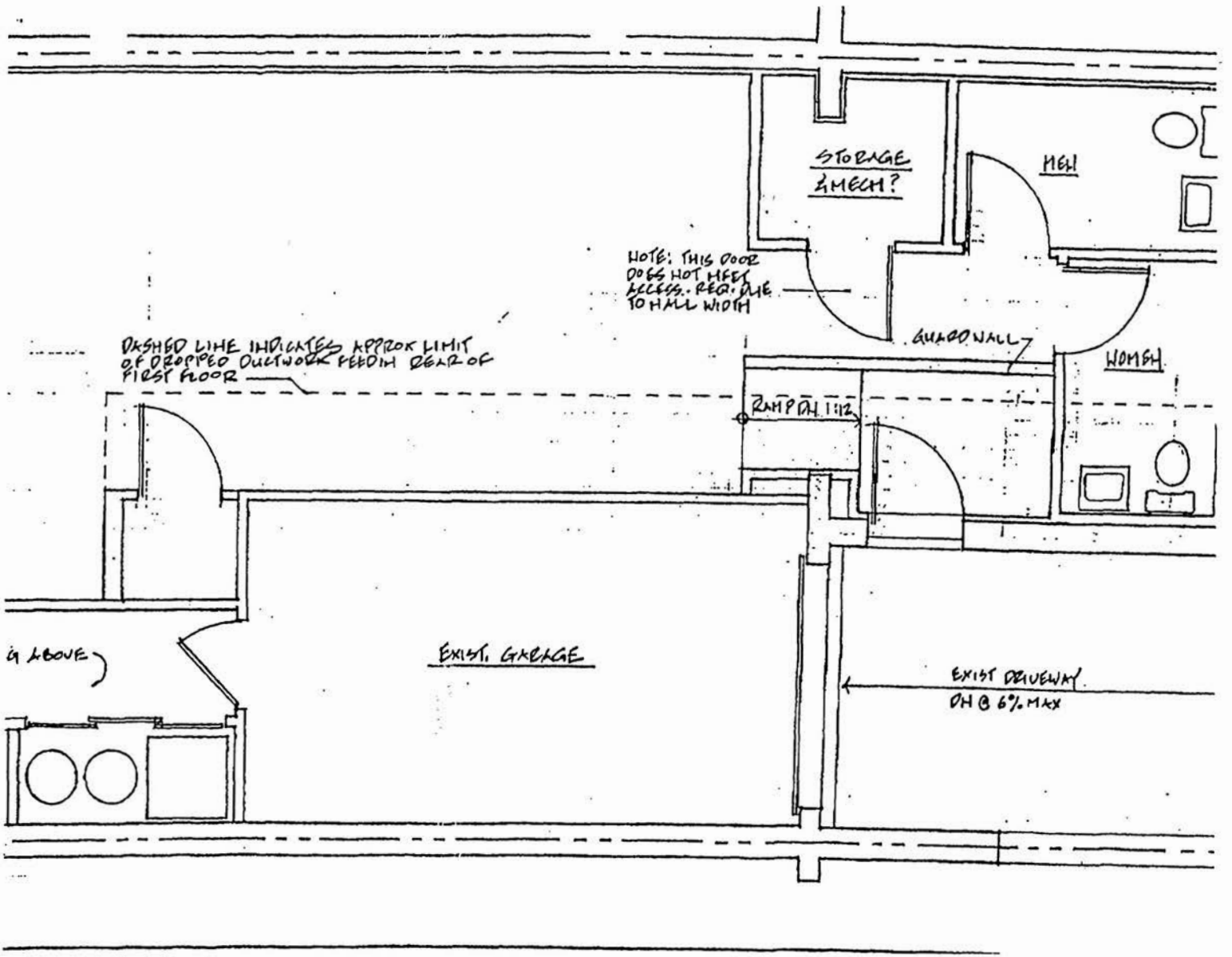
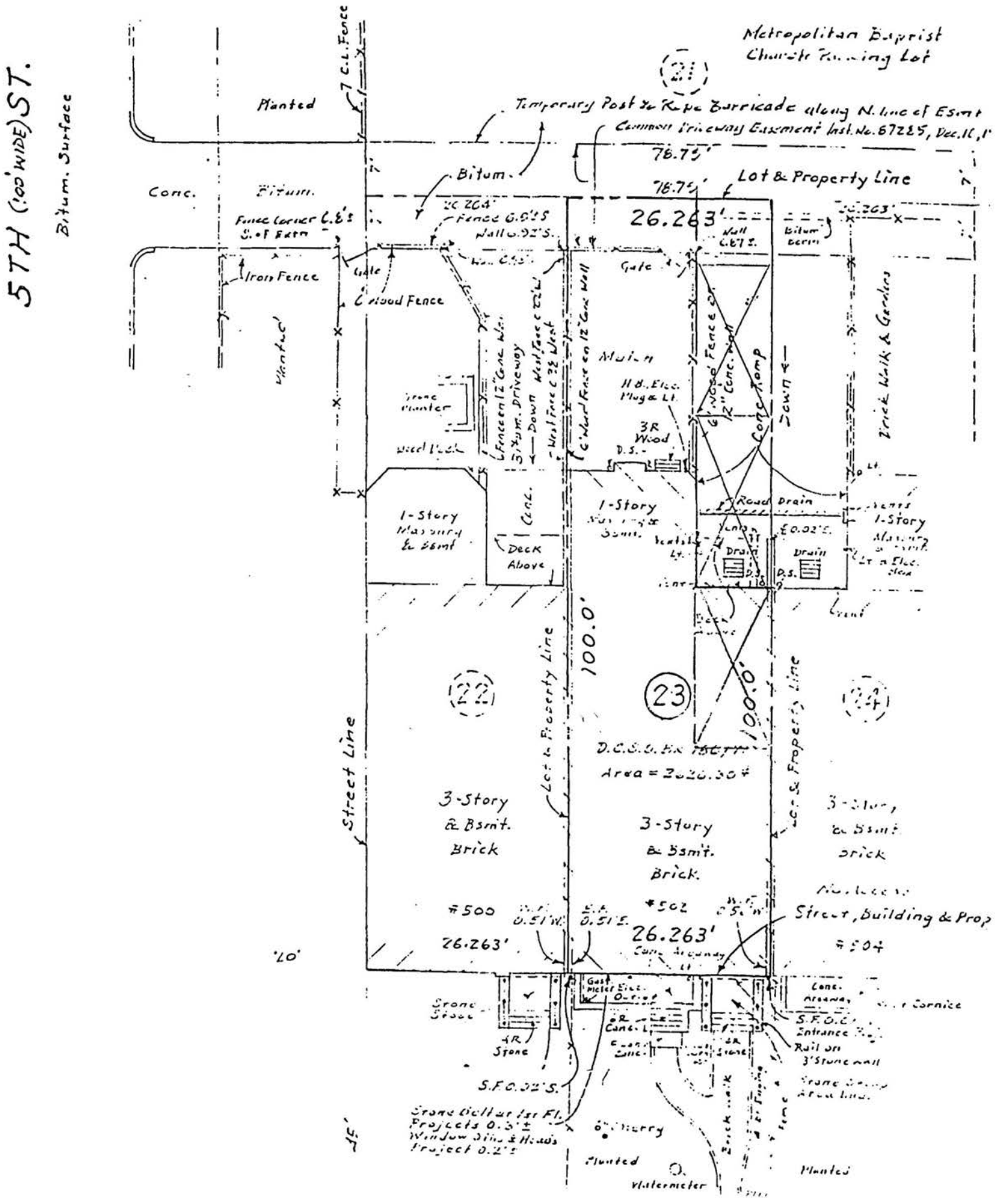

STORAGE
& MECH?
MEH
NOTE: THIS DOOR
DOES NOT MEET
ACCESS. REQ. DUE
TO HALL WIDTH
GUARD WALL
WOMEN
DASHED LINE INDICATES APPROX LIMIT
OF DROPPED DUCTWORK NEEDED REAR OF
FIRST FLOOR
RAMP @ 1:12
EXIST. GARAGE
EXIST DRIVEWAY
@ 6% MAX


5TH (100' WIDE) ST.
Bitum. Surface
Metropolitan Baptist Church Parking Lot
Planted
7' C.L. Fence
Temporary Post & Rope Barricade along N. line of Esmt
Common Driveway Easement Inst. No. 67225, Dec. 10, 1
76.75'
Bitum.
Lot & Property Line
Conc.
Bitum.
Fence Corner C.L.'s S. of Extn
26.263'
Fence 0.9'S.
Wall 0.9'S.
Wall 0.6'E.
Bitum. Berm
Iron Fence
Gate
6' Wood Fence
Wall 0.5'E.
Gate
Planted
Fence 12" Conc. Wall
Sixty-ft. Driveway
Down
West Face of Wall
West Face of Wall
6' Wood Fence on 12" Conc. Wall
Lawn
Brick Walk & Gardens
Stone Planter
Wood Deck
H.B. Elec. Mtg. & Lt.
3R Wood
D.S.
12" Conc. Wall
Conc. Ramp
1-Story Masonry & Bsmt.
Conc.
Deck Above
1-Story Masonry & Bsmt.
Roof Drain
Drain
Drain
D.S.
D.S.
E 0.02'S.
1-Story Masonry & Bsmt.
Elec. Mtr.
100.0'
100.0'
Lot & Property Line
Street Line
22
23
24
D.C.S.O. Ex
Area = 2620.30 #
3-Story & Bsmt. Brick
#500
26.263'
3-Story & Bsmt. Brick.
#502
26.263'
3-Story & Bsmt. Brick
Street, Building & Prop
#504
Gas Meter
Elec. Outlet
Conc. Areaway
Stone Steps
4R Stone
4R Conc.
Conc. Areaway
S.F.O.C. Entrance
Rail on 3' Stone wall
Stone Cornice
S.F.O.2'S.
Stone Cellar 1st Fl. Projects 0.3'± Window Sills & Heads Project 0.2'±
Cherry
Planted
Watermeter
Planted

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

April 2, 2003

Allison C. Prince, Esq.
Shaw Pittman, LLP
2300 N Street, NW
Washington, DC 20003

Re: National Democratic Club -- 411 New Jersey Avenue, SE (Square 693, lot 96)

Dear Ms. Prince:

The purpose of this letter is to confirm our discussion in our meetings on January 16, 2003, and March 21, 2003, regarding the new private club building that is proposed for the vacant lot located at 411 New Jersey Avenue, SE. Specifically, at our first meeting we reviewed the drawings for the proposed new building. The drawings show the articulation of the northern facade that results in the creation of several court niches. As we discussed during the meeting, I determined that these indentations constitute court niches because the northern side of the lot abuts unimproved property that is encumbered by a railroad right of way.

