



Single Member District 6A-03
310 9th Street NE
Washington, DC 20002

October 6, 2005

Bill Crews
Zoning Administrator
Department of Consumer and Regulatory Affairs
941 North Capitol Street NE, Room 2000
Washington, DC 20002

Re: Attention to Permits for Child Development Center at 138 12th Street NE

Dear Mr. Crews:

I am writing to bring your attention to a new child development center planned for 138 12th Street NE in an R-4 District. My concern is that DCRA will incorrectly issue building permits and a certificate of occupancy for a "public school" use at this location.¹

According to the zoning regulations, a public school must be operated and maintained by the DC Board of Education. By definition, if a building is operated or maintained by another entity, then it cannot be a public school for zoning purposes.² In this case, the building will be operated and maintained by the AppleTree Institute for Education Innovation, a nonprofit organization seeking a charter through the DC Public Charter School Board for a pre-school educational program. Therefore, the building will not be operated and maintained by the DC Board of Education (which also has charter authority), and DCRA should not treat it as a public school for zoning purposes.

Instead, DCRA should recognize the intended use of the building as a "child development center." This use encompasses other educational uses such as child care centers, pre-schools, nursery schools, and before-and-after school programs.³ Child development centers are permitted in an R-4 District as a matter of right per 11 DCMR 330.5(d), provided that the center shall be limited to no more than sixteen (16) individuals. A child development center may serve additional children if the Board of Zoning Adjustment (BZA) grants a special exception and may expand beyond 40% lot occupancy if BZA grants a variance.

It is important to the residents of the neighborhood that DCRA correctly treat this property as a child development center and take steps to determine the number of children to be served at the location. If incorrectly treated as a public school, the neighbors of the property will have no effective venue for input on traffic, pedestrian safety, noise and parking demand associated with facility operations, nor on potential impacts to light, air, and property values of adjacent properties from expansion of the existing building to 80% lot occupancy as detailed in submissions to the Historic Preservation Review Board.

¹ Public schools are matter of right use beginning in the R-1 District per 11 DCMR 201.1(k) and may exceed 60% lot occupancy per 11 DCMR 403.1, subject to certain limitations.

² 11 DCMR 199.1 reads in relevant part: "School, public - a building operated and maintained by the District of Columbia Board of Education for educational purposes and such other community uses as deemed necessary and desirable."

³ 11 DCMR 199.1 reads in relevant part: "Child/Elderly development center - a building or part of a building, other than a child development home or elderly day care home, used for the licensed care, education, counseling, or training of individuals fifteen (15) years of age or less and/or for care of elderly individuals, totaling six (6) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as child care centers, pre-schools, nursery schools, before-and-after school programs, senior care centers, elder care programs, and similar programs and facilities."

Based on these concerns, I am requesting a review of any pending applications or issued building permits for this property to ensure that your staff has not made any errors in interpretation or application of the zoning regulations to this property. I would greatly appreciate the courtesy of a written response within two weeks.

Thank you for your attention to this matter. If you have any questions or need further information, please contact me at 202-544-3734 or rice6A03@verizon.net.

Respectfully yours,

//original signed//

Cody Rice

Advisory Neighborhood Commissioner (6A03)

cc: Councilmember Sharon Ambrose
Emily Paulus, Historic Preservation Office