GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: July 8, 2003

SUBJECT: BZA Application No. 17022
Edmund Burke School, 4101 Connecticut Avenue & 2955 Upton Street, NW
Square 2243, Lots 27, 28 and 65

BZA
Case No. 17022
Exhibit No. 62

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I. APPLICATION SUMMARY

The applicant seeks a special exception to construct an addition to an existing school, and to increase the student population and the number of faculty members. The proposed addition would be on a 14,305 square foot (sf) site at the corner of Connecticut Avenue and Upton Streets in the Van Ness area of Northwest Washington. The site is in the R-5-D zone district.

The application requests BZA permission for a phased increase in the student population, ranging from a projected 290 students in 2003-04 to an eventual 320 students after the new building is constructed and certain conditions have been verified as having been met. The faculty and staff would increase from the 59 now on site, to 70.

The relief is requested under the criteria established by 11DCMR Section 206 and pursuant to the special exception provisions of Section 3104 of the Zoning Regulations.

II. OFFICE OF PLANNING SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends approval subject to the conditions listed in Section X of this report.

III. SITE/AREA DESCRIPTION; CURRENT ZONING *(See Attachment 1)*

The existing Burke School is located on Upton Street, in an R-2 zone. The site for the proposed addition comprises three flat lots in the R-5-D zoning districts at the northeast corner of Connecticut Avenue and Upton Street, NW. The site is directly across an alley from the existing school. The alley runs parallel to the east side of Connecticut Avenue for several blocks.

The proposed site is located in Square 2243. This Square is bordered by Upton Street on the south; Connecticut Avenue on the west; Van Ness Street and a tributary of Rock Creek Park on the north; and Linean Avenue on the east. The Square is served by a north/south alley between Van Ness Street and

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Upton Street, and by a dead-end east/west alley. Along Connecticut Avenue, a five-story apartment building borders the north side of the site of the proposed addition. The remainder of the Connecticut Avenue frontage is occupied by townhouses, not all of which are used for residential purposes.

Connecticut Avenue is a major arterial street radiating from downtown Washington. It has a pattern of alternating medium-high density residential uses with moderate and medium density commercial centers. This pattern usually extends no more than one lot-depth back from the Avenue. Typically, broad swaths of lower-density residential areas are located behind the Avenue's denser uses. This general pattern is somewhat altered in the area near the site of the proposed school addition.

The neighborhood to the east of the school is zoned R-2. The southern side of Upton Street to 29th Street is developed as row houses. Along the northern side of Upton Street, east of the school, are six semi-detached dwellings, portions of the Howard University Law School and the Levine School of Music. The southern side of Upton Street is entirely residential, with a mix a housing types.

North of both the existing school and the proposed addition is an R-5-D zone district, behind the eastern side of Connecticut Avenue. The area is characterized by medium to high-density residential developments consisting of row houses and apartment buildings of varying heights and bulk. Van Ness Street runs parallel to Upton Street to the north of the school. This block of Van Ness is developed with several hundred units of high-density residential apartment buildings. The Van Ness commercial center begins with the C-3-A zone on the north side of Van Ness Street. Across from the proposed school addition, on the west side of Connecticut Avenue, between Van Ness Street and Tilden Street, is the campus of the Intelsat Corporation. The main campus of the University of the District of Columbia begins at the northwest corner of Van Ness Street and Connecticut Avenue.

The site of the proposed Burke School addition is located within one block of the Van Ness/UDC Metrorail station and is served by Connecticut Avenue bus lines. The Metro station provides an underground pedestrian connection between the east and west sides of Connecticut Avenue that can be used by the general public without having to pay to enter the Metro system.

IV. PROJECT DESCRIPTION *(See Attachment 2)*

The applicant has purchased three lots along Connecticut Avenue to construct a new 34,276 gross square foot school building[1]. The applicant states that the new building will allow the school to:

- Improve its arts, music and middle school programs;
- Provide more parking;
- Improve drop-off and pickup, loading and unloading, and general traffic circulation;
- Avoid congestion on the alley behind Connecticut Avenue;
- Allow an eventual increase of student enrollment to 320 and an increase of on-site staff and employees to 70.

[1] This figure includes 4,370 gross square feet of area devoted to parking, loading and unloading, a garage ramp, and drive aisles

The addition would be used primarily for middle school functions. The existing buildings would be oriented toward upper school programs.

The applicant had applied for a larger expansion (360 students and 70 employees) in 2001. This was denied by the BZA in order No.16611.

During both the previous and the current application process, the building and site plan have been modified several times in response to concerns voiced by the neighborhood and the ANC regarding traffic, circulation, and alley congestion. The final plan proposes a five-story brick and glass structure that will include additional classrooms, a library, computer rooms, art and music rooms, a second atrium lounge, a 150-seat auditorium/black box theater, and a rooftop terrace facing Connecticut Avenue. There would be 36 zoning-compliant, and 47 total, parking spaces on two underground levels. An unoccupied pedestrian passageway would connect the existing buildings and the addition, across the alley, at the third level.

Basic aspects of the project are summarized in the following table:

	Existing School	Addition	Total
Zoning	R-2 (existing)	R-5-D	
Address	2955 Upton Street, NW	4101-4103 Connecticut Ave, 2969 Upton Street, NW	
Lot and Square	Lot 67 Square 2243	Lots 27, 28, 65 Square 2243	Lots 27, 28, 65 and 67
Land Area	22,050 square feet (sf)	14,305 sf	36,355 sf
Gross Floor Area (gfa)	16,170 + 17,662= 33,832	34,276 sf	68,108 sf of gfa
Enrollment /	(270 approved in 1983) cap exceeded 1997 - now 299 students in '01-'02 295 students in '02-'03 290 students in '03-'04	30-50 increase from BZA approved limit; 5- 35 over '02-'03 actual numbers	300 students wafter BZA approval with Incremental increase to 320 students after 4 consecutive TMP-compliant trimesters
Staff	(35 approved) 59 staff on site 6 staff off-site plus unspecified part time	35 increase from BZA approved limt; 11 increase from '02-03 actual numbers	70 staff on site
Parking	24 behind existing bldg., of which three would be removed for relocated dumpsters	36 spaces underground comporting with the requirements of 11DCMR §2101.1 3 surface spaces for bus parking 11 additional stacked spaces underground	60 zoning-compliant spaces 71 total spaces

The application also includes an extensive transportation management (TMP) plan. Integral to the TMP is "The Edmund Burke School Management Plan for 300 to 320 Student Population" (Final Draft dated 6/9/03). This contains:

- Self-imposed restrictions on use of certain streets and alleys;
- Detailed AM and PM student drop-off and pick-arrangements that makes use of remote drop-offs, a shuttle bus, and limitation of on-site drop offs to car pools using a private driveway on school property that is entered from Connecticut Avenue;
- An expansion of current student Metro benefits to include MD and VA students;
- A permanent shuttle bus service;
- Restrictions on student, faculty and staff parking;
- Limitations on larger evening and weekend events (those generating more than 50 cars) to 3 per month;
- No outside rental of facilities
- Specification of delivery locations;
- Relocation of dumpsters and restrictions on trash pick-up times;
- Broadly based, and complex, enforcement mechanisms that assess significant financial and other penalties ($250, $500 and termination of enrollment) against the applicant if the TMP is violated;
- A progressively sliding scale of fines and/or enrollment reductions for violation of enrollment caps.

The District Department of Transportation (DDOT) has reviewed the school's performance on the temporary TMP the school put in place for the last school year, as well as the school's proposed permanent TMP. The DDOT report *(See Attachment 4)* is essentially supportive of the TMP and the present application.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN *(See Attachment 3)*

The Comprehensive Plan Generalized Land Use Map designates the proposed site and adjacent land to the north as suitable for high density residential. Because schools are generally considered to be part of the fabric of a residential community, public schools are permitted as matter-of right uses in residential zones, and private schools are presumed acceptable if they meet Special Exception requirements.