At our more recent meeting, we discussed the manner of computing parking associated with the proposed new building. It is my understanding that the building will consist of three levels that are fully above grade, one level that is partially basement and partially cellar and will be used for parking, and one cellar level that is located beneath the basement/cellar level. I confirmed that mechanical equipment rooms located anywhere in the building including the cellar do not count toward the parking requirement. I also confirmed that since the cellar level is being used for assembly hall purposes, the parking requirement for that level can be calculated based on the assembly hall use while the remainder of the building will be calculated under the "all other use" category since there is not a specifically delineated category for private club. The 20-seat boardroom on that level would result in a need to provide 1 parking space for every 10 seats or a total of two spaces for that level. Finally, I confirmed that Section 2115.11 of the Zoning Regulations allows for a waiver of the dimension, size, design and striping requirements associated with required parking spaces, provided that the parking is

managed, during a 12-hour peak period to be determined by the D.C. Department of Transportation, by employed attendants who park the vehicles using the facility. You informed me that the Club is willing to provide valet parking, since that is the practice at the current Club location. For that reason, I agreed that the National Democratic Club may take advantage of this section in order to provide the required number of parking spaces. As long as the D.C. Department of Transportation approves the period during which valet parking must be provided. The use of Section 2115.11 will allow the number of spaces on the site to be maximized. The valet parking arrangement will insure that all spaces can be accessed at all times since cars can be moved to allow such access.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Robert W. Kelly
Zoning Administrator

Building, height of - the vertical distance measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet.

In those districts in which the height of building is limited to forty feet (40 ft.), the height of the building may be measured from the finished grade level at the middle of the front of the building to the ceiling of the top story.

In those districts in which the height of the building is limited to sixty feet (60 ft.), in the case of a building located upon a terrace, the height of building may be measured from the top of the terrace to the highest point of the roof or parapet, but the allowance for terrace height shall not exceed five feet (5 ft.).

Where a building is removed from all lot lines by a distance equal to its proposed height above grade, the height of building shall be measured from the natural grade at the middle of the front of the building to the highest point of the roof or parapet.

If a building fronts on more than one (1) street, any front may be used to determine the maximum height of the building; but the basis for the height of the building shall be determined by the width of the street selected as the front of the building.

In those districts in which the height of building is permitted to be ninety feet (90 ft.) or greater, the height of buildings shall be measured to the highest point of the roof excluding parapets not exceeding three feet (3 ft.) in height. (33 DCR 3979)

Cabaret - a restaurant or nightclub providing as the main focus of its business, programs of live entertainment such as singing, dancing, comedy, literary readings, or performance art. In a cabaret, the clientele generally sit at tables in order to watch the entertainment and are attended by waiters or waitresses who serve food or drink. Typically, there may be more than one show in an evening and a complete turnover in patrons. (39 DCR 8328)

Caregiver - an individual who is responsible for the supervision and administration of a child development home or child/elderly development center. (29 DCR 4913)

Caterer, catering establishment - a person or business that prepares and provides food or beverages or both, along with the necessary accessories for serving these products, for ordinary home consumption. The food and beverages are provided for events that are located off the business establishment's premises. Any establishment that receives more than seventy-five percent (75%) of its sales from orders placed less than three (3) hours prior to delivery or pick-up will not be considered a catering establishment. (40 DCR 3744)

Cellar - that portion of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade.

Central Area - the area included within the combined boundaries of the Urban Renewal Plan for the Downtown Urban Renewal Area and the Urban Renewal Plan for the Shaw School Urban

emphasis on matters depicting, describing, or related to specified sexual activities and specified anatomical areas.

These establishments may include, but are not limited to, bookstores, newsstands, theaters, and amusement enterprises. If an establishment is a sexually-oriented business establishment as defined here, it shall not be deemed to constitute any other use permitted under the authority of this title. (24 DCR 5144)

Specified anatomical areas - parts of the human body as follows:

(a) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human genitals in a discernibly turgid state, even if completely and opaquely covered. (24 DCR 5144)

Specified sexual activities - the following activities:

(a) Acts of human masturbation, sexual intercourse, sexual stimulation or arousal, sodomy, or bestiality; and

(b) Fondling or other erotic touching of human genitals, pubic region, buttock, or breast. (24 DCR 5144)

Square - land designated as a square on the records of the Surveyor of the District of Columbia.

Stable, private - an accessory building housing not more than four (4) horses or other equine animals for private use and not for remuneration, hire, or sale. The building may also house not more than four (4) horse-drawn vehicles.

Stable, public - a stable, other than a private stable.

Story - the space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. The number of stories shall be counted at the point from which the height of the building is measured.

For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars, stairway or elevator penthouses, or other roof structures; provided, that the total area of all roof structures located above the top story shall not exceed one-third (1/3) of the total roof area.

Story, top - the uppermost portion of any building or structure that is used for purposes other than housing for mechanical equipment or stairway or elevator penthouses. The term "top story" shall exclude architectural embellishment.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
CASE NO. 98-8
(TEXT AMENDMENT – CHILD DEVELOPMENT CENTERS)
SEPTEMBER 13, 1999

The Zoning Commission for the District of Columbia initiated this case in response to a petition from the District of Columbia Office of Planning (OP) to amend the text of the District of Columbia Zoning Regulations (DCMR) Amendments to the text of the Zoning Regulations pursuant to the Zoning Act [CT OF June 20, 1938, 52 Stat. 797 as amended, D.C. Code Ann. Section 5-413 198].

Over the past several years, the Board of Zoning Adjustment (BZA) has been requested to approve special exceptions for a number of child development centers (CDCs) with programs and uses not previously accommodated in CDCs, which typically provide various types of day care for children under 15 years of age. Those additional uses have included adult education, adult counseling, parenting classes, and senior day care in individual and group sessions. These programs, either coupled with CDC activities or housed in CDC facilities, are not specifically identified in the Zoning Regulations. To accommodate these new use combinations, the Board of Zoning Adjustment (BZA) has requested the Zoning Commission to review and amend the Zoning Regulations, as appropriate, to permit these new uses, presumable with BZA approval in residential zone districts.

The OP reports filed on April 8, 1998 and May 1, 1998 presented background information about the proposal, and presented text with comments indicating the intent and justification for the proposal. At its regular monthly meeting of May 11, 1998, the Zoning Commission determined that the proposed text amendments presented a sound basis for consideration and authorized a public hearing.

Pursuant to proper notice, the Zoning Commission held a public hearing on the proposed amendments on March 11, 1998. The hearing was conducted in accordance with the process of 11 DCMR 3021. At the close of the public hearing, the Commission left the record of the case open until April 23, 1999.

On May 10, 1999, at its regular monthly meeting, the Zoning Commission discussed the case and the OP Hearing Summary Report dated May 3, 1999. The Commission reiterated that the record had been left open for a substantial length of time to receive comments and or responses from those licensing agencies such as DCRA, the Health Department and the Office on Aging. The Commission noted that no responses were received and took proposed action to approve the amendments. Following the

Commission's action, a Notice of Proposed Rulemaking was published in the D.C. Register at 46 DCR 6459 (August 6, 1999) for a thirty (30) day public and comment period. The comment period expired on (September 6, 1999.)

A notice of proposed rulemaking was referred to the Zoning Administrator (ZA), the OP and the Office of Corporation Counsel (OCC) for comments and the National Capital Planning Commission (NCPC), pursuant to the Self-Government and Governmental Reorganization Act.

By report dated August 10, 1999, the OCC, in consultation with the Zoning Commission made several changes to the proposed amendments. Those changes included combining the proposed definition of "child development center" and "elderly day care center" to a new definition called "child/elderly day care center". OCC indicated this was done to simplify the amendments as initially proposed which would have created two entities that provided for the same set of uses. OCC also stated that the definition of "child/elderly development center" also provides that any combination of the elderly and children 15 years old or less, taking 6 or more individuals, meets the minimum number to fall within the definition of such a center. OCC further indicated that the Commission may wish to define the term "elderly" in order to avoid misinterpretations of the Commission's intent and encouraged a definition that is specific to age rather than descriptive of the characteristics of elderly. Additionally, OCC revised the proposed definition of "child development center" to eliminate the requirement for adequate staffing and recreational space.

OCC determined that the proposed rulemaking meets the Corporation Counsel's standards of legal sufficiency.

On September 13, 1999, at its regular monthly meeting the Zoning Commission discussed the case and the supplemental OP reports dated September 3, 1999 and September 13, 1999. In response to comments received from OP and the Office of Early Childhood Development, Department of Human Services, the Commission increased the number of allowable persons from 15 to 16 so as to reflect the existing practice of licensing such facilities in increments of 8.

The National Capital Planning Commission (NCPC), by delegated action of the Executive Director dated September 10, 1999 indicated that there was no federal interest in the case and that the proposed amendments would not adversely affect the federal establishment or other federal interest in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

The specific amendments that were adopted by the Zoning Commission as final action at its public meeting of September 13, 1999 are as follows:

A. Title 11, Chapter 1, Section 199, DEFINITIONS, subsection 199.1 is amended as follows:

The following definition for child development center is amended to read as follows:

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 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. A child/elderly development center includes the following accessory uses: counseling, education, training and health and social services of the parents or principal guardians of children attending the center.

Add the following definition, in alphabetical order, to subsection 199.1 to read as follows:

Elderly day care home - a dwelling unit used in part for the care, education, recreation or training of no more than five (5) elderly individuals who are not related by blood or marriage to the caregiver and who are present for less than 24 hours per day. This definition encompasses facilities generally known as senior care centers, elder care programs, and similar programs and facilities.

B. Title 11, DCMR, Chapter 2, Section 202, ACCESSORY USES (R-1), is amended by adding subsection 202.5 to read as follows:

202.5 The elderly day care home shall be permitted as an accessory use in an R-1 District incidental to the uses permitted in this chapter if the requirements of the child development home are met.

Existing subsections 202.5 through 202.10 shall be renumbered 202.6 through 202.11.

