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November 17, 2003

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
441 Fourth Street, N.W., Suite 210-S
Washington, D.C. 20001

RE: BZA Application 17022, Edmund Burke School

Dear Chairman Griffis:

At the conclusion of the Edmund Burke School Special Exception case on October 28, 2003, the BZA requested ANC 3F submit a letter to the file by November 18, 2003, detailing our objection to the inclusion of a letter from Lieutenant Josiah Eaves from the Second Police District. Phil Feola, the applicant's attorney, presented this letter as evidence during the Burke rebuttal case.

ANC 3F objected, and continues to object, to the introduction of this letter for the following reasons:

1. This letter is new evidence and should have been submitted during the case-in-chief.
2. If the BZA determines that this letter was used to refute the testimony of Ken Laden, Chief of Transportation Policy and Planning, Department of Transportation, that the Burke School parent morning student drop-off on Van Ness Street, west of Connecticut Avenue, at the corner with Connecticut Avenue next to Intelsat, needed to be moved from the right-turn lane, then ANC 3F and the other Parties to the case, should have had the right to cross-examine Lieutenant Eaves.
3. A letter cannot be cross-examined. BZA members and parties have the right to cross-examine in all BZA proceedings.
4. Had Lieutenant Eaves or a representative from the Second District Police been present at the hearing, then ANC 3F in cross-examination would have asked the following questions. Other parties might have asked other questions.
    A. The names of the police officers that conducted this survey.
    B. Whether any of the police officers that conducted the survey were employed by the Edmund Burke School as off-duty police officers.

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C. We would have requested a copy of the written survey that was not introduced into the record so ANC 3F could determine the days, dates, and times that police officers conducted the survey, where the police were stationed, and the length of time the police observed the traffic flow on Van Ness Street and/or Connecticut Avenue.
D. The qualifications of the police officers to conduct the survey.
E. Whether the police officers used the same methodology as the Department of Transportation and the same methodology as was used by DMJM + Harris (Connecticut Avenue Transportation Study) in determining traffic queues and delays on the flow of traffic.
F. Whether the police were referring to traffic delays on Connecticut Avenue or traffic delays on Van Ness Street.
G. As Burke has parent drop-off sites on the north and south side corners of Van Ness Street, west of Connecticut Avenue, were the police referring to both sites as not interfering with the flow of traffic or just one of the sites. As the BZA members will remember, the Connecticut Avenue study recommends removing parking spaces from the corner on the north side of Van Ness Street in order to improve the flow of traffic turning west from Connecticut Avenue.
H. Whether any Burke students used the underground Metro passageway to cross Connecticut Avenue and whether all students crossed with the traffic lights.

It should also be noted that on November 3, 2003, Commissioner Perry contacted Lieutenant Eaves to obtain a copy of the survey. Lieutenant Eaves stated that there was no written report. The questions above were discussed with Lieutenant Eaves and Lieutenant Eaves indicated he would have a report prepared addressing some of our questions, and that this report would be faxed to ANC 3F within a few days. To date, we have not received a report from the Second District Police.

This letter was approved by a vote of 5 - 1 - 0 at a duly noticed meeting of ANC 3F on November 17, 2003, with a quorum present (four constituting a quorum).

Sincerely,

Cathy Wiss

Cathy Wiss,
Chair

CC: Edmund Burke School
All Parties to the Application