10DCMR § 102.3 notes:

> *Many city neighborhoods also include integral commercial and institutional uses that contribute to their character. Neighborhood businesses, schools, park and recreational facilities, churches and other public facilities all add to the livability of our communities. These uses must be protected, stabilized and improved.*

The Ward 3 element of the Comprehensive Plan adds some cautionary notes to the general provision for Stabilizing and Improving the District's Neighborhoods cited above. These include:

> §1403.5: [Improving air quality]. *Encourage institutional...residents to promote public transit usage...*

(Burke's TMP provides a 50% transit subsidy for all students living in the District and those living outside the District who take public transit).

§1409.4 (d): *The conversion of existing housing stock (such as moderate-rent multi-family buildings near or in commercial areas) should be aggressively discouraged.*
(Burke bought and demolished structures on the proposed site that were used for a mix of residential, institutional and commercial uses).

§1409.1)(f): *There are a large number of institutional uses in Ward 3...The compatibility of these uses must be maintained, expansion carefully controlled, changes to neighborhood-related uses encouraged, and conversion to other non-conforming uses prevented;*

VII. PREVIOUS ZONING HISTORY AND RELIEF CURRENTLY REQUESTED

The Edmund Burke School was established in 1968 as an independent co-educational school for grades six through twelve. The school moved to its current location at 2955 Upton Street after BZA approval in September 1973 (BZA Order Number 11428). An addition was approved by the BZA for the school in 1983 (Order Number 13986). The order included an increase in enrollment to 270 students and the employment of 35 faculty/staff members. These remain the BZA-approved levels.

The existing school site has been used for a school since 1911. The site of the currently proposed addition had been used for a 6-unit apartment building, and row-houses that included apartments as well as the Brazilian-American Cultural Institute. The applicant purchased and cleared the site at approximately the same time as its last expansion request. .

The existing school is located in the R-2 district. The proposed addition's site is within the R-5-D zone.

The R-5 districts are designed to permit a flexibility of design by permitting all types of urban residential development. The R-5 districts also permits the construction of institutional and semi-public buildings that are compatible with adjoining residential uses. The R-5-D district permits "relatively high height and density."

Uses permitted as a matter of right in the R-5-D zone include medium-high density apartments, fraternity and sorority houses, hospitals, clinics, museums and rooming houses.

The design of the Burke School addition appears to comply with the physical constraints of the R-5-D zone. The building and density standards comparisons are listed in the following table:

R-5-D	By-Right	Proposed Addition
Height	90 feet	53 feet
Lot Occupancy	75 %	33 %
FAR	3.5	2.1 approx.
Rear Yard	15	17' 6"

By way of comparison OP estimates that a matter-of-right apartment development on the three lots proposed for the addition's construction could have approximately 55 units, based on the size of the proposed lot, an allowable 3.5 FAR with 75% lot coverage, and a typical apartment size of 900 square feet with 15% of the building devoted to common area.

While the proposed school addition meets the zone's physical standards, private schools like Burke are permitted in both the R-2 and the R-5 districts permit only with the approval of the BZA, subject to the provisions of §3104 and the private school-specific impact standards of 11DCMR §206. Such a school must be so located that it 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 must be provided.

VIII. ANALYSIS

Compliance with 11DCMR §3104.1 and §206

Under §3104.1, the BZA is authorized to grant special exceptions if they "will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Map subject in each case to the special conditions specified in this title..." In this instance the special conditions are specified in §206. A 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" and it must provide ample parking for students, teachers and visitors likely to come to the site by automobile, but not less than the parking required by Chapter 21 of 11DCMR

A. Will the Special Exception Be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps?

It will. Public schools are matter of right uses in residential zones. Private schools are considered to be uses that are compatible with residential neighborhoods, provided conditions are met with respect to minimizing possible negative impacts. A private school is permitted as a special exception in both R-2 and R-5 districts with BZA approval.

The BZA's discretion in reviewing a special exception application is limited to a determination of whether an applicant has complied with the requirements of §§3104.1 and 206. As the Board noted in its decision in (Burke) Case No. 16611, "If the applicant meets its burden, the Board ordinarily must grant the application". The Board is not asked to determine if another use would be a better fit for the site, whether that use may be another special exception, or a matter-of-right use, but rather, whether the proposed special exception use meets the applicable tests of acceptability.

In OP's opinion, the expansion of the Edmund Burke School at the proposed site would be in harmony with the general purpose and intent of the zoning regulations and maps. This is

especially the case given the site's location on one of the District's principal arterial streets, its adjacency to the existing school buildings and its proximity to a Metro station. The proposed design orients the addition, and tends to re-orient the entire school, toward the high-density activity of Connecticut Avenue and not toward the residential neighborhood to the east. The proposed site is zoned for medium-high density residential and identified for high-density residential uses on the General Land Use Map.

B. Will the Special Exception Not Tend to Affect Adversely the Use of Neighboring Property, in Accordance with the Zoning Regulations and Zoning Maps, and the Following Special Conditions?

i. ***Sec. 206.2: "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."***

Noise Levels

In OP's opinion noise levels generated by uses within the site's perimeter will be acceptable.

- The addition approved by the BZA in 1983 was constructed with 14-inch masonry walls in an effort to contain noise from the school. The proposed building will be constructed along Connecticut Avenue and should not have a significant noise impact on the residential portions of the immediate neighborhood, most of which are east of the existing school buildings.
- The addition's entrance, which will become the school's principal entrance, is oriented towards Connecticut Avenue, away from residential areas.
- The assembly space will not be rented by outside groups, nor will more than one special event be held simultaneously.
- All deliveries and trash pick-up will be required to done during normal School operating hours (approximately 8:00 a.m. –3:30 p.m.)
- Since the proposal in Application 16611, the proposed outdoor space has been relocated in response to neighborhood concerns. The outdoor "lounge" area would now be located on the west side of the building, on the forth floor. The terrace is oriented towards Connecticut Avenue and buffered by occupied interior space on the north and east, and partially on the south. The outdoor space would accommodate passive activities and provide an outdoor area for students to gather for lunch. It would be used during the day when most residents are at work.
- Since the proposal in Application 16611, a proposed pedestrian passageway has been added in response to neighborhood concern about the presence of students on neighborhood streets, sidewalks and alleyways. The proposed bridge would connect the existing and proposed addition and enable students to move among buildings without going outside. The functional distribution of the new building promotes such interior circulation. The first floor would be devoted primarily to administration and lobby functions. Most classroom uses would be on the second

through fourth floors, thereby making the passageway the more convenient way for students to move among buildings.

- The combination of the terrace, an additional atrium lounge in the proposed new building and the pedestrian passageway will provide Burke students with more space for indoor activities, especially during programmed "free" periods. It is possible that noise levels experienced by the neighborhood will actually decrease with the proposed addition.
- In response to concerns expressed during Application 16611, the existing air conditioning condensers and emergency generators would be relocated to reduce noise impact as part of the proposed expansion. They are currently located between the eastern wall of the existing building and the adjacent residence on Upton Street. Under the proposed plan, this equipment would be located on the center of the roof of the addition, away from the neighboring apartment building to the north and the residences to the east, again creating the possibility that noise to neighboring residents will actually be reduced.
- In response to OP's request, the applicant has agreed to provide sound buffering on the northern and eastern side of the roof structure, to absorb noise and direct the remainder towards Connecticut Avenue. The applicant will present additional information on this at the hearing.

OP has one reservation about projected noise levels. The BZA noted in its finding of facts in BZA Order No.16611, "The proposed expansion of Burke School would not create adverse noise impact on neighboring property as a result of the increase (to a then-requested total of 360) in student population". This finding seems to have been based on a presumed continuation of the 55 decibel (dba) noise limit at the property line that was a condition of BZA Order No.13986. The current application proposes a 5 dba increase in the daytime noise level limit. OP believes that:

- The decibel levels as measured at the property line should continue to be limited to the 55 dba's specified in Order No. 13986 during both the daytime and the evening.