C. Title 11, DCMR, Chapter 2, Section 205, CHILD DEVELOPMENT CENTERS (R-1), is amended as follows:

Section 205 is amended by deleting the word "CHILD" and substituting "CHILD/ELDERLY".

Subsection 205.1 is amended by deleting the word "child" and substituting "child/elderly".

Subsection 205.3 is amended by deleting the word "children" and substituting "children or elderly persons".

Subsection 205.8 is amended to read as follows:

> The Board may approve more than one (1) child/elderly development center in a square or within one thousand feet (1,000 ft.) of another child/elderly development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

Subsection 205.9 is amended to read as follows:

> 205.9 Before taking final action on an application for use as a child development and/or elderly day care center, the Board shall submit the application to the D.C. Departments of Public Works and Health, the D.C. Office on Aging and the D.C. Office of Planning, for review and written reports.

D. Title 11, DCMR, Chapter 3, Section 330, R-4 DISTRICTS: GENERAL PROVISIONS, is amended as follows:

Subsection 330.5(d) is amended to read as follows:

> (d) Child development and/or elderly day care center; provided that the center shall be limited to no more than sixteen (16) individuals;

Subsection 330.5(e) is amended by deleting the word "Child" and substituting "Child/Elderly".

E. Title 11, DCMR, Section 334, TEMPORARY COMMUNITY SERVICE CENTERS (R-4), is amended as follows:

Section 334 is amended by deleting the word "TEMPORARY".

Subsection 334.1 is amended by deleting the word "temporary".

Subsection 334.2 is amended by deleting the word "temporary".

Subsection 334.5 is amended by deleting the word "temporary".

Delete subsection 334.6.

F. Title 11, DCMR, Chapter 3, Section 350, R-5 DISTRICTS: GENERAL PROVISIONS, subsection 350.4(g) is amended by deleting the word "Child" and substituting "Child/Elderly".

G. Title 11, DCMR, Chapter 5, Section 501, USES AS A MATTER OF RIGHT (SP), subsection 501.1(g) is amended by deleting the word "Child" and substituting "Child/Elderly".

H. Title 11, DCMR, Chapter 6, Section 601, USES AS A MATTER OF RIGHT (CR), as follows:

Subsection 601.2(c) is amended by deleting the word "Child" and substituting "Child/Elderly".

Section 601 is amended by adding a new subsection 601.6 to read as follows:

601.6 An elderly day care home shall be permitted as a matter of right as an accessory use in a CR district; provided, that the dwelling unit in which the home is located shall be the principal residence of the caregiver, and the use shall otherwise meet the definition of a home occupation.

I. Title 11, DCMR, Chapter 7, Section 702, ACCESSORY USES (C-1), is amended by adding a new subsection 702.3 as follows:

702.3 An elderly day care home shall be permitted in a C-1 district as a matter of right as an accessory use incidental to the uses permitted in §§701 through 719 of this chapter; Provided, that the following requirements shall be met:

a) The dwelling unit in which the use is located shall be the principal residence of the caregiver; and
b) The use otherwise shall meet the definition of a home occupation.

Existing subsection 702.3 shall be renumbered 702.4.

J. Title 11, DCMR, Chapter 9, Section 901, USES AS A MATTER OF RIGHT (W), is amended as follows:

Subsection 901.1(t) is amended by deleting the word "Child" and substituting "Child/Elderly".

Subsection 901.4 is amended by deleting the word "child" and substituting "child/elderly".

K. Title 11, DCMR, Chapter 21, Section 2101, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES, subsection 2101.1, SCHOOLS, is amended by deleting the word "Child" and substituting "Child/Elderly".

L. Title 11, DCMR, Chapter 31, Section 3104, SPECIAL EXCEPTIONS is amended by adding deleting the word "Child", located in the list of uses permitted by Special Exception in any R District, Section 205, and substituting "Child/Elderly".

WILKES, ARTIS, HEDRICK & LANE
CHARTERED
ATTORNEYS AT LAW
1666 K STREET, N. W.
SUITE 1100
WASHINGTON, D. C. 20006-2866
(202) 457-7800

CABLE ADDRESS: WILAN
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WRITER'S DIRECT DIAL:

3 BETHESDA METRO CENTER
BETHESDA, MARYLAND 20814-5329
11320 RANDOM HILLS ROAD
SUITE 600
FAIRFAX, VIRGINIA 22030-6042

June 12, 1990

By Hand

Mrs. Gladys Hicks
Deputy Zoning Administrator
614 H Street, N.W.
Room 333
Washington, D.C. 20004

Re: National Child Research Center

Dear Mrs. Hicks:

Thank you for meeting with us regarding the National Child Research Center (NCRC) at 3209 Highland Place, N.W. Based upon our meeting with you of June 8, 1990, this letter requests your acknowledgement that the National Child Research Center's accessory building (which is located on the same lot as the principal building) is covered by the present certificate of occupancy (#B101503).

The subject property is located at 3209 Highland Place, N.W., Square 2072, Lots 855 and 866. As indicated by the Baist and Sanborn Atlas and the Surveyor's Plat, the main school building and accessory building are both located on Lot 855, Square 2072.

The original certificate of occupancy for 3209 Highland Place, N.W., issued July 1, 1930 (#30,302), indicates the use as "school". According to a letter from NCRC to the Commissioners, D.C., dated August 29, 1935, NCRC applied for a certificate of occupancy for the accessory building at 3209 Highland Place, N.W. in Square 2072. The letter indicates that the remodeling of the unused building was for education and research. Subsequently, a second Certificate of Occupancy was issued on September 9, 1935 (#50706) for a "school".

In December 1976, NCRC applied for another certificate of occupancy. The application was for a Nursery School and Kindergarten and Elementary School with 90 students. The certificate of occupancy, along with the application, indicates that the address of the site is 3209 Highland Place, N.W., Lots

WILKES, ARTIS, HEDRICK & LANE
CHARTERED

855 and 866. The certificate of occupancy was subsequently granted (No. B101503).

As noted in the attached letter, the accessory building has been continuously used for school purposes. Further, as noted at the meeting, the original plans for the remodelling of the accessory building indicate that the work was for a school.

Based upon our meeting and the above information, we request that you confirm in the space below that the accessory building is included under the existing Certificate of Occupancy for the school.

Thank you for your assistance in this matter.

Sincerely,

John T. Epting

Enclosures

cc: Anthony Barnes
Christopher Collins
Steven Sher
David Winstead

Acknowledged By:

Gladys Hicks 6/13/90
Gladys Hicks Date
Deputy Zoning Administrator

AGENDA

3209 Highland Place, N.W. (Square 2072)
National Child Research Center
JUNE 8, 1990
11:00 A.M.

I. Issue: seeking confirmation that the school's principal building and accessory building are covered by the present certificate of occupancy.

II. Review of site--3209 Highland Place, N.W.; Square 2072, Lots 855 and 866

A. Baist and Sanborn Atlas

B. Surveyor's Plat showing the main school building and accessory building located on Lot 855, Square 2072

III. Certificate of Occupancy

A. Original certificate of occupancy--issued July 1, 1930 (#30,302) for 3209 Highland Place, N.W. for a "school".

B. According to a letter from NCRC to the Commissioners, D.C., dated August 29, 1935, NCRC applied for a C.O. for a building on Lot 832 at 3209 Highland Place, N.W. in Square 2072. The letter indicates that the remodeling of the unused building was for education and research. The letter notes that the building "impinges" upon the building restriction line on Porter Street between 1 foot and 7/10 foot (as does the subject building). The letter requested a waiver of the building restriction line. Subsequently, a second Certificate of Occupancy was issued September 9, 1935 (#50706) for a "school". See attached.

C. Attached is a copy of the certificate of occupancy application and certificate of occupancy No. B101503. The application was applied for in December, 1976. The application was for a Nursery School and Kindergarten and Elementary School with 90 students. Note that the stamp and signature of Joseph Bottner indicates that the application complied with the requirements of the Zoning Regulations as they were published on December 21, 1976. The certificate of occupancy, along with the application, indicates that the address of the site is 3209 Highland Place, N.W., Lots 855 and 866.

D. The Zoning Regulations do not require a certificate of occupancy for any accessory building on the same lot as the principal building. The certificate of

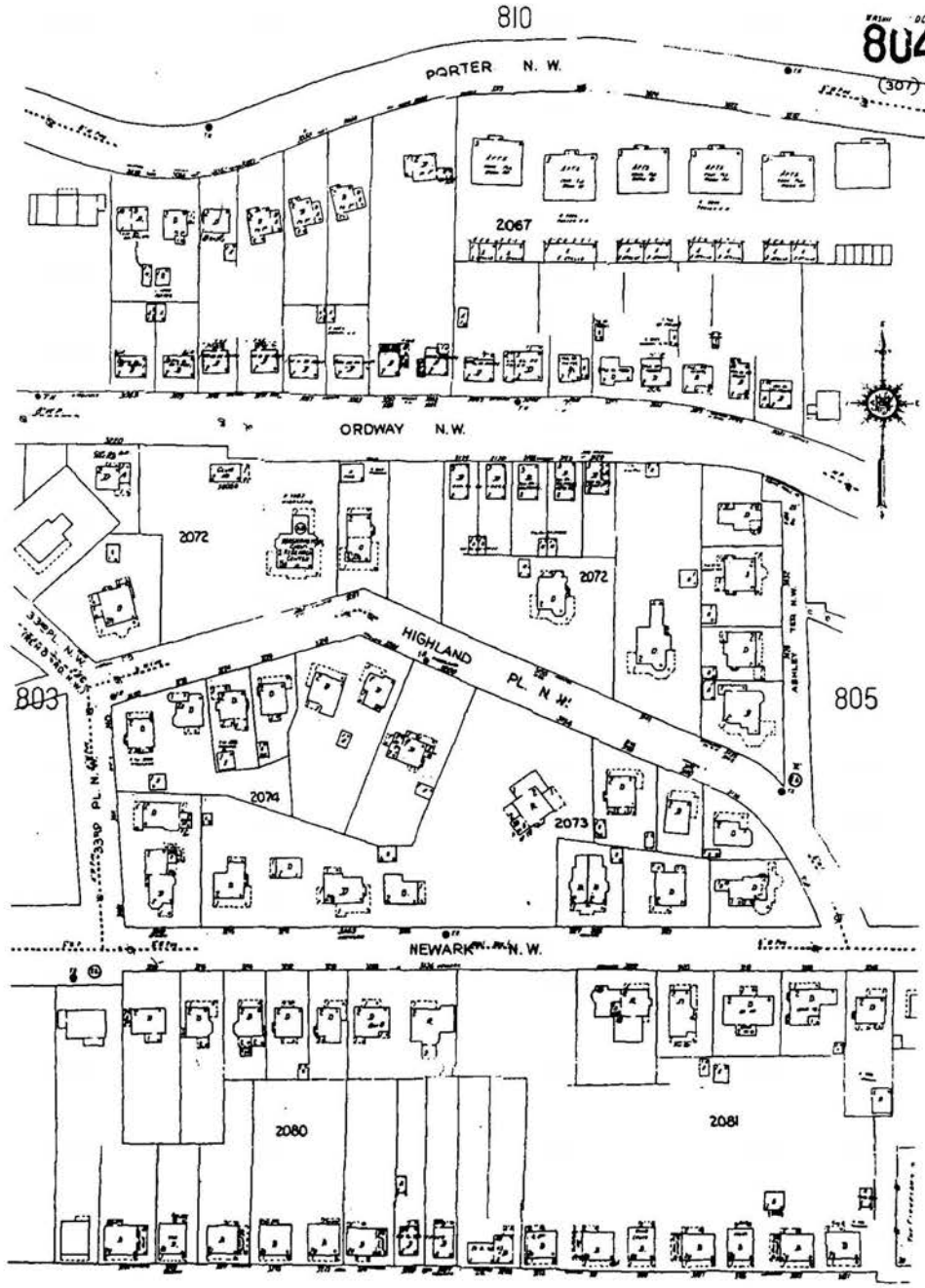
occupancy is for 3209 Highland Place, Lots 855 and 866.

