

	<p>ADVISORY NEIGHBORHOOD COMMISSION 3C GOVERNMENT OF THE DISTRICT OF COLUMBIA CATHEDRAL HEIGHTS • CLEVELAND PARK MASSACHUSETTS AVENUE HEIGHTS MCLEAN GARDENS • WOODLEY PARK</p>
<p><i>Single Member District Commissioners</i> 01-Lee Brian Reba * 02-Gwendolyn Bole * 03-Jeffrey Kalie 04-Vacant * 05-Margaret Siegel * 06-Carl Roller 07- Victor Silveira * 08-Catherine May * 09-Nancy MacWood</p>	<p>3601 Connecticut Avenue, NW Suite L-06 Washington, DC 20008 Website http://www.anc3c.org Email all@anc3c.org</p>

ANC 3C Resolution 2014-027

Regarding BZA Appeal #18827 of Dr. Joan Kinlan of a Zoning Administrator Decision to Allow, Among Other Things, the Operation of a Child Development Center and a Religious/Clerical Residence for over 15 Persons without the Necessary Special Exception Approval

Whereas, Embassy Church, owner (“Owner”) of the property located at 3855 Massachusetts Avenue, NW (the “Subject Property”), has caused the Subject Property to be used for certain operations which are not matter-of-right uses in the subject R-1-B zone district, and which require special exception approval from the Board of Zoning Adjustment, among them a child development center and a housing program with significantly more than fifteen (15) residents. It is not known whether the housing program is related to specific religious activities (in requires a special exception), nor whether it contains any local focus, or whether it is purely residential (in which case it requires a variance); and

Whereas, the Child Development Center (the “CDC”) is operated by an entity that calls itself the St. Albans Early Childhood Development Center and is not associated with the Embassy Church; and

Whereas, the Zoning Administrator, Matthew LeGrant, issued a letter dated May 16, 2014, to Lerch, Early & Brewer, LLP, in which he states that the use of the Subject Property for a “child care facility” is permitted as a matter-of-right, and does not require special exception approval, because he deems the CDC use to be a mere continuation of a previous charter school use on the Subject Property; and

Whereas, the previous use was the Washington Latin Public Charter School, grades 5 through 7, which opened in 2006 and moved at the end of the 2008 school year; and

Whereas, the CDC ostensibly operates without a special exception because the Zoning Administrator has deemed a child development center as a continuing public middle school use and thus, approved the issuance of Certificate of Occupancy #C01002760, which authorizes the use of the Subject Property as a child development center for 88 children, with a total occupancy load of 88 and no mention of the number of CDC staff; and

Whereas, the Zoning Administrator’s decision to allow the use of the Subject Property, in the R-1-B zone, as a child development center, is clearly in violation of the use

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provisions of the Zoning Regulations, as child development centers are only permitted as a matter-of-right in the R-1-B under certain conditions, none of which are present in this case (and none of which the Zoning Administrator has cited as justification for his decision) and there is no continuing child development center use; and

Whereas, none of the other uses which take place on the Subject Property, including the religious/clerical residence, church use, or residential use, have a certificate of occupancy authorizing such uses, which is a clear violation of 11 DCMR 3203.I, which provides generally that all uses other than one-family dwellings must have a certificate of occupancy; and

Whereas, in order to secure a certificate of occupancy for the apparent use of an apartment by persons other than the Embassy Church pastor and his family and for the use of the building for residences of at least 30 persons a special exception is required, even if it can be demonstrated that the use is for a religious denomination or a church program that promotes the social welfare of the community; and

Whereas, the immediate neighbors, including but not limited to the adjacent neighbor to the Subject Property, Dr. Joan Evelyn Kinlan, of 3843 Massachusetts Avenue, NW, are significantly adversely impacted by the operation of the CDC and the multiple residences, in addition to other actions of the Owner, and has therefore filed an appeal (BZA Appeal #18827) (the "Appeal") of the Zoning Administrator's decisions noted in his May 16, 2014 letter; and

Whereas, the Zoning Administrator's claim that a matter-of-right use (public school) may be converted to a non-matter-of-right use (child development center) without the required special exception approval, negatively impacts the immediate neighbors, and presents a precedent which will have far-reaching negative impact not only on her and other District residents, but also on the integrity of the Zoning Regulations; and

Whereas, the Zoning Administrator did not address and apparently has not investigated whether there is a church apartment that is rented to someone other than the Pastor, as an accessory apartment, without a special exception; and

Whereas, the Zoning Administrator's claim that 30 youth may live at the church at any one time without a special exception has negatively impacted the immediate neighbors, and presents a precedent which will have negative impact not only on her and other District residents, but also on the integrity of the Zoning Regulations:

BE IT RESOLVED that Advisory Neighborhood Commission ("ANC") 3C finds that child development center use by the Owner on the Subject Property is not permitted as a matter-of-right and would only be permitted by grant of special exception approval by the Board of Zoning Adjustment, Ch. 11, Sec. 205; and

Be It Resolved that ANC 3C finds that religious/clerical residence use for over fifteen (15) persons on the Subject Property is also not permitted as a matter-of-right and is only permitted by grant of special exception approval by the Board of Zoning Adjustment, Ch. 11, Sec. 215/ 216; and

Be It Resolved that ANC 3C finds that the Appeal appropriately and persuasively challenges the Zoning Administrator's decisions regarding the uses described above

taking place on the Subject Property, and should therefore be granted by the Board of Zoning Adjustment; and

Be It Resolved that ANC 3C strongly encourages the BZA to grant Appeal No. 18827 and to require that the Owner discontinue the child development center use, the religious/clerical use, and the additional family dwelling use, unless and until the Owner obtains special exception or variance approval from the BZA for such uses; and

Be It Further Resolved, that the ANC3C Chair, the ANC3C-07 Commissioner, or their designees are authorized to represent the commission on this matter.

Attested by



Carl Roller

Chair, on July 21, 2014

This resolution was approved by roll call vote of 7-1 on July 21, 2014 at a scheduled and noticed public meeting of ANC 3C at which a quorum (a minimum of 5 of 8 commissioners) was present.