For assessing noise levels generated by the school or its students outside the school's existing or proposed boundaries, OP needs additional information about the applicant's use of Howard University's playing fields and the noise generated by such use. BZA Order No. 16110 prohibited Howard from hosting "outdoor events" that "cause excessive noise (e.g., music, loudspeakers, etc.), with the exception of graduation". BZA Order No. 13986 noted that Burke's "outdoor recreational activities are located off the subject site on the grounds of the Howard University Law School, approximately 250 yards away". However, neighborhood filings during (Burke) BZA Case No. 16611 suggested there was some ambiguity about the University's descriptions of what it would and would not permit as part of its West Campus plan. Accordingly, OP requests the applicant furnish:

- A description of Burke's current and planned use of the open space at the Howard University Law School;
- An assessment of the noise that would be generated by the use of this area after the requested increase to a 320 student population.

Traffic and Circulation

Drop-off and pick-up of students is of particular concern to the residential neighborhood. It was also the chief concern cited by the BZA in denying Burke's application for expansion in Case. No. 16611. Both the neighbors and the BZA have expressed concern over the impact of drop-off stacking along Upton Street and Connecticut Avenue, the congestion created from turning traffic and traffic within the alley system. The rear alley is the sole access to the garages of the adjacent six residential units along Upton Street.

There is considerable history to the applicant's attempts to address these concerns. As part of the applicant's last BZA application, Burke proposed a Transportation Management Plan (TMP) in the fall of 2000. After several meetings with the neighborhood, the neighbors asked the applicant to provide 72 parking spaces on-site, preserve the eastern side yard as a buffer for the residential neighbors instead of using it as a driveway, mitigate school traffic congestion in the alley, and orient the traffic and circulation toward Connecticut Avenue.

The applicant subsequently revised the TMP and the building plans to address the neighbor's concerns and achieve the objectives of the proposal. They submitted seven new alternative TMPs to the neighborhood and the then-Department of Public Works. These new TMPs included:

- Preservation of the eastern side yard as a buffer for the residential neighbors;
- Creation of a pull-off or lay-by on Upton Street in front of the existing school;
- Creation of a driveway to the new building on Connecticut Avenue to create a circular drop-off system beneath the new school building (by making changes to the 1st floor plan);
- Addition of underground parking in the new building to accommodate fifty (50) new spaces with access from Connecticut Avenue;
- Prohibition of stacking on the south side of Upton Street;
- Hiring a traffic control officer to regulate the flow of drop-off traffic;
- Financial incentives for staff to use Metrorail.

The currently proposed TMP includes all the major elements of the 2000 TMP proposals and expands on several of them. In the opinion of DDOT, the combination of these revisions since Case No. 16611, and the reduced level of requested increase in student population in Case 17022 will make the new traffic and circulation safe and acceptable.

The April 2003 pre-hearing statement and subsequent materials include a detailed Traffic Impact Analysis (TIA) and TMP.[2] DDOT has met with both the applicant and with concerned citizens concerning the application. OP has participated in some of these meetings.

[2] The TIA employed the both the Highway Capacity Manual (HCM) and the Intersection Capacity Utilization (ICU) capacity analysis methodology. Both are commonly accepted methodologies, but are not identical to some methodologies employed by either the District Department of Transportation's Connecticut Avenue corridor study, or the methodology employed by some citizen groups who analyzed the application.

The TIA reports that most of the intersections near the school generally operate at Levels of Service (LOS) C-F, during the regular street peak hour and/or the peak Burke School drop-off or pick-up. The one intersection that is exceptionally under-stressed is at 29th Street and Upton Street, operating at LOS A and B. The particularly stress intersections and movements are Connecticut Avenue/Van Ness Street and Connecticut Avenue/Tilden Street during the morning street peak hour, and the movement from westbound Upton Street to northbound Connecticut Avenue during the evening school peak hour. These operate at LOS E and F.[3]

The TIA projects that trip generation related to the proposed school addition, with the implementation of the Transportation Management Plan, will vary by the distance from the school. Generally, the intersections nearest the school would see a decrease in school-related traffic counts, and intersections 1 and 2 blocks away would see increases. (The exception to this pattern would be Upton Street during the school's PM peak, which is one hour earlier than the street rush hour peak. Eastbound Upton Street is projected to experience a net increase of 30 PM peak trips).

This projected overall pattern derives from the TMP and emphasizes a combination of the following:

- Restriction of on-site drop-off or pick-up via an off-street driveway on the school property, accessed from Connecticut Avenue and adjacent to (but separated by bollards from) the north/south alley between Van Ness and Upton Streets;
- Tripling the number of on-site parking spaces from 24 to 71[4], without a commensurate increase in student and faculty population. This parking is projected to accommodate all Burke faculty, staff and visitors, as well as 12 students.[5] Entrance to the parking garage underneath the proposed addition would be from Connecticut Avenue. The exit would be via the private driveway, which would separated by bollards from the existing north/south alley but would share an expanded curb cut at Upton Street with the alley.
- Off-site drop-off or pick-up being at a series of remote sites within several blocks of the school, with at least one of these sites being served by a Burke shuttle-bus;
- Emphasis on carpooling and use of public transportation, including provision of 50% metro subsidies to every District Burke student and employee wishing them, as well as Virginia and Maryland students who take Metro;
- An array of proactive enforcement mechanisms such as the hiring of two off-duty policemen to control school peak hour(s) traffic, and an intricate series of reactive procedures targeted at violations and culminating in expulsion from the school. These mechanisms are envisioned to include monitoring by and voting participation of neighborhood residents as part of a Compliance Committee that would have

[3]Burke TMP, Wells & Associates, April 14, 2003. Contained in Burke Special Exception Application April 15, 2003, Exhibit E, page 27.
[4] 21 surface; 36 self-park in new garage; 11 tandem; 3 bus spaces..Burke TMP, page 35
[5] Burke TMP, page 35.

authority to penalties on the school for institutional violation of the TMP and Management plan.

The north/south alley plays an important role in neighborhood circulation, and a critical role in the Burke TMP. The alley is used by surrounding residents, including the high-rise apartments on Van Ness, the row-houses on Upton Street and residences down to Tilden Street. The alley system also serves the properties adjacent to it that front on Connecticut Avenue. It is used for access to residents' parking and trash pickup for adjacent residents. It is now used for access to the school's parking, and would have an integral role in the new parking and circulation system.

The TMPs state emphatically that the alleys will be unobstructed at all times and traffic officers will be employed to keep traffic moving. Many neighborhood residents, however, have equally stressed their feelings that the situation is currently intolerable, and any increase in enrollment will only increase the adverse impact from the school's traffic.

With respect to traffic and circulation, OP notes:

DDOT has reviewed the one-year partial TMP that Burke implemented after the BZA denial of Application No. 16611. DDOT has concluded that, while there are still some problems with general traffic and circulation, the trial TMP has improved the situation and the proposed new TMP will likely improve the situation further. DDOT feels that the TMP that would be implemented under the current Burke application, with the requested student and employee levels, will result in better traffic flow than would a return to the student and employee population levels approved by the BZA in 1983, but without the currently proposed TMP. DDOT engineers have found the proposed circulation plan to be workable and safe, from the standpoint of both vehicles and pedestrians.

However, OP notes that the proposed TMP mechanisms are relatively complex. Given the intricacy of the TMP, OP feels the mechanisms would benefit from greater stringency.

- OP endorses most of the strengthening of the proactive goals and practices, as well as any tightening of the reactive procedures that have been recommended by DDOT. These include:
    - Further staggering of AM student arrival times;
    - Education of parents and students to use the underground Metrorail walkway to cross Connecticut Avenue, or use signalized intersections safely;
    - Should geology and/or hydrology conditions lead to a reduction of the size of the planned garage, provision of off-street parking spaces through a nearby parking garage facility equivalent to the number of spaces that would have been provided by the on-site parking;

  - Provision of off-street parking for attendees of all events including athletic, evening school activities, and social public events and/or classes;
  - Requiring busses from visiting schools to park behind the existing school buildings, in the parking garage, or on Connecticut Avenue, but not on Upton Street, Van Ness Street or other residential streets;
  - DDOT's working with the school and the neighbors to develop criteria for determining the success or failure of the TMP and compliance;
  - Lowering of the "permitted" number of parent or student infractions of the TMP to substantially below the proposed 40 per month;
  - Establishing and reaching a transit usage goal that would increase AM transit usage to the level of PM transit usage;
  - Continued exploration or innovative incentives to decrease the number of vehicles being driven to the school during the morning peak period;
  - Bearing of all institutional TMP-violation mediation costs by the school, rather than by neighbors.
- Both OP and DDOT also recommend an increase in TMP violation penalties to $250 for the first violation, $500 for the second violation. OP recommends the applicant's proposed compliance mechanism for third time violators, rather than the immediate expulsion recommended by DDOT.
- OP recommends that the neighborhood component of the proposed Compliance committee exclude membership by anyone whose children or who, themselves, currently attend or had attended the Burke School.