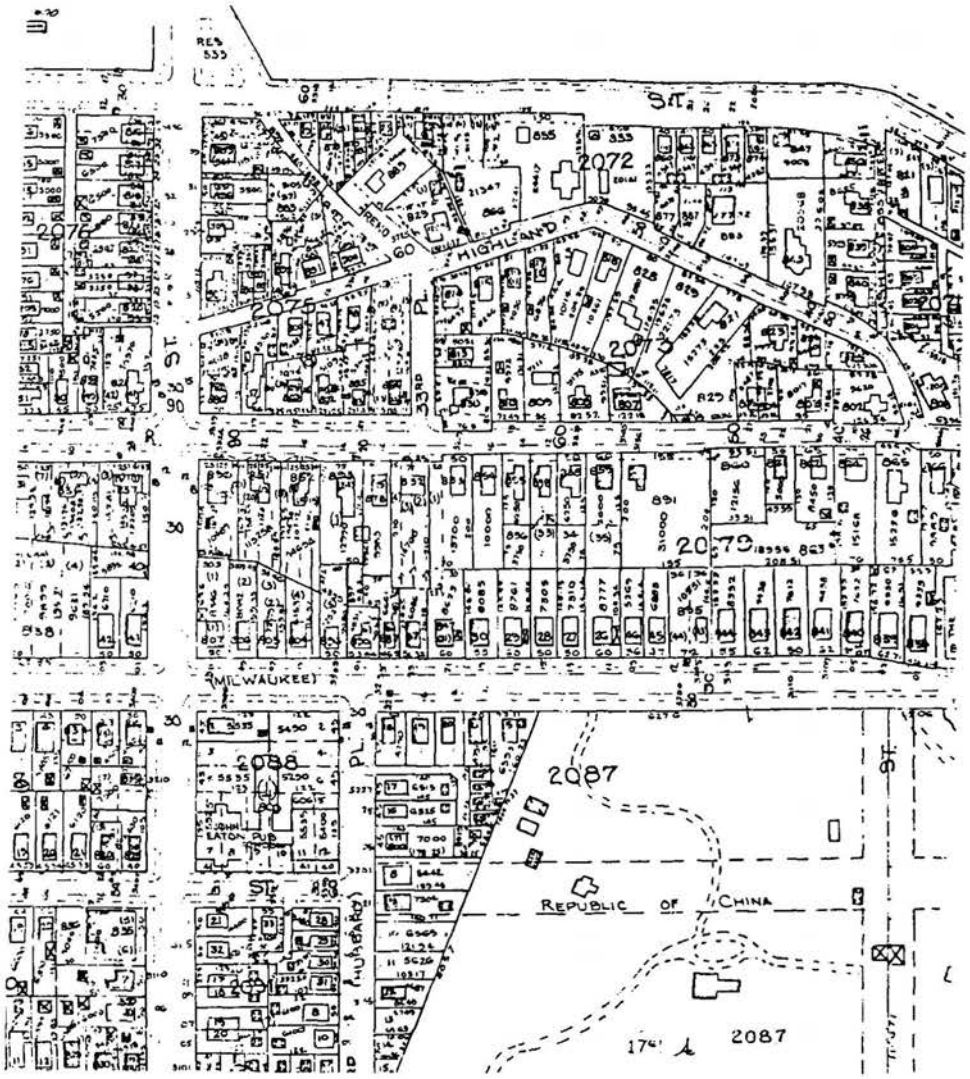
III. The accessory building has been continuously used for school purposes. See attached letter.

IV. Original plans (presumably based on the 1935 C.O.) indicate accessory building was a school.

V. Prior to further needed renovations, NCRC's Board of Directors seeks confirmation that the accessory building is included under the existing Certificate of Occupancy for the school.

VI. Other Issues


810
804
PORTER N. W.
(307)
2067
ORDWAY N.W.
2072
2072
HIGHLAND PL. N.W.
803
805
2074
2073
33RD PL. N.W.
NEWARK N.W.
2080
2081


2072
2076
2075
2079
2088
2087
HIGHLAND
(MILWAUKEE)
REPUBLIC OF CHINA
2087

Highland Pl. St. N.W. Sq. 2072

CERTIFICATE OF OCCUPANCY

Floor	House No.	Type of Business	Permit No.
	3209	school	30302
	3209	school	50706

P-3490

Attachment 1

August 29, 1935.

Honorable Commissioners of the District of Columbia:

Gentlemen:

The National Child Research Center, a District of Columbia corporation, organized not for profit, to conduct an educational and research institution for pre-school children, hereby petitions the Commissioners for an occupancy permit covering a building on its premises at 3209 Highland Place, lot 832, square 2072, the lower floor of which is to be used as a part of the school and the upper floor as a dwelling place for the Director of the school. The original occupancy permit of the National Child Research Center for the purposes of the school was granted July 1, 1930, and is # 30,302.

The National Child Research Center plans to use this addition to its property, which is simply the remodeling of an existing unused building on the property, in accordance with its general plan of pre-school education and research. Plans for the remodeling have been submitted and include certain grading of the exterior, interior renovation of the premises, and the building of an outside, open porch at one end of the building. We do not understand that the plans themselves have met with any particular obstacle in your office, but we are applying to you direct for this occupancy permit in view of the fact that the school year will open September 1st and it is our hope to have the premises ready to use as increased facilities by the first of October.

We also make application for a waiver of the building restriction line on Ordway Street, N. W., which bounds this property on one side, as per the attached plat. It appears from a survey that a 15 foot building restriction line of Ordway Street, which has not been cut through, impinges upon the line of the existing building to be remodeled, between 1 foot and 7/10 of one foot. In view of the fact that this building is located nearly in the center of a large lot having a frontage of 313.17 feet on Ordway Street as projected, this

slight projection beyond the restriction line " will not interfere with the adjacent buildings, nor with the general public." It also appears that this building restriction is not established for the adjacent lot on the east. Consideration of the depth of the lots between Highland Place and Ordway Street, together with the present development of these lots, make it seem improbable that there will be any other buildings built facing Ordway Street along this restriction line.

The National Child Research Center respectfully requests that this petition for occupancy permit and waiver of the building restriction line of Ordway Street, to the small extent necessary, may be granted by the Commissioners.

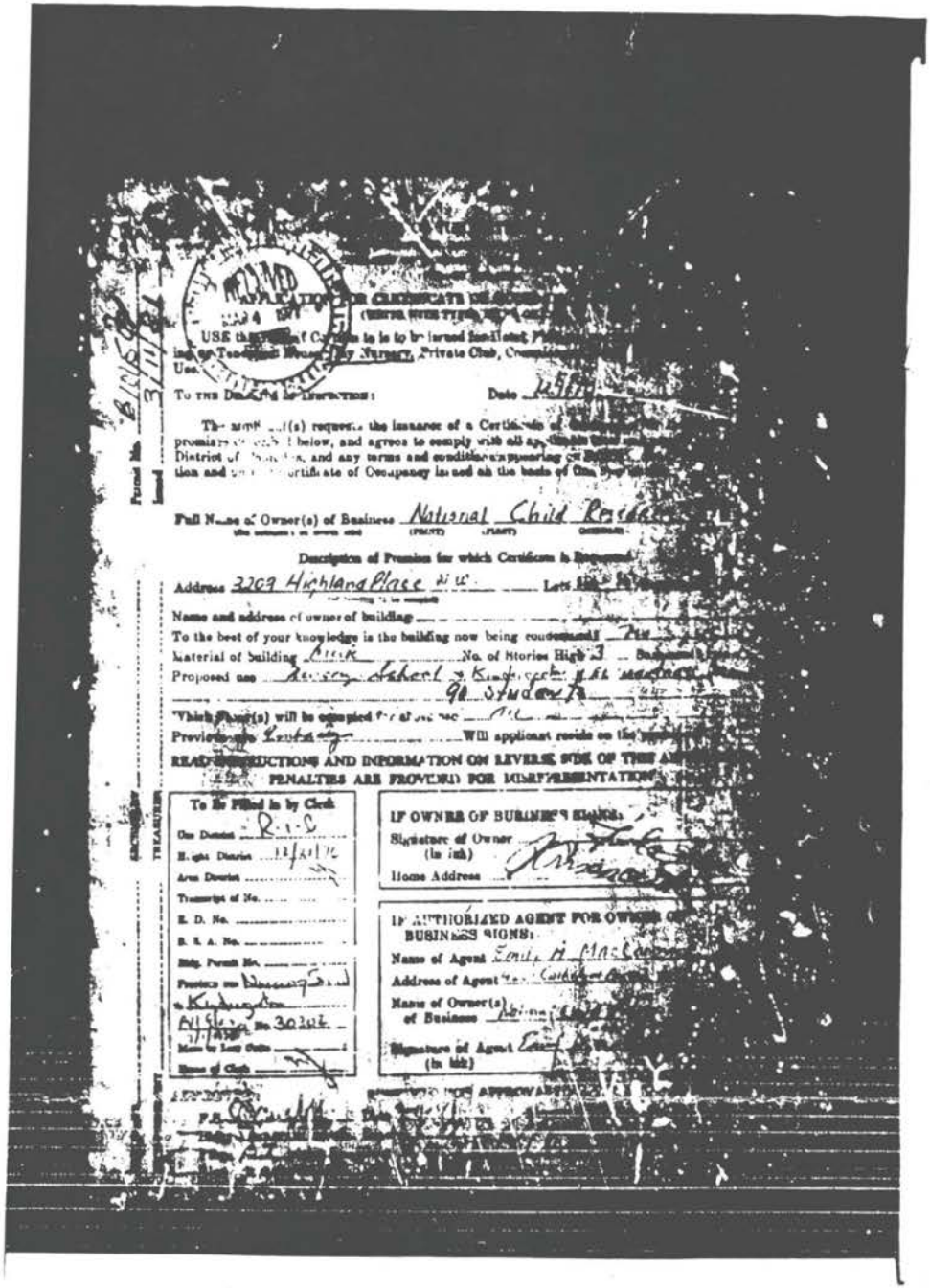
Respectfully submitted,

NATIONAL CHILD RESEARCH CENTER

by

President.

