, 2000

David J. Bardin, Chair
Advisory Neighborhood Commission 3F
P.O. Box 39290
Washington, D.C. 20016-9290

Re: **BZA Application No. 16110**
Howard University 1997 West Campus Plan

Dear Mr. Bardin:

This is to acknowledge receipt of a copy of your letter dated May 17, 2000, to the Zoning Administrator noting the violations of conditions imposed by the Board of Zoning Adjustment in the above-referenced case. The attached ANC resolution, approved May 15, 2000, petitions the Board to suspend or rescind the special exception approvals given to Howard University for the 1997 West Campus Plan and for further processing of the campus plan in 1998.

The Zoning Regulations do not provide for the suspension or rescission of a special exception approval. Rather, under Section 3205 of the Zoning Regulations, the enforcement mechanism for the conditions contained in the Board's order is through enforcement of the related building permits and/or certificates of occupancy. The ANC's concerns relating to zoning compliance therefore should be directed to the Zoning Administrator as you have already done.

If we can be of any further assistance, please alert us.

Sincerely,
OFFICE OF ZONING

Jerrily R. Kress, FAIA
Director

cc: Michael D. Johnson, Zoning Administrator
Cynthia Giordano, Linnowes & Blocher, counsel for Howard University