In Case No.16611, because of perceived problems with traffic, both OP and DDOT recommended against approval of Burke's application for an increase to 360 students and 70 staff. OP's review of the Application No. 17022, with its proposed lesser increase in the student population, its new TIA, new TMP and new enforcement mechanisms, as well as OP's recent consultation with DDOT have led OP to believe the current application:

- Would not significantly increase traffic circulation problems;
- Would not increase adverse impacts on nearby properties;
- May – in conjunction with DDOT and OP recommendations -- actually improve conditions.

Both OP and DDOT acknowledge the neighborhood residents' concerns about the impact that the combination of institutional uses north of Tilden Street, between Connecticut Avenue and Rock Creek Park, have on Upton Street and the general neighborhood. The current uses at Howard University Law School, the Levine School and the Hillwood estate have all met with BZA approval. The Burke School at a level of 270 students and 35 employees has also met with BZA (and ANC) approval. Both OP and DDOT believe that approval of the current application, with the TMP as modified by DDOT and OP

recommendations will be more likely to reduce possible negative impacts than would the approval of a matter of right development without these measures.

Number of Students

The current number of students and faculty/employees at Burke continues to violate BZA Order No. 13986, as it has since for several years. As of the 2002-2003 school year, Burke's student population was 25 over cap. Its on-site faculty count was at least 24 over cap.[6] These are serious violations.

Many neighbors believe that this increase has led to an increase in negative impacts from the student population on the surrounding community.

Comparing numbers of students to the land area of the facilities, Burke has one of the highest student and employee densities of any private school in the district[7]. However, because the proposed new facilities would increase the occupiable space of the Burke facilties to a significantly greater degree than the application would increase actual student population, the construction of the new facilities will actually decrease the density of students per square foot of occupiable space. The proposed new building, parking facilities, queuing ramps, and pedestrian connector will, in OP's opinion, provide additional types of facilities, enable operational changes, and make possible new traffic and parking management plans. Together these changes will likely reduce the impacts of both the current over-cap population, as well as the requested increase.

Otherwise Objectionable Conditions

General

The educational program is primarily focused inside the building, but there are some outdoor activities that cause the students to walk to the park within the Intelsat campus, or along Upton Street to the Howard Law School fields. In addition to perceived traffic, circulation and parking problems, the alleged problems have included increased student foot-traffic and loitering in the alley system; increased trespassing by students on private property; graffiti-type vandalism of nearby retaining walls; and general decrease in Burke's respect for the rights of its neighbors. Neighbors are also concerned that Burke's not having a cafeteria encourages students to venture outside for lunch.

OP notes that the location of other schools including UDC and a new nursing school in the area makes it difficult to verify that Burke students are the cause of such problems. Nevertheless, new facilities such as the additional lounge space, studio space, Connecticut Avenue-facing terrace, and the decrease in student population per square foot of occupiable space, will likely encourage more students to remain "on-campus" despite Burke's "open

[6] There are additional employees located off-site, plus additional occasional faculty.
[7] Based on information provided to OP by Jodie Smolik, 7/02/03.

campus" policies. OP also notes that other private schools recently approved by the BZA do not provide cafeterias. These include, most notably, the Field School on Foxhall Road and Georgetown Day School.

The school reports that it has made repeated contact with the surrounding property owners and businesses, and has encouraged them to report any unseemly behavior by the students. In response to recent requests from OP, the school has agreed to add the following to its proposed management plan should the BZA find it desirable:

- Burke will remove all graffiti from the retaining wall of the Consulate Apartments, across the alley from the school;
- Burke will pay for the installation of a fence separating the eastern end of the east/west alley from the adjacent Howard Law School property, should DPW and the appropriate property owners agree;
- Burke will amend the proposed Compliance plan to account for possible student trespassing on private property, or other violation of private property rights;
- Burke will include language in the student handbook on the school's and the students' appropriate relationship to the surrounding community and the code of conduct that this relationship entails;
- Burke shall ensure that its vending machine food service is equal to the level of such service at other private schools in the District.

The Proposed Pedestrian Bridge

The proposed pedestrian connection between the requested addition and the existing buildings would enable the existing and proposed school buildings to function as if one building, and will help to mitigate any possible adverse impacts from both the existing school and the proposed expanded school facility.

Neighborhood residents have raised concerns about the bridge's appearance as seen from apartments with a view of the alley, and as viewed by passersby from the street. OP feels that the design of the bridge is not a detriment, and, in fact, by increasing the number of "eyes" on the alley, may help improve safety. More importantly, residents have recently questioned the regulatory procedures for review of the proposed pedestrian bridge. The applicant has suggested, based on its interpretations of 11DCMR §§2502 and 2500 that the bridge is an accessory use that meets the limitations of §2500, and does not require a variance, or Zoning Commission approval. The applicant suggests that if the application were approved by the BZA, it would be subject only to additional approval by Department of Consumer and Regulatory Affairs (DCRA's) Public Space Committee.

- OP has examined 11DCMR §§2500 and 2502, and understands that these issues will be raised as preliminary matters by the opponents. Should the Board determine that additional zoning relief is required, OP will review the issues related to that relief at a later point.

Numbers of Special Events

Neighbors have expressed concern about the number of special events and evening and weekend uses at the school. They have also noted their concern about the aggregate impact of simultaneous special events at nearby institutional uses.

OP recommends:

- The Board condition special exception approval on the restrictions noted in Article IX of the Burke School Management Plan dated 6/9/03. It is particularly important that there be no more than 6 events per year that would bring more than 50 cars to the site.
- The Burke School take the lead in re-forming the former scheduling committee between Howard Law School, Levine School of Music, Hillwood, the Royal Netherlands Embassy and the applicant, to reduce overlapping special events and the difficulties such coincident scheduling may impose on the neighborhood,

ii. **11 DCMR §206.3:** ***The school will provide ample parking, with Chapter 21 of the Zoning Regulations setting the minimum standards.***

With the proposed expansion, the school would include 60 zoning-compliant spaces, and a total of 71 parking spaces, if stacked parking and surface bus parking is included.

The new addition has a requirement of 22 spaces to serve the faculty (two-thirds of 35 additional faculty and staff) and 15 spaces to serve the black-box theater (1 space for every 10 seats), or a total requirement of 37 spaces. The addition provides a total of 36 underground spaces and 3 surface spaces, in addition to 11 stacked spaces, therefore meeting the parking requirement for the addition.

The existing building has 24 parking spaces, as approved by the BZA in 1983 in conjunction with the approved levels of 270 students and 35 staff. The application before the Board now requests an increase of 50 students and 35 staff over the previously approved levels. In Order No. 16611, the Board found a total of 71 parking spaces to be sufficient for that application, which requested an increase of 90 students and 35 staff. The Board also credited the then-Department of Public Works' (DPW's) conclusion, as well as OP's conclusion that the 71 spaces complied with zoning requirements, and would be sufficient to mitigate any adverse parking impacts resulting from proposed increases in student enrollment and staff population.

• As noted in the following section, concerns have been raised about the geo-technical feasibility of excavating for the underground parking promised in the application. It is OP's opinion that the applicant has had ample time to conduct subsurface condition studies in the last three years. Should the applicant be unable to fulfill the terms of its BZA approval, it will have to return to the Board, and the issue can be addressed at that time.