12/76



APPLICATION FOR CERTIFICATE OF OCCUPANCY

USE this ... of Occupancy is to be issued for ... Private Club, Cemetery, ...

To the Director of Licenses: Date ...

The ... (s) request ... the issuance of a Certificate of ... promises ... below, and agrees to comply with all ... District of ..., and any terms and conditions appearing on ... tion and ... Certificate of Occupancy is ... on the basis of the ...

Full Name of Owner(s) of Business: National Child Research ...
(PRINT) (PLAINT)

Description of Premises for which Certificate is Requested:

Address: 3209 Highland Place N.W. Lot ...

Name and address of owner of building ...

To the best of your knowledge is the building now being condemned? No

Material of Building: Brick No. of Stories: High 3 ... Basement

Proposed use: Nursery School & Kindergarten for maximum of 90 students

Which floor(s) will be occupied by ... ...

Previous use: Vacant ... Will applicant reside on the ...

READ DIRECTIONS AND INFORMATION ON REVERSE SIDE OF THIS A...
PENALTIES ARE PROVIDED FOR MISREPRESENTATION.

To Be Filled in by Clerk

One Dentist: R-1-B

Eight District: 12/20/76

Area District: ...

Transcript of No. ...

E. D. No. ...

B. B. A. No. ...

Bldg. Permit No. ...

Previous use: Nursing School & Kindergarten

Fee: $ 30.00

Money to Lose Date: ...

Name of Clerk: ...

IF OWNER OF BUSINESS SIGNS:

Signature of Owner (In ink): ...

Home Address: ...

IF AUTHORIZED AGENT FOR OWNER OF BUSINESS SIGNS:

Name of Agent: Emily H. Mas...

Address of Agent: ...

Name of Owner(s) of Business: ...

Signature of Agent (In ink): ...

APPROVED

P.S. ...

Date ...

Period ... Issued ...

TREASURER

CERTIFICATE OF OCCUPANCY B 101503

Washington, D.C., , 19

Permission is hereby granted to

to use the All floor(s) of the building located on Lot 855&866 Square 2072

known as premises 3209 Highland Place N.W. for the following

purpose(s):

When Ready for Inspection Call This NO 724-8932
Mr. Lewis

When stamped "PAID" by the D. C. Treasurer, this application will become your receipt and when presented to the Permit Clerk will entitle you to your certificate.

ZONE FEE $ 20.00

R1B

Credit: Permit 9054 Certificate of Occupancy

Chief, Permit Branch

By
Permit Clerk

DEPT. OF ECONOMIC DEVELOPMENT, GOV'T. OF DIST. OF COL.

APR 25 1977

2009

Form ED-P-401 CERTIFICATE OF OCCUPANCY No. B101503

Washington, D.C., 3/11/81 , 19

Permission is hereby granted to National Child Research Center

to use the All floor(s) of the building located on Lot 855&866 Square 2072

known as premises 3209 Highland Place N.W. for the following

purpose(s): Nursey School & Kindergarten & Elementary School

190 students)

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPT. OF ECONOMIC DEVELOPMENT, GOV'T. OF DIST. OF COL.

ZONE FEE $ 20.00

R1B

Chief, Permit Branch

By N. Francene McDaniel
Permit Clerk

NATIONAL CHILD RESEARCH CENTER
3209 Highland Place, N.W. Washington, D.C. 20008
Telephone: 363-8777

Patricia Scallan
Director

April 3, 1990

Mr. John T. Epting
Wilkes, Artis, Hedrick & Lane
1666 K Street NW
Washington, DC 20006 -2866

Dear Mr. Epting:

I am writing as a follow up to your conversation with Ned Symes regarding NCRC's request to have a certificate of occupancy issued for the annex building on the school's property. Mr. Symes requested that I forward verification that the annex building has been used consistently and over many years for school related activities

The original certificate of occupancy for the school was issued in 1930. Below is a chronology of the use of the annex building:

1. The first existing file documentation is contained in a letter addressed to the Commissioners of the District of Columbia on August 29, 1935. This letter petitions the Commissioners for an occupancy permit for the annex premises "the lower floor of which is to be used as a part of the school and the upper floor as a dwelling place for the Director of the school." (see attachment 1)

2. Staff members who currently work or have worked at the school state that the building was used for kindergarten instruction during the 1940's, for the director's residence (upper level) and for classes (lower level) during the 1950's and early 1960's.

3. For a short period prior to 1976, the annex was used as a teacher training institute.

Wilkes, Artis, Hedrick & Lane, Chartered
RECEIVED
APR 06 1990

4. School brochures used during the period when Emily MacCormack was the director (1976-85) describe the annex as providing space for children's activites (see attachment 2). Also upon the appointment of Ms. MacCormack, major renovation was undertaken to both buildings on the property to meet fire code regulations. At that time building permits were required and no certificate of occupancy was on record. Building modifications proceeded and the annex has been continuously used as described in the catalog excerpt.

5. Documents on file show that the school has been in compliance of fire and safety regulations for the past decade.

Please contact me with any questions or if additional information is needed.

Sincerely,

Patricia Scallan mp

Patricia Scallan
Director

PS/mp

cc: Ned Symes
Ankie Barnes

ATTACHMENT 2

From school brochure used from 1976 to 1985

SCHOOL AND PARTICIPATION

PARENT AND FAMILY PARTICIPATION

Parents and other family members are encouraged to participate in all aspects of the school's program. A parent takes with him an increased understanding of his own child from direct participation in class activities. Whether it be on trips, or in special classroom projects, a great feeling of involvement with the child's school life can make a family feel closer.

Parents and children have enjoyed the opportunity to participate in improving the playscape.

THE BUILDING AND ITS GROUNDS

NCRC is housed in a spacious three story renovated brick Victorian mansion on a wooded acre of land in the residential Cleveland Park section of Washington, D.C.

The five classrooms are equipped with an everchanging variety of materials to stimulate and interest children at each age level.

The outdoor playscape provides a natural, wooded terrain with areas for vigorous and quiet activity. A child is delighted with giant sand pits, tricycle paths, climbing nets and gyms, wide platform slides, brick play terraces, and racks of swings.

The Annex building, a playhouse, also provides space for rainy day activities, creative movement and dance, films for children, class get togethers as well as parent educational workshops.

RATHKOPF'S

The Law of Zoning and Planning

by Arden H. Rathkopf
and Daren A. Rathkopf

Edward H. Ziegler, Jr.,
Principal Author for Revision,
Professor of Law, University of Denver

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Volume 2



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less educational in nature "than that of the most demanding university."[8]

§ 30:13 Educational facilities and accessory uses

By implication, permission to operate a school includes permission to locate upon the property those accessory uses which are customarily engaged in by students.[1] So, in *Alexander v. Philips*,[2] it was held that stadia for athletic games were included within the term "school-houses," and that the

---

[8]School Lane Hills, Inc. v. East Hempfield Tp. Zoning Hearing Bd., 18 Pa. Commw. 519, 336 A.2d 901 (1975). And see United Civic Associations and Neighbors, Inc. v. Planning Bd. of Town of Clifton Park, 153 Misc. 2d 906, 583 N.Y.S.2d 901 (Sup 1992) (proposed facility for handicapped and developmentally disabled adults constituted school offering "general education courses" under zoning ordinance).

See also the following cases holding that the facilities in question were protected uses within the meaning of Mass. Gen. L. ch. 40A, § 3 prohibiting local officials from using zoning laws to prevent nonprofit educational organizations from using land for educational purposes: Watros v. Greater Lynn Mental Health & Retardation Ass'n, 421 Mass. 106, 653 N.E.2d 589 (1995) (residential facility for mentally retarded adults); Campbell v. City Council of Lynn, 415 Mass. 772, 616 N.E.2d 445, 84 Ed. Law Rep. 442 (1993) (group home of elderly mentally ill residents); Gardner-Athol Area Mental Health Ass'n, Inc. v. Zoning Bd. of Appeals of Gardner, 401 Mass. 12, 513 N.E.2d 1272, 42 Ed. Law Rep. 381 (1987) (residential facility for adults with mental disabilities).

See generally herein with respect to residential/educational facilities of a "group home" nature, §§ 23:24 to 23:29, supra.

[Section 30:13]

[1]See generally herein Ch 33, infra.

[2]Alexander v. Phillips, 31 Ariz. 503, 254 P. 1056, 52 A.L.R. 244 (1927). See also Board of Ed. of Louisville v. Klein, 303 Ky. 234, 197 S.W.2d 427 (1946) (gymnasium, athletic stadium, and library all permitted accessory uses to a high school).

