April 8, 2004

Mr. Geoffrey Griffis
Board of Zoning Adjustment
441 Fourth Street NW, Room 201
Washington DC, 20001

Re: Response to NCRC's April 6, 2004 Submission
Application 16970

Dear Mr. Griffis,

NCRC's April 6 submission, at footnote 1 on the first page, mischaracterizes our filing of March 23 as containing a "scurrilous allegation that the attorney for the Applicant and the BZA Chair have improperly discussed the bifurcation issue once the record was closed."

In fact, the discussion took place in plain view of the public; and even counsel for NCRC admitted at the time that it was "highly unusual."

Here is the exchange to which we refer, from page 143 of the January 6, 2004 hearing transcript:

> Ms. Dwyer: Highly unusual, but one point of clarification. The application requested an increase an increase in enrollment. It also requested new construction and I don't know whether the Board wanted to separate your discussion of these two issues.
>
> Chairman Griffis: The Board has discussed that in Executive Session, separating the two issues. I'll open it up and – I don't know, do you want to table the motion?

This exchange took place weeks after the record had been closed and at a public meeting of the Board at which it had previously been announced that no one would be permitted to speak on behalf of any party. Ms. Dwyer was not called on; she stood up and interrupted the discussion among the Board members. Therefore, it was most definitely "improper," as we characterized it.

What we wrote in our March 23 submission on the subject was: "Further, the attorney for the Applicant and BZA Chair discussing the bifurcation once the record was closed was improper."

If, as counsel for NCRC promises in her April 6 paper, "The Chair knows that this statement is false as does Counsel for the Applicant, and Counsel would be happy to provide an affidavit to that effect if the Board so requires," she might want to review the January 6, 2004 hearing transcript before she executes that affidavit.

Respectfully,

Linda Badami and Gaylord Neely
3207 Highland Place NW
Washington DC 20008

cc: all parties

BZA
Case No. 16970
Exhibit No. 366

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.366