Additional Loading Considerations

Some neighbors have suggested that the proposed addition may require off-street loading facilities. 11DCMR §2201 addresses such requirements. While neither public nor private schools are specifically mentioned, §2201.1 notes that "any other use in all districts" that has between 30,000 and 100,000 sf of gfa is required to provide a 30-foot deep loading berth, a 100 sf loading platform, and a 20 foot deep loading space. At 34,276 square feet of gross floor area, the proposed addition will exceed 30,000 square feet in gfa. While §2205.2 may allow the 4,370 sf of ground floor area devoted to "parking spaces" (including parking access and queuing) to be excluded from the gfa calculation, such an exclusion seems moot because of §§2200.6 and 2200.7. In the case of a building addition, §2200.7 requires loading and delivery area provisions to be based on the area of the aggregate existing and additional structures, if the addition increases the intensity of use of the aggregate structure by 25% or more of the aggregate. OP has discussed this with the applicant. The applicant has agreed to:

- Modify the design before the public hearing in order to provide the loading and delivery space specified in §2101.1;
- Provide daytime parking space for the school vans at an off-street location that would not compromise the parking requirements of Chapter 21.

This would still allow the school to park its busses in the loading space during the evenings and on weekends.

At OP's request, DDOT reviewed the loading requirements and noted that (absent any zoning requirements) DDOT would not find a loading berth, loading platform and loading space necessary for the proposed school use.

VIII. COMMUNITY COMMENTS

Advisory Neighborhood Commission 3F recommended denial of the application at its July 1, 2003 meeting by a vote of 5 to 0, with 1 abstention and one recusal. The ANC stressed its strong concerns about:

- An increased level of school traffic;
- Current congestion in the alley caused by traffic and parking;
- The lack of neighborhood parking during school days and special events (which it attributed to other institutions, commercial uses, and deficiencies in high-density residential parking, as well as to Burke);
- The accuracy of the applicant's geo-technical report and concern about the ability of the applicant to excavate the proposed garage, given adverse sub-surface water and/or bedrock conditions encountered by nearby construction;
- The difficulty of complying with and enforcing the above noted plans, as well as the adequacy of the proposed level of fines to deter misconduct.

Other neighbors in opposition have expressed skepticism about the sincerity of Burke's intentions to enforce its TMP and School Management Plan, given Burke's past and present non-compliance with

BZA orders; the architecture of the proposed addition; the appearance of the proposed pedestrian connection; and what they perceived as a tendency of Burke to view the entire neighborhood as its campus.

The case file also contains many letters supporting the Burke application. These have cited:

- Burke's monthly meetings over the last year with an advisory board of neighbors to craft management plans for traffic and school operations in response to neighborhood and previous BZA concerns;
- The proposed tripling of on-site parking;
- The proposed construction of a large drop-off and queuing area within Burke property for car pools, separated from the alley by permanent bollards;
- The decentralization of non-car-pool drop off areas and the institutionalization of the shuttle-bus system;
- The public transportation incentive system;
- DDOT's positive view of the trial traffic management plan;
- The need for quality educational institutions in the District to support the City's population growth objectives.

Still other neighborhood concerns, such as those about the appearance of the pedestrian bridge and the appropriate regulatory procedures under which it should be considered, have been noted earlier in this report.

IX. OTHER AGENCY COMMENTS

The DDOT report and its recommendations have been discussed above. The report is attached.

There were no other agency comments on file or anticipated.

X. OP RECOMMENDATION

The Office of Planning recommends the Board approve Application No. 17022 with the following conditions:

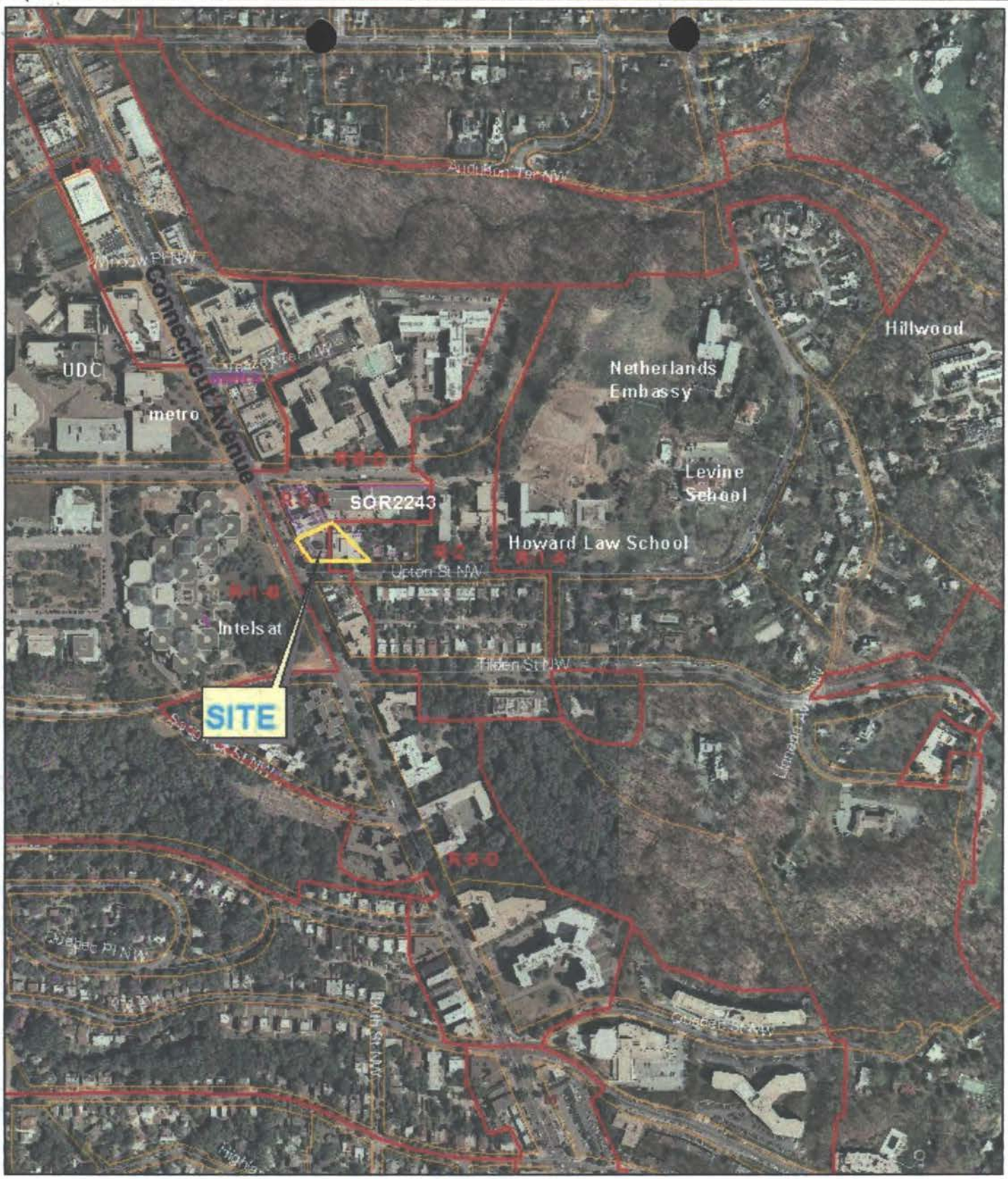
A. Adoption of the TMP and School Management Plan by the Edmund Burke Board, as modified by DDOT or OP recommendations, prior to the filing of a building permit.
B. Adoption of all recommendations of the District Department of Transportation that have been endorsed in this OP report.
C. Provision of additional soundproofing on the northern and eastern sides of the roof structure.
D. Maintenance of both daytime and evening noise levels, as measured at the property line, at no more than 55 dba.
E. Provision of additional information on Burke's current and planned use of open space at the Howard University Law School.
F. An assessment of the noise that would be generated by use of the above space at a 320-level student population.