In Property Owners Ass'n of Garden City Estates v. Board of Zoning Appeals of Incorporated Village of Garden City, 2 Misc. 2d 309, 123 N.Y.S.2d 716 (Sup 1953), the board of appeals limited the number of seats in the bleachers the school desired to erect in and about its stadium. The court said:

> Adelphi College was granted permission to establish an educational institution in Garden City in 1927. With the passage of years its student body and educational facilities have expanded in accordance with the general trend of more and more education for the youth of the country. It is customary, whenever space is available, for colleges and schools generally, to use a portion of their property for athletic contests, commencement exercises and other activities of like nature. The parties to these proceedings do not question the right of Adelphi to make such use of its property but the property owner-petitioners and the Board seek to deny to Adelphi that which public schools concededly may do without permission—provide seats as an accessory use. (§ 401, subdivi-

use of the property for such games was a proper accessory use to the school.[3]

In *Yancey v. Heafner*,[4] issuance of a permit to construct a 4,000 seat, concrete, lighted stadium as an accessory athletic playing field of a high school in a single family residence district in which schools and colleges were permitted uses, was upheld. Following the reasoning of the court in *Commissioners of District of Columbia v. Shannon & L. Construction Co.*[5] that athletic development is properly a part of education, the court noted that "the little red schoolhouse is a thing of the past" and found that under such changed conditions, the large ancillary facility was a proper use.

Standards and restrictions applicable to special exception permits for nonprofit educational institutions which prohibit any such educational institution from building or maintaining dormitories or other sleeping quarters except a single family dwelling for one caretaker and his family, an outdoor swimming pool, equipment, or structures for extracurricular activities, or any structure for the use of spectators, and also proscribes any athletic contests and games with other institutions, schools, or organizations and any use "for which an admission is charged, [or for which a] gratuity donation or subscription is accepted" are clearly unreasonable and void. However, the court held that whether a proposed conference center with facilities for housing and otherwise accommodating as many as 150 persons from business, industry, and other educational institutions, who would temporarily reside on the site while attending lectures and seminars in various technological or educational fields, came within the criteria of an educational use or accessory to an educational use could not be determined on a motion for summary judgment.[6]

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sion 10, Zoning Ordinance.)

[3]And see Lawrence School Corp. v. Lewis, 174 A.D.2d 42, 578 N.Y.S.2d 627, 72 Ed. Law Rep. 313 (2d Dep't 1992) (outdoor swimming pools).

[4]Yancey v. Heafner, 268 N.C. 263, 150 S.E.2d 440 (1966).

[5]Commissioners of District of Columbia v. Shannon & Luchs Const. Co., 17 F.2d 219 (App. D.C. 1927).

[6]New York Institute of Technology, Inc. v. Ruckgaber, 65 Misc. 2d 241, 317 N.Y.S.2d 89 (Sup 1970).

In *Stoller v. Board of Zoning & Appeals*,[7] the board, in approving the extension of a facility for the training of the handicapped, had allowed the location in a residence district of parking accessory to a light manufacturing plant which was part of said facility. The court held this action valid on the grounds that the plant, which employed the handicapped, was an integral part of the entire educational complex which made up the facility.

When the zoning ordinance of the township provided for a special exception permit for the dormitory of an educational institution, the application of a university for such special exception permit should have been granted, unless the use for dormitories would damage the health, safety, and morals of the neighborhood. The burden of proving such detriment to the health, safety, and morals was on the protestants and the university was not required to establish the negative of the proposition. All the university must prove is that the proposed use is allowable under the terms of the ordinance which permit special exceptions.[8]

In *Brown v. Board of Trustees*,[9] the court said: "The operation of a public school system is a governmental function and includes the maintenance of playgrounds and of athletic and manual training equipment used in connection therewith. Casper v. Longview School Dist. No. 122, 5 Wash. 2d 403, 105, 105 P.2d 503 (1940)."

In *City of New Rochelle v. Firestone*,[10] the president of an academic private school was charged with violating the city zoning ordinance which provided, with respect to any park-

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[7]Stoller v. Board of Zoning and Appeals of Town of North Hempstead, 40 A.D.2d 867, 337 N.Y.S.2d 946 (2d Dep't 1972).

[8]Temple University v. Zoning Bd. of Adjustment of Cheltenham Tp., 414 Pa. 191, 199 A.2d 415 (1964).

[9]Brown v. Board of Trustees of Town of Hamptonburg, School Dist. No. 4, 303 N.Y. 484, 104 N.E.2d 866, 34 A.L.R.2d 720 (1952).

[10]People v. Firestone, 48 Misc. 2d 480, 265 N.Y.S.2d 179 (City Ct. 1965). The court stated:

> The right to conduct a school on property in a residential R-1B district is bestowed by the zoning ordinance and coupled with it is the privilege of operating the school in a customary and essential manner. The standards set by the ordinance for invoking an accessory use does not exclude the right to transport students by motor vehicles nor, as a corollary thereof, the right to park and store these vehicles on the school premises. It is difficult to conceive of conducting an academic school which draws its students from a widespread area without the use of vehicles to transport them. The parking and storing of these motor vehicles overnight and on weekends is part of this process of transportation.

265 N.Y.S.2d at 181.

ing lot permitted in the residential district, that "no service of any kind shall be permitted, including, but not limited to automobile service, repair, fueling or dead storage," by permitting the repair of school buses on the premises. However, the parking of school buses thereon constituted an accessory use.

In *City of Blumfield v. School District*,[11] it was held that a local zoning ordinance could not interfere with the establishment by a school of a bulk storage tank to supply its school buses as a proper accessory use.[12]

In *Austin Independent School District v. City of Sunset Valley*,[13] the court reasoned that since a school district can properly build auxiliary facilities such as bus garages and ancillary athletic facilities, the erection of centralized school facilities could also be no impediment. Thus, a city could not use its zoning powers to wholly exclude from within its boundaries school facilities reasonably placed there by the school district, even where those facilities are centralized auxiliary facilities supportive of the entire district. Generally, those contesting a school board's site choice for any school related facility have a heavy burden of proving that the proposed facility is not an integral part of a school and not in furtherance of the public morals and welfare.

Betty-June School v. Young,[14] presented a situation in which a local legislative body enacted a zoning ordinance amendment which was oppressive to the operators of a private grade school who brought a successful action to declare said amendment unconstitutional. The amendment affected all schools devoted to academic instruction, other than public schools. The defendant-town admitted that it was not enforcing, nor had it any intention of enforcing, the amendment against parochial schools. The court held such admitted discriminatory enforcement of the laws to be as objectionable as where the enactment sets up a method of enforcement which is itself discriminatory. The court found

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[11]City of Bloomfield v. Davis County Community School Dist., 254 Iowa 900, 119 N.W.2d 909 (1963); and see Lauderdale County Bd. of Ed. v. Alexander, 269 Ala. 79, 110 So. 2d 911 (1959) to the same effect.

[12]And see Citizens Coalition v. District of Columbia Bd. of Zoning Adjustment, 619 A.2d 940, 80 Ed. Law Rep. 907 (D.C. 1993) (power plant held accessory use to university).

[13]Austin Independent School Dist. v. City of Sunset Valley, 502 S.W.2d 670, 74 A.L.R.3d 127 (Tex. 1973).

[14]Betty-June School, Inc. v. Young, 25 Misc. 2d 909, 201 N.Y.S.2d 692 (Sup 1960).

unreasonable and beyond the scope of the zoning power a requirement that all classroom areas, even that of schools operated only during the summer, be serviced by a permanent heating plan. Requirements attempting to proscribe existing permanent structures, such as swimming pools in a new setback area, were found to be unlawful. The court found unreasonable the attempt to control the location of movable equipment like swings in the setback area. A provision as to the number of students allowed per square feet of area was held not to be a permitted zoning provision, inasmuch as the enabling act provision permitting control over density of population does not refer to control over temporary presence of persons in a particular location. A provision mandating a six-foot stockade fence where a school adjoins residential property was declared invalid as a zoning ordinance enacted solely for aesthetic reasons which, moreover, would serve no public benefit.[15]

The New York Court of Appeals dismissed a challenge to a ruling by the New York City Board of Standards and Appeals that a new 480-foot radio tower and broadcasting facility erected by Fordham University was a permitted accessory use. A permit to build the tower had been challenged by the New York Botanical Garden, which is located across a four-lane thoroughfare from the university campus. The Court of Appeals found that the BSA's determination in favor of the university was supported by substantial evidence and was not arbitrary or capricious. New York Botanical Garden v. Board of Standards and Appeals of City of New York, 91 N.Y.2d 413, 671 N.Y.S.2d 423, 694 N.E.2d 424, 125 Ed. Law Rep. 775 (1998).

The Court of Appeals stated that the BSA is comprised of land use experts and that its interpretation of the city's zoning resolution, unless irrational, is entitled to deference except in cases of "pure legal interpretation." Applying this standard, the court upheld the BSA's "fact-based determination" that regardless of the size of the tower, the university's radio operations "are of a type and character customarily found in connection with an educational institution."

The court also found that the "Botanical Garden's real complaint is the impact of the tower on the unique nature of

[15]But see Bethel Evangelical Lutheran Church v. Village of Morton, 201 Ill. App. 3d 858, 147 Ill. Dec. 360, 559 N.E.2d 533 (3d Dist. 1990) (upholding enrollment cap restriction on parochial school based on potential land use impact on residential area).

its building and grounds." However, the court pointed out that the city's zoning resolution, which lists radio antennas as one type of accessory use, does not refer to environmental considerations in defining an accessory use. Rather, the court found that the appropriate forum for this issue was a pending FCC matter initiated by the Botanical Garden under the National Historic Preservation Act.

WILLIAMS

American Planning Law
Land Use And The Police Power

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Vermont Law School
Professor of Geography,
Regional Development and Law
University of Arizona

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and Washington, D.C.
Adjunct Faculty, McGeorge
School of Law, University
of the Pacific

Volume 3A

(1985 Revision of Volume 3)

Cite as: **Williams Am Land Plan §—**



Callaghan

CALLAGHAN & COMPANY/3201 Old Glenview Road/Wilmette, Illinois 60091

hat they required special

egulations exceed tolera-
ion of educational uses,
asonably regulate sectar-
us uses which were not
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e as a prohibited use.[30]

rt decision[31] involved
rom the establishment
a motel. The premises
identially related uses,
es specified as permit-

So2d 197 (La App 1979).
ge, Inc., 414 So 2d 239 (Fla

ted. The court, however, gave the ordinance a broad reading and held the challenged use to be permitted. Important in the court's reasoning processes was that it found "little, if any, difference between the permitted hotel and nursing home uses and dormitory since both of those permitted uses often involve long term residency.[32]

§ 76.21. Accessory Uses.