G. Increase of individual and family infractions of the TMP and School Management Plan to $250 for the first violation and $500 for the second violation;
H. Amendment of the School Management Plan, subject to BZA review, to account for possible trespassing on private property, or other violation of private property rights.
I. Inclusion of language in the School handbook on the schools' and the students' appropriate relationship to the surrounding community and the code of conduct that relationship entails.
J. Exclusion of former or current Burke students or parents from the neighborhood component of the proposed compliance committee.
K. Applicant removal of all graffiti from the retaining wall of the Consulate Apartments.
L. Applicant payment for a fence separating the eastern end of the Square 2243 alley system from the Howard University Law school, should it be requested by residents adjacent to that alley and agreed to by the appropriate property owners.
M. Applicant agreement to construct the planned number of parking spaces.
N. Applicant initiation of a re-constituted scheduling committee between Howard Law School, Levine School of Music, Hillwood, the Royal Netherlands Embassy and the applicant, to reduce overlapping special events and the difficulties such coincident scheduling may impose on the neighborhood,
O. Applicant provision of an enrollment and employment report each fall to the ANC and the BZA, to verify that the approved student and employee population is not exceeded.
P. Annual Applicant submission of the TMP and School Management Plan Compliance Committee reports to the BZA.
Q. Provision of the off-street loading facilities specified in §2201.1.
R. Any other OP recommendations contained in the body of this text.

AA/slc

Attachments:

1 and 1a. Location and Zoning Maps
2. Site Map
3. Comprehensive Plan Generalized Land Use Map
4. DDOT report on application.



Feature Key

- Zoning Boundaries
- Square Index

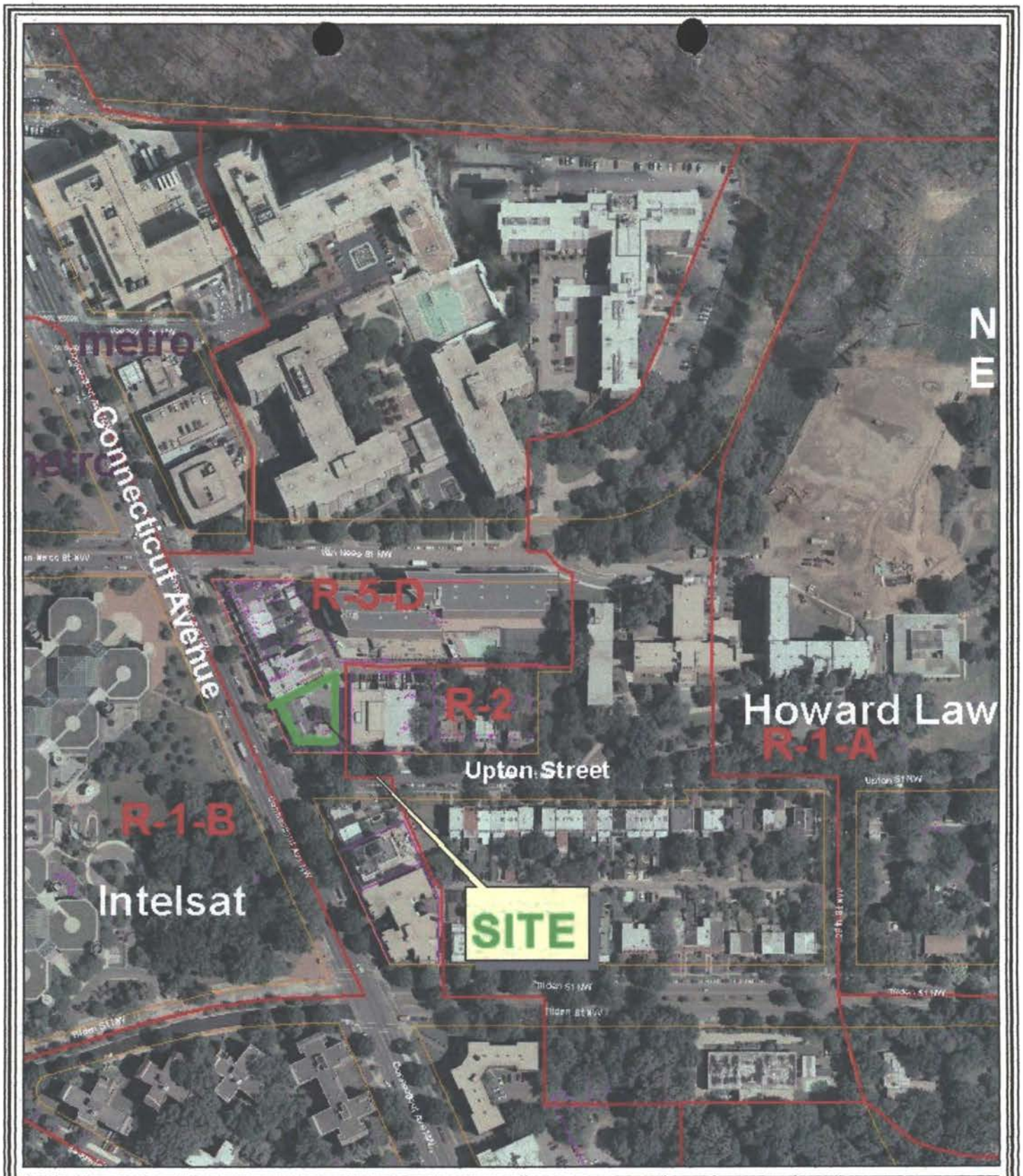
Ortho-Photography was taken in 1999.

Board of Zoning Adjustment
Application No. # 17022
Burke School Addition
Location , Context & Zoning

DC Office of Planning
July 2, 2003

Scale 1:6312

Attachment 1



Feature Key

Zoning Boundaries

Square Index

Ortho-Photography was taken in 1999.

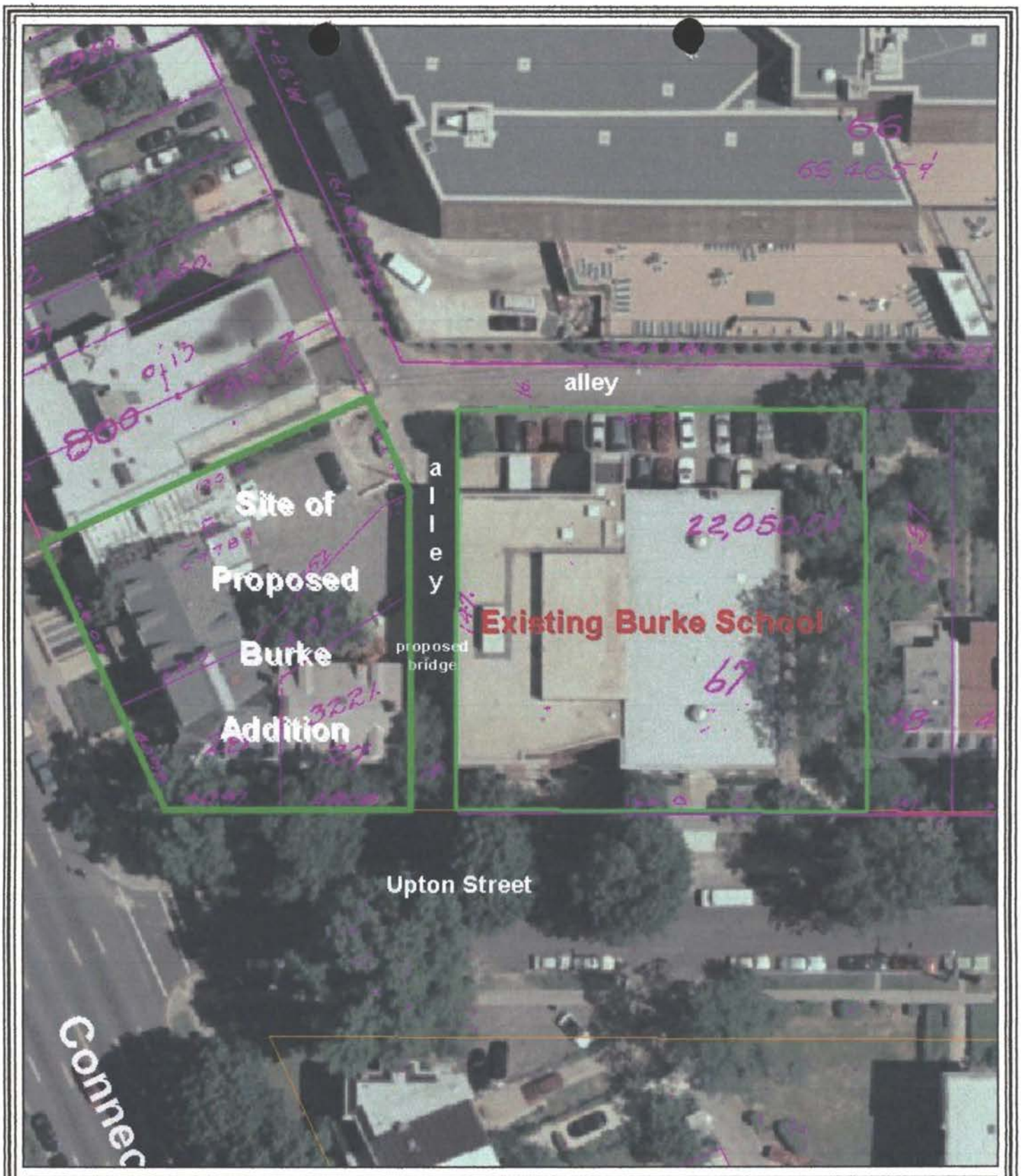
Board of Zoning Adjustment
Application No. # 17022
Burke School Addition
Location , Context & Zoning