Several cases have held that high school units, especially parochial school complexes, normally include quite a variety of buildings and facilities, and that these may be regarded either as a group of accessory uses or as an integral part of the principal use. Several cases have held that stadiums are an appropriate and integral part of a modern high school.[33]

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[32] 414 So 2d at 240.

[33] Yancey v. Heafner, 268 NC 263, 150 SE2d 440 (1966)—athletics is an integral part of modern education, and so a stadium was held permitted, even though it might be lighted at night, and might depreciate property values; Board of Education of Louisville v. Klein, 303 Ky 234, 197 SW2d 427 (1946).

The proprietor of a series of school buses was held entitled to a New Jersey "d" variance for a storage area for such buses in a commercial district, since the use was regarded as inherently beneficial, and clearly compatible with the surrounding public and commercial uses, including in particular a municipal public works garage. Rolfe v. Borough of Emerson, 141 NJ Super 341, 358 A2d 224 (Law Div 1976).

The Minnesota Supreme Court reversed a lower court decision that would have prohibited the construction of a fine arts center for a private religious school. The college is in a residence district and was a permitted use. However, an amendment to the zoning regulations designated private colleges as a special use in limited districts. However, such districts were not mapped. The ordinance went on to list private schools and public uses as special uses permitted in residence districts. There was considerable neighborhood objection to the construction of this particular fine arts center.

Meanwhile, another religious college was able to obtain its building permits to expand without neighborhood opposition. After the amendment to the zoning ordinance, this organization applied for a special use permit and was also denied. However, the city amended the zoning map to permit this college as a special use.

The supreme court seemed to be reacting to what it considered patently arbitrary action. Although the facts are unclear, it appears to smack of dis-

WILLIAMS

American Land Planning Law

Land Use And The Police Power

NORMAN WILLIAMS, JR. JOHN M. TAYLOR

Taylor, Hooper & Wiley
Sacramento, California

2002 Cumulative Supplement Pamphlet

(Published August 2002)

VOLUME 3A

CITE AS: **WILLIAMS AM LAND PLAN §** _____

THOMSON
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Mat #40049694

; had strongly protested the pro-
process, and the local board had
r concerns. The court, however,
operators had met the criteria for
t contained in the ordinance and
ed.

ss'n of Greater Detroit v. City of Farming-
NW2d 417 (1985).
hanges the Michigan rule on elementary
se, discussed in § 76.10. It is part of the
the notion of "preferred uses," which is
othing to do with schools.
, Inc. v. City of Oak Hill, 774 SW2d 184

n.

ection:

concerned a neighbor's challenge
exemption for a college dormitory.
that the special exemption had
nce the zoning code provision did
e issuance of such exemptions for
did, however, provide for special
al uses. The court eventually
had acted properly, on the basis
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e was concerned with whether a
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f Wisconsin, was a "governmen-
nployed in the local zoning code.
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parently no other classification
ld be allowed. Ultimately, the
wer was a government use, not-

- interpretation of "governmen-
NTY, WIS., ORDINANCES

§§ 10.01(23h) (1997) and 10.123(3)(c) is any service, function, or facility that a governmental unit is authorized by statute to provide (assuming the governmental unit is otherwise subject to the zoning ordinance). This interpretation leaves to governmental units the decision how best to carry out their statutory obligations and how best to use their statutory powers, gives zoning authorities the flexibility that is generally desirable with conditional uses, and does not interfere with the standards for granting or denying conditional use permits n A-1 Exclusive Districts that is mandated by WIS. STAT. § 91.75 and reflected in § 10.123(3)(a)1.[32.3]

[32.1] Dale v. Zoning Hearing Bd. of Tredyffrin Tp., 91 Pa Commw 220, 496 A2d 1321 (1985).

[32.2] *Board of Regents of University of Wisconsin v. Dane County Bd. of Adjustment,* 238 Wis. 2d 810, 2000 WI App 211, 238, 618 N.W.2d 537, 148 Ed. Law Rep. 478 (Ct. App. 2000), review denied, 242 Wis. 2d 544, 2001 WI 43, 629 N.W.2d 784 (2001).

[32.3] Id at _____, 828 and 546.

§ 76.21. Accessory Uses.

p. 377. *Add at end of section:*

A Connecticut decision[33.1] involved a challenge, based primarily upon the constitutional doctrine of vagueness, to a decision by a locality not to allow already-erected high school athletic field lights to be used. The locality's decision stemmed from the fact that the lights would have intruded upon neighboring residential uses. Ultimately, the court held that the local ordinance upon which the decision had been based was not unconstitutionally vague. A claim based upon estoppel was also rejected.

In a case[33.2] from New York, the court held that catering and driver's education classes for nonmatriculating students at a college were permitted accessory uses which could not be prohibited by the locality in which the college was located. The court observed that:

> Educational institutions enjoy special treatment with respect to residential zoning ordinances because these

institutions presumptively serve the public's welfare and morals (see, *Cornell University v. Bagnardi,* 68 N.Y.2d 583, 510 N.Y.S.2d 861, 503 N.E.2d 509, 37 Ed. Law Rep. 292 (1986); *Lawrence School Corp. v. Lewis,* 174 A.D.2d 42, 578 N.Y.S.2d 627, 72 Ed. Law Rep. 313 (2d Dep't 1992)). Educational institutions are generally permitted to engage in activities and locate on their property facilities for such social, recreational, athletic, and other accessory uses as are reasonably associated with their educational purpose (*see generally, Brown v. Board of Trustees of Town of Hamptonburg, School Dist. No. 4,* 303 N.Y. 484, 104 N.E.2d 866, 34 A.L.R.2d 720 (1952); *Lawrence School Corp. v. Lewis,* 174 A.D.2d 42, 578 N.Y.S.2d 627, 72 Ed. Law Rep. 313 (2d Dep't 1992)).

The activities at issue in this case are permitted educational uses of the subject property and the restrictions which the plaintiff seeks to place on these activities would be impermissible (*see generally, Diocese of Rochester v. Planning Bd. of Town of Brighton,* 1 N.Y.2d 508, 154 N.Y.S.2d 849, 136 N.E.2d 827 (1956); *New York Institute of Technology, Inc. v. LeBoutillier,* 33 N.Y.2d 125, 350 N.Y.S.2d 623, 305 N.E.2d 754, 64 A.L.R.3d 1129 (1973) (abrogated on other grounds by, Cornell University v. Bagnardi, 68 N.Y.2d 583, 510 N.Y.S.2d 861, 503 N.E.2d 509, 37 Ed. Law Rep. 292 (1986)); *Summit School v. Neugent,* 82 A.D.2d 463, 442 N.Y.S.2d 73 (2d Dep't 1981). (Id. at 161)

[33.1] Stephen Rency Memorial Fund v. Town of Old Saybrook, 4 Conn App 111, 492 A2d 533 (1985).

See also, National Cathedral Neighborhood Ass'n v. District of Columbia Bd. of Zoning Adjustment, 753 A.2d 984 (D.C. 2000), involving whether an athletic facility was a permitted accessory use when operated in conjunction with a private school. A local neighborhood association had challenged the accessory status of the facility on the grounds that its size and mass made it unreasonable to classify the facility as incidental and subordinate to the principle use. The court, however, disagreed, finding that there could be no dispute that the athletic facilities in question clearly related to the educational mission of the school. The court then went on to note that those facilities did not lose that character simply because of their size and mass.

[33.2] Town of Islip v. Dowling College, 275 A.D.2d 366, 712 N.Y.S.2d 160, 146 Ed. Law Rep. 839 (2d Dep't 2000).

§ 76.22. Bulk Regulations.

Add to end of section:

A District of Columbia case[37.1] lenge to the approval of various tions which would have allowed sity to expand an existing medi the case concerned the applicatio a rule which allowed the univers all of its buildings in complying v tio requirement. The rule was ul plicable to the expansion of the was determined to apply only to residential districts as opposed to which the proposed expansion was

[37.1] Draude v. District of Columbia Bd. 1242 (DC App 1987).

§ 76.23. Special Types of Schoc

§ 76.27. —Other. [New]

A New York decision[58] involved tion prohibiting the operation of w horse riding school. The court ultim ity was not a "school" and therefore within a zone allowing "private sch concluded that:

"Notwithstanding the respective instructors, we find that Sandpipe regularity of attendance and progr necessary to constitute a school. As the plaintiff's expert (who served a National Professional Horseman's Intercollegiate Horse Shows Ass conducting classes for students from sity and primary and secondary s horsemanship, as distinguished from riding establishment, has a struct

NATIONAL CHILD RESEARCH CENTER
SQUARE FOOTAGE SUMMARY

EXISTING USE

	Classroom Space	Admin.	Other♦	Total
Main House:				
Ground Level:	820 SF	153 SF	1392 SF	2365 SF□
First Floor:	1359 SF	569 SF	437 SF	2365 SF
Second Floor:	2103 SF	0 SF	172 SF	2275 SF
Third Floor:	1264 SF	291 SF	297 SF	1852 SF
Total:	5546 SF	1013 SF	2298 SF	8857 SF
Playhouse:				
First Floor:	876 SF	0 SF	84 SF	960 SF
Second Floor:	642 SF	0 SF	53 SF	695 SF
Total:	1518 SF	0 SF	137 SF	1655 SF
Bike Shed:				
Ground Level:	0 SF	0 SF	110 SF	110 SF

	Classroom Space	Admin.	Other	Total
EXISTING USE TOTAL:	7064 SF	1013 SF	2545 SF	10622 SF (9,618 SF of Gross Floor Area Space)

♦Other space includes hallways, stairs, elevators, restrooms, mechanical rooms, elevator machine rooms, kitchen, and storage.

□ Only 1,361 SF is included in the calculation of the building's gross floor area.

NATIONAL CHILD RESEARCH CENTER
SQUARE FOOTAGE SUMMARY

PROPOSED USE

	Classroom Space	Admin.	Other[♦]	Total
Main House:				
Ground Level:	2027 SF	298 SF	1920 SF	4245 SF[□]
First Floor:	1826 SF	1153 SF	1150 SF	4129 SF
Second Floor:	2103 SF	0 SF	289 SF	2392 SF
Third Floor:	0 SF	1388 SF	464 SF	1852 SF
Total:	5956 SF	2839 SF	3823 SF	12618 SF
Playhouse:				
First Floor:	876 SF	0 SF	84 SF	960 SF
Second Floor:	0 SF	481 SF	214 SF	695 SF
Total:	876 SF	481 SF	298 SF	1655 SF
Bike Shed / Maintenance:				
Ground Level:	0 SF	0 SF	435 SF	435 SF
Carriage House:				
Lower Level:	2295 SF	0 SF	1880 SF	4175 SF[•]
Ground Level:	1552 SF	0 SF	384 SF	1936 SF
Total:	3847 SF	0 SF	2264 SF	6111 SF

	Classroom Space	Admin.	Other	Total
PROPOSED USE TOTAL:	10679 SF	3320 SF	6820 SF	20,819 SF (Only 17,978 SF of Gross Floor Area Space)

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[♦]Other space includes hallways, stairs, elevators, restrooms, mechanical rooms, elevator machine rooms, kitchen, and storage.

[□] Only 3,241 SF is included in the calculation of the building's gross floor area.

[•] Only 2.338 SF is included in the calculation of the building's gross floor area

NATIONAL CHILD RESEARCH CENTER

EXISTING LIBRARY/ MOTOR / MEETING SPACE

Total NET SF: 750 SF

Tables and Chairs	@ 15 SF NET =	50 People
Chairs	@ 7 SF NET =	107 People

PROPOSED MOTOR / INDOOR PLAY / MEETING SPACE

Total NET SF: 1245 SF

Tables and Chairs	@ 15 SF NET =	83 People
Chairs	@ 7 SF NET =	177 People

Document #: 1330260 v.2



HIGHLAND PLACE VIEW



3207 HIGHLAND PLACE



VIEW LOOKING BETWEEN 3207 HIGHLAND PLACE AND NCRC



WEST ELEVATION, 3207 HIGHLAND PLACE AND NCRC



EXISTING VIEW FROM 3207 HIGHLAND PLACE TOWARDS NCRC



PROPOSED VIEW LOOKING BETWEEN 3207 HIGHLAND PLACE AND NCRC



Playhouse (Existing)

Carriage House

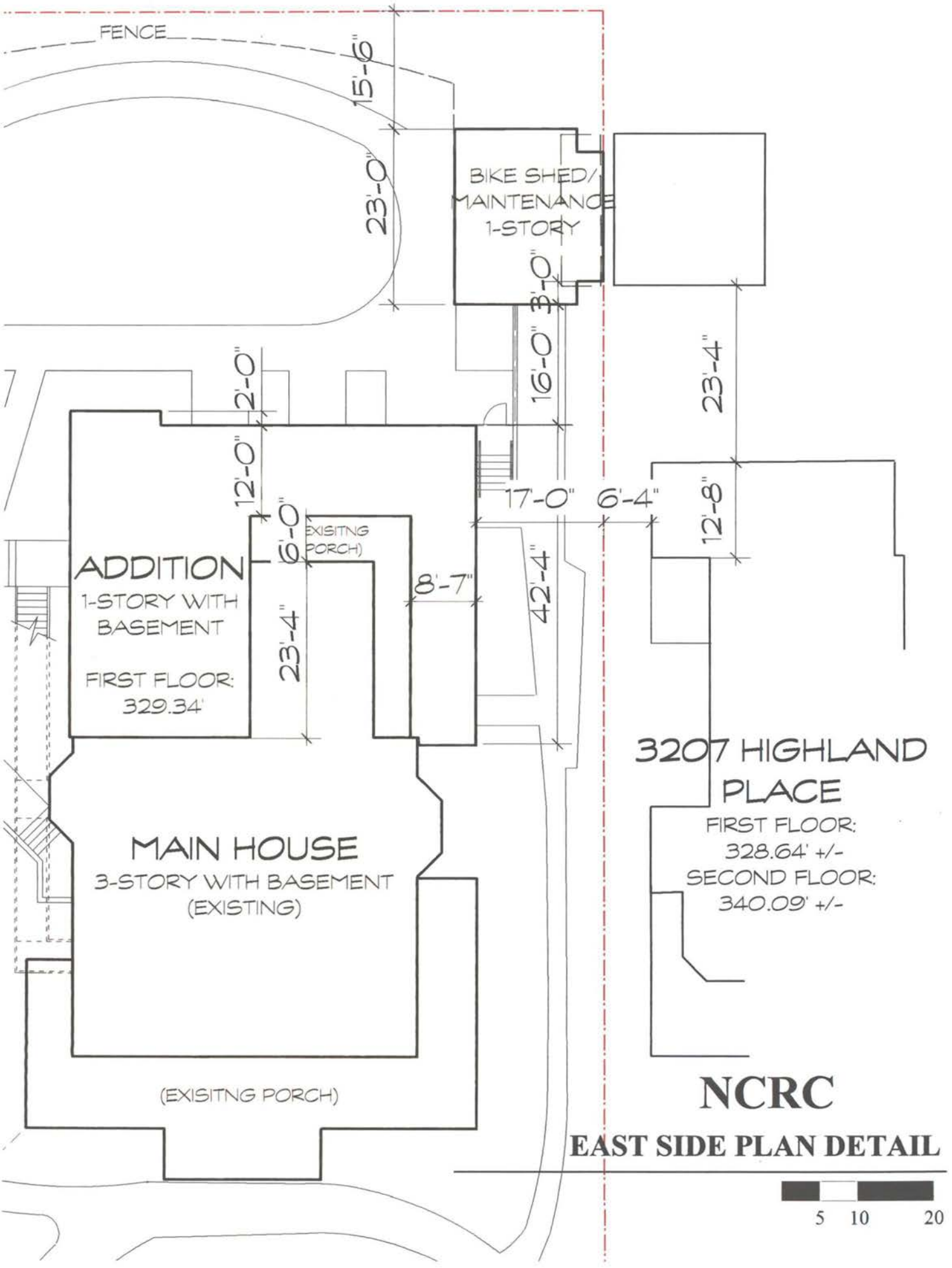
Neighbor's House (Left)

Gateway Elevation (North)

NCRC

3201 Hartford Place, NW

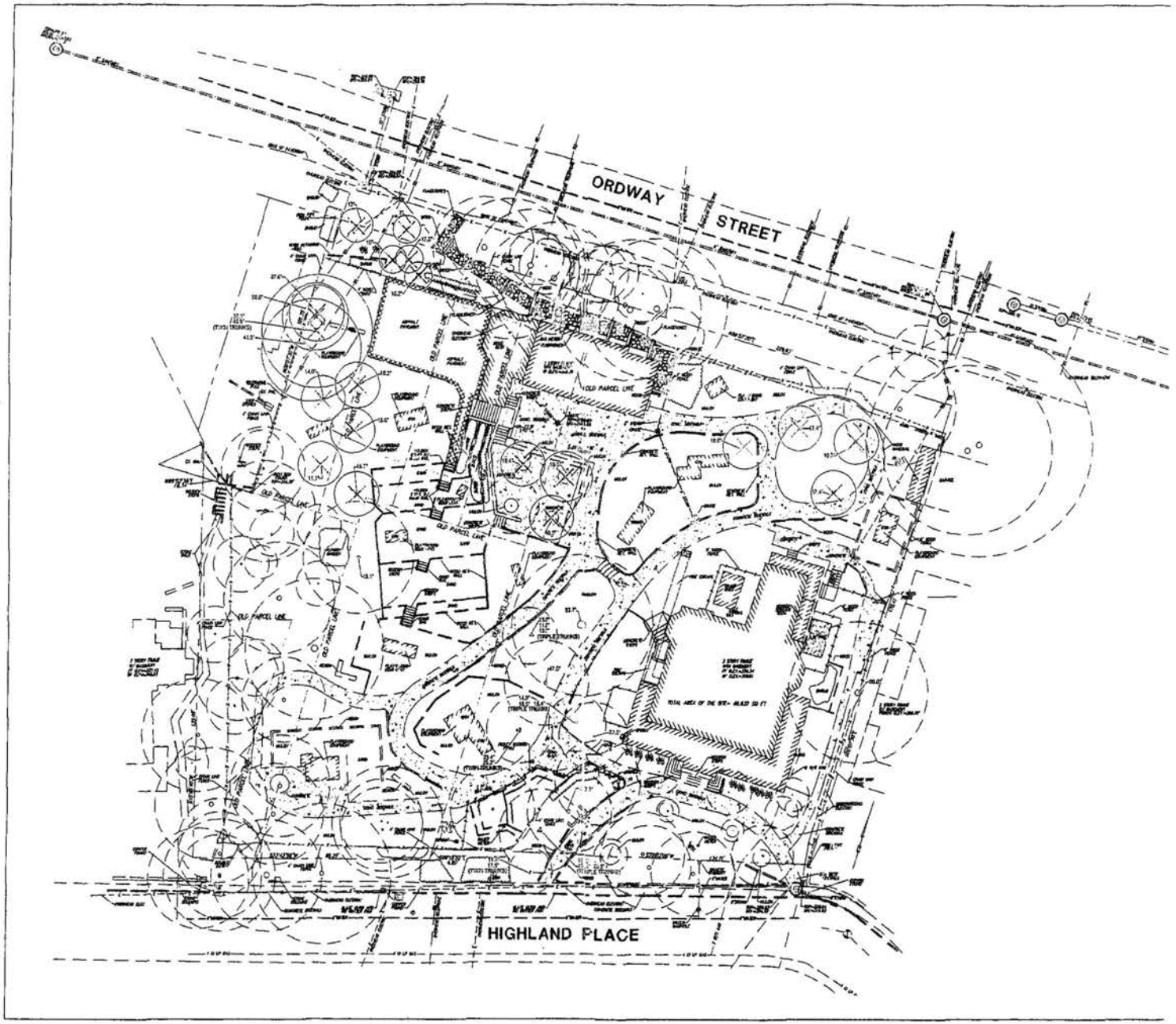
Charles E. Burton - Architects
5 Fairview Street - Annapolis, Maryland



NCRC

EAST SIDE PLAN DETAIL

5 10 20


ORDWAY STREET
HIGHLAND PLACE



DATE: 12 JUNE 2008	THE NATIONAL CHILD RESEARCH CENTER 3209 HIGHLAND PLACE, NW WASHINGTON, DC 20008	TREE EXHIBIT 1" = 30' REVISIONS:	CHARLES E ANTHONY • ARCHITECTS 8 FRANCIS STREET • ANNAPOLIS MD 21401 • 410 268 0880 • FAX 410 268 0944