DC Office of Planning

July 2, 2003

Scale 1:2770

Attachment 1-a



Feature Key

Zoning Boundaries

Square Index

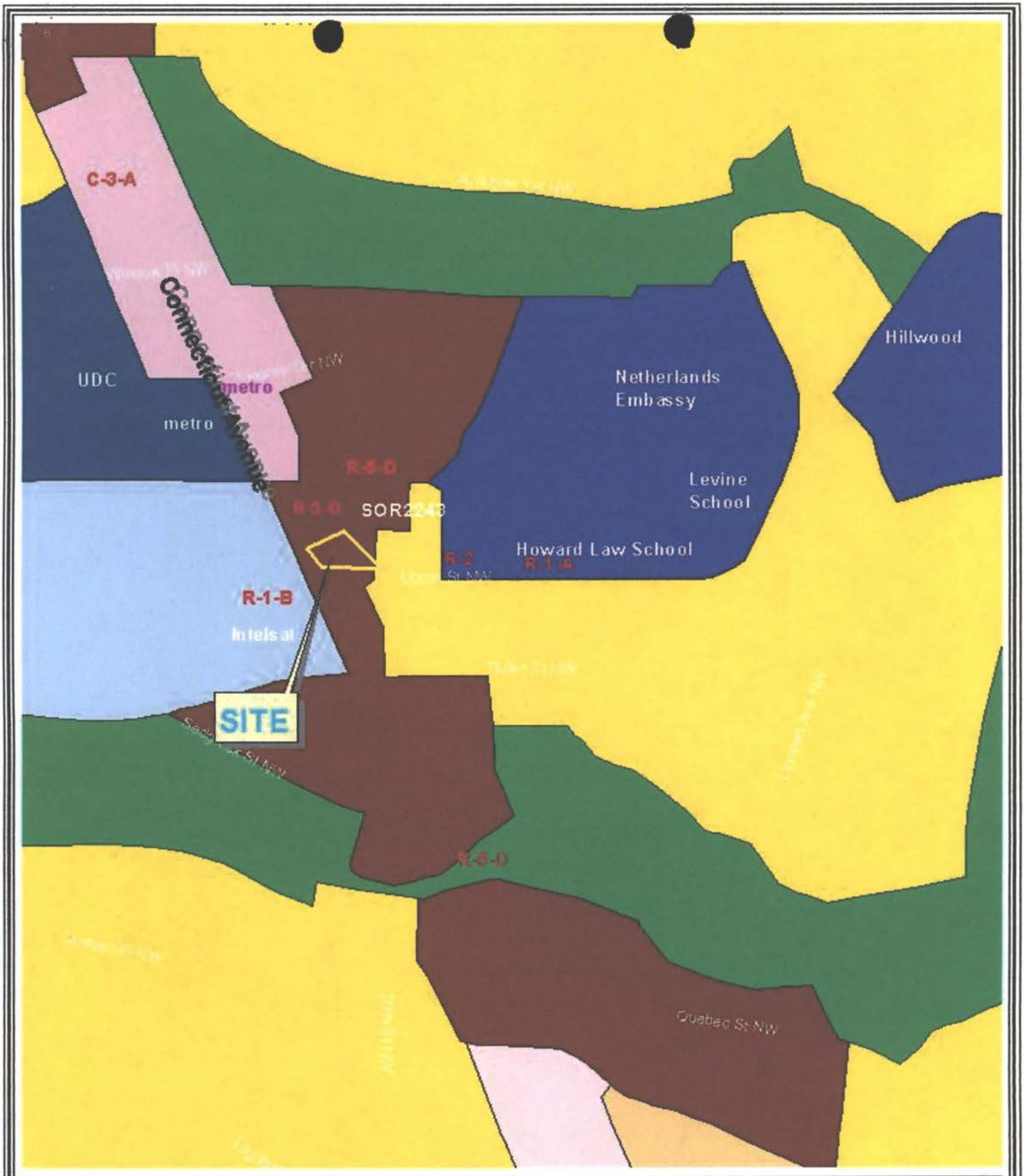
Ortho-Photography was taken in 1999.

Board of Zoning Adjustment
Application No. #17022
Proposed Burke School Addition Site

DC Office of Planning
July 2, 2003

Scale 1:563

Attachment 2



Generalized Land Use Key

- Residential Low Density
- Residential Moderate Density
- Residential Medium Density
- Residential High Density
- Water
- Commercial Low Density
- Commercial Moderate Density
- Commercial Medium Density
- Commercial Med-high Density
- Commercial High Density
- Federal
- International
- Local Public
- Parks, Recreation and Open Space
- Production and Technical Employment

BZA Application No. 17022
Comprehensive Plan Landuse

DC Office of Planning
July 2, 2003

Scale 1:4312

150 0 150 300 450 600 Feet

Attachment 3

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DEPARTMENT OF TRANSPORTATION

Transportation Policy and Planning Administration

MEMORANDUM

TO: Andrew Altman
Director, Office of Planning

From: Kenneth G. Laden
Associate Director

Date: July 3, 2003

Subject: Edmund Burke School; BZA Application Number 16611

The District Department of Transportation (DDOT) has reviewed the Edmund Burke School (School) Application for Special Exception dated April 14, 2003. This report addresses the transportation issues.

DDOT's initial BZA submittal addressed the School's Transportation Management Plan (TMP), dated May 15, 2001. At that time, DDOT expressed concerns about the following issues:

- Marketing transit subsidies
- Location of shuttle bus pick up
- Special event management plan
- Van Ness Metrorail Kiss-and Ride
- Carpool Operations
- Disciplinary sanctions

To address these concerns, and due to the BZA's denial of the initial application, the School implemented a TMP. This TMP established a shuttle bus system, required any drop-off/pick-ups on Upton Street to be part of a carpool system, encouraged the expanded use of transit by students, as well as addressed parking issues.

Officials from DDOT have conducted field visits to evaluate the effectiveness of the voluntary TMP. These visits, along with reports from neighbors and the school, have demonstrated that the TMP has had a positive effect on traffic patterns in the immediate area. Although there is not 100% compliance, DDOT feels the compliance rate is substantial enough to improve the traffic situation over pre-existing conditions.

The School's current special exception application, dated April 15, 2003, requests an increase in the number of students as well as faculty and staff. The current proposal includes the same transportation management components of the May 2002 TMP, with the inclusion of the following important new components:

- Creation of 15 on-site drop-off/pick-up spaces provided on the ground level beneath the new building,
- Access to the parking and drop-off/ pick-up lane exclusively from Connecticut Avenue,
- Connecticut Avenue ingress/egress will be allowed as right turn in/right turn out only,
- Increased on-site parking with proposed parking garage; 47 parking spaces would be provided on two underground parking levels beneath the new building, plus three shuttle bus parking spaces,
- Encouragement of public transportation use,
- Provision of two off-duty, uniformed police officers to monitor and direct traffic at the Connecticut Avenue/ Burke driveway and the alley/Upton Street intersections.

The compliance component of this TMP requires that parents of students attending the School comply with the requirements of the TMP. If parents (or students) are found not to be in compliance with the TMP, there are a variety of sanctions that would be applied, including a requirement that a parent meet with the Head of the School for a first infraction; second and third offenses would result in fines, and a fourth offense would result in the child not being enrolled for the following academic year, or in the case of seniors or non-returning students, other disciplinary action would be taken.

Additionally, the School's request for an increase of student enrollment will be directly related to the success of the school in implementing the TMP components. An enforcement committee comprised of seven members – three neighbors, three school representatives and an objective third party person, will oversee compliance of the regulations. After four consecutive trimesters without an unsatisfactory rating, the School would be permitted to increase the student enrollment to 320. If the School goes over current student enrollment levels before this milestone, the School could be fined or required to go under the current cap of students by the same number that they had gone over. For example, if the School enrollment exceeded its cap by three students, the school would either be fined the equivalent of three tuitions, or they would be forced to reduce enrollment to three students under the current cap. DDOT would agree to work with the School and neighbors to establish criteria to determine if the School had met TMP compliance goals.

DDOT has met on several occasions with school officials and both neighbors in support and opposed to the application. Some neighbors in opposition to the application have brought a number of concerns to DDOT's attention. These concerns included: unintended traffic consequences of the TMP, pedestrian safety, constructability of the proposed parking facilities, traffic and parking during after school and evening events, the

proposed enforcement plan, and the lack of a loading dock at the school. DDOT will address these concerns below.

Unintended traffic consequences

DDOT recognizes that there are potential unintended traffic consequences that may occur under the proposed traffic management plan. One potential consequence of the TMP is that parents will most likely use some local residential streets to get into position for the right turn off of Connecticut Avenue into the proposed drop-off queue lanes. In addition, vehicles turning out of the proposed drop-off lanes onto Upton Street will either turn right to make a rather difficult left turn back onto southbound Connecticut Avenue (without benefit of a traffic light), or use local streets or alleys to access Tilden Street. DDOT recognizes that parents will be required to use some residential streets during student drop-off, but does not believe that this will necessarily result in a more dangerous situation than what already exists. We feel that the TMP's proposed traffic routes present the best possible solution available to the School.

Furthermore, to prevent a potential unintended consequence of traffic backing up on Connecticut Avenue caused by cars trying to enter the queue line, DDOT recommends the school further stagger arrival times so that cars are not arriving all at once. We would prefer this approach rather than have parents re-circulate into the queue using the alley adjacent to the school, or use the adjacent alley as an unapproved drop-off site.

Finally, DDOT engineers have reviewed the plans for the drop-off lane exit on Upton Street and its proximity to the alley exit, and feel that the queue line was properly designed and will be a safe situation, especially with uniformed police present to help direct traffic.

Pedestrians

Some community residents expressed concern about the unsafe behavior of students walking to the school from the various designated drop-off areas, especially those on the west side of Connecticut Avenue. In fact, the number of student pedestrians will naturally increase with the TMP's encouraged use of transit and student drop-off areas off of school property. DDOT recognizes that this is a concern, but also notes that there is an underground passage across Connecticut Avenue near the Van Ness Street Metrorail Station, plus several signalized intersections near the school. DDOT recommends that the School make provisions to educate parents and students to use the underground Metrorail walkway to cross Connecticut Avenue, or use signalized intersections safely.

Parking

It has been brought to DDOT's attention that there may be some geology and/or hydrology issues concerning the proposed below-grade parking garage. DDOT requests that if the below-grade parking structure is, for any reason, unable to be built, that the Burke school provide off-street parking spaces through a nearby parking garage facility, equivalent to the number of spaces that would have been provided by the on-site parking garage.

Additionally, DDOT strongly feels that the school should make provisions to provide off-street parking available for attendees of all events including athletic, evening school activities, and social public events and/or classes. Busses from visiting schools should be parked behind the original school building, in the parking garage, or on Connecticut Avenue, but not on Upton Street, Van Ness Street or other residential streets.

Enforcement Plan

The issue of how the seven-member TMP enforcement panel will be assembled was of concern to some citizens. DDOT recommends that representatives of the neighborhood be designated by the local Advisory Neighborhood Commission. DDOT also agrees with the neighbors that they should not be held liable for any mediation or arbitration costs that are incurred in disputes over the enforcement plan. DDOT recommends that all mediation costs be borne by the school.

Additionally, DDOT feels that penalties for parent or student infractions of the TMP be increased. DDOT agrees with some of the neighbors that an allowable 40 infractions would have a negative impact on the transportation plan's effectiveness and suggests that this number be lowered. As stated earlier, DDOT would work with the School and the neighbors to develop criteria for determining the success or failure of the TMP. Fees for infractions should be $250.00 for the first infraction and $500.00 for the second infraction. Expulsion should be the result from a third infraction.

Additionally, the school should establish and make efforts to reach a goal for transit use so that the morning transit usage would, at minimum, be increased to that of the afternoon transit usage. DDOT would like to see an additional decrease in the number of vehicles being driven to the school during the morning peak period. Perhaps a "vehicle use surcharge" could be applied to parents who drive, or a tuition reduction, as well as transit financial support, could be provided to parents who commit to have their children use transit for both morning and afternoon travel.

Additional land use impacts

The District Department of Transportation also recognizes that there are a variety of institutional land uses in the immediate neighborhood. These land uses include, but are not limited to:

- University of the District of Columbia
- Levine School of Music
- Embassies
- Intelsat
- VMT Education Center
- Hillwood Site

Each of these land uses generate traffic that compete for scarce curbside parking spaces and clog residential streets during peak arrival times. In response to the recent increased growth of these institutions and citizen concern about traffic, DDOT commissioned the Connecticut Avenue Transportation Study. The purpose of the study was to examine

existing transportation conditions in the study area and projected future transportation conditions related to proposed development. The study identified short-term and long-term transportation management and infrastructure improvements to reduce traffic congestion, especially during peak morning and evening travel hours, evening hours and weekends; improve traffic and pedestrian safety; and protect surrounding residential streets from traffic impacts.

The "study area" for this project included the following area: Connecticut Avenue, NW from Sedgwick Street, NW to Albemarle Street, NW. The eastern boundary of the study area was Linnean Avenue and the western boundary of the study area was Reno Road.

The Connecticut Avenue Transportation Study, currently in Draft Final Form, has made short-term (implementation could occur within a year) and long-term (implementation will occur in out years as these options are more costly and require placement in the capital budget) recommendations. A copy of the Draft Final Study will be filed with this submittal.

Loading Dock

Some citizens questioned the lack of a loading dock as part of the new facility that may be required under existing zoning regulations. DDOT feels that a loading dock is not necessary at this site due to its use as a school. DDOT would support an exemption for a loading dock, berth or platform on the site provided that occasional loading or unloading activities could be accomplished using a portion of the garage parking area.

Conclusion

DDOT recognizes that the proposed expansion of the Edmund Burke School at this location will add additional traffic to an already congested area. We recognize that the number of institutional land uses in the neighborhood presents unique transportation challenges. However, we believe that the Edmund Burke School has demonstrated an ability to reduce transportation impacts from their facility through the implementation of various transportation management programs. We believe that the proposed expanded TMP, if successfully implemented, could reduce or contain traffic impacts from a limited expansion of student population. We believe that significantly increasing the use of transit, along with staggered arrival times, use of approved/scattered drop-off areas, the construction of new drop-off lanes within the new school property and use of van pools could substantially buffer the residential neighborhood from the traffic generated by the school.

We support the notion that expansion of the student population be linked with successful implementation of the TMP. DDOT is willing to continue to work with the School and the neighbors to modify the TMP, if necessary, to further improve traffic conditions. DDOT supports the expansion of the Edmund Burke School as outlined in the April 15 2003 application with the conditions mentioned above and with the caveat that if, after full implementation, there are still adverse transportation issues, further adjustments to the TMP may be required, and that ultimately a reduction in the number of students may be required.