ADVISORY NEIGHBORHOOD COMMISSION 3C
GOVERNMENT OF THE DISTRICT OF COLUMBIA
CATHEDRAL HEIGHTS • CLEVELAND PARK • MASSACHUSETTS AVE. HEIGHTS
MCLEAN GARDENS • WOODLEY PARK

Single Member District Commissioners
01-Allen Hahn; 02-Kurt Vorndran; 03-Sally MacDonald
04-Richard C. Bartel; 05-John Welsh; 06-Trudy Reeves
07-Sheila Hogan; 08-Nancy Nord; 09-Nancy MacWood

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ANC 3C TESTIMONY ON THE NCRC APPLICATION FOR SPECIAL EXCEPTION TO THE D.C. BOARD OF ZONING ADJUSTMENT (BZA), APPLICATION # 16970

Submitted by John M. Welsh, ANC Commissioner 3C-05
October 7, 2003

Mr. Chairman, Members of the Board, and guests, my name is John Welsh, Advisory Neighborhood Commissioner for ANC 3C (ANC), Single-Member District (SMD) 05, which includes portions of Cleveland Park, specifically the portion containing the National Child Research Center (NCRC or Applicant). At our January, 2003, regularly scheduled public meeting, the ANC Commission voted unanimously (9-0) in opposition to NCRC's request before you today for a special exception. Reasons cited for our opposition included violations to DCMR Chapter 11, Sect. 3108.1, and Sect. 205.5.

Background

At our meeting October 28, 2002, the Commission had suggested that the Applicant come to the BZA first, prior to seeking approval from the Historic Preservation Review Board (HPRB). It seemed to us that the BZA's interpretation of the previous Orders No. 16307, and subsequent Decision Dates, ("Orders") would dictate what the Applicant could build, it anything. While neighbors expressed widespread support for the Applicant's mission, the opinions that we had heard at ANC meetings and the evidence presented over the past year and a half has been, by and large, negative regarding zoning considerations—traffic management, visual impacts, and noise.

This past December and January, the NCRC, the neighbors, and in several instances, the ANC had worked together in attempt to resolve issues of enrollment size and traffic management. While we had identified the major

Case No. 16970
Exhibit No. 241
Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.241

concerns, the parties had not come to any substantive agreement. While the Applicant had seemingly compromised, reducing its original expansion proposal from approximately 24,000 square feet to 18,000 square feet, this did not persuade any new support in the neighborhood. This was for two reasons: (1) The Applicant's "modified" proposal was still so vast, for both building size and enrollment for that site, that neither the ANC nor the neighbors could support the proposal; (2) There was still a glaring disparity between the Applicant's supposed need to double its square footage, and its claim to increase enrollment by only 10 students.

Our ANC first became aware of the Applicant's intention to expand in early 2002. At that first public meeting, and at those subsequent, there were three persistent drumbeats from the neighbors that the school simply could not accommodate the growth it was requesting without creating the following detrimental impacts: (1) turning the property from a large residential-looking property to an institutional one; (2) exacerbating the already dangerous and nuisance-filled traffic congestion; and (3) creating objectionable noise and light impacts.

1998--ANC Resolution and Subsequent BZA Orders

After researching the recent history, from both the ANC and BZA records, it became clear that the Applicant was violating both the spirit and the conditions of the 1998 BZA Orders. The ANC supported the 1998 Orders after NCRC and the neighbors agreed to traffic management, enrollment, and staffing parameters. In giving its support, the community relied upon the Applicant's declaration, as evidenced in ANC 3C's subsequent resolution (approved March 23, 1998): "WHEREAS: This BZA Application No. 16307 is not for a change in NCRC's current operations – NCRC has represented to this ANC that it is '...not intending to do any construction, nor is it intending to increase the number of students from its current enrollment or to change its operations in any other way....'"

There have been several questions that have permeated all discussions about the Applicant's proposed expansion, all related to enrollment:

1. What was the enrollment when NCRC came to the BZA for a special exception in 1998?
2. How did the 1998 enrollment figure relate to the 120-student limitation under the Certificate of Occupancy?

Under the surface, there has been a question of whether the Applicant fully informed the BZA, ANC, and the neighbors regarding the applicable

enrollment figure of 108, 120, 168, or 171. And did NCRC's representations mislead the neighbors, ANC and BZA to support the 1998 Special Exception? Clearly, the neighborhood and ANC based their support on 120 students and 28 staff members. Therefore, has the 120-student limit been an enrollment figure or was it an at-any-one-time-occupancy figure?

Over the past year, NCRC has claimed that the 120-student figure was an occupancy figure and that they could theoretically have 240 students enrolled for half-day each. Recently, however, our ANC Chair searched our ANC office files and found letters from NCRC and its counsel that contradict their recent claim that 120 students was an occupancy and not an enrollment figure.

I have attached the two letters and several pages of transcript form the 1998 BZA hearing to my testimony that I would like inserted into the record. First, the "Dear Neighbor" letter signed on October 24, 1997, by Acting Director, Kay Stafford, stated that "...We want you to know that this is a completely paper matter. The school is not contemplating any construction or change in the maximum number of students, which currently stands at 108..." The second letter, written the same day, by NCRC Counsel Matthew Watson to then ANC Chair Phil Mendelson stated, "...In actual fact, the school enrollment is now 108, 12 less than the license capacity, although in excess of the certificate of occupancy..." Later, Mr. Watson stated in this same letter, "...NCRC is not intending to do any construction, nor is it intending to increase the number of students from its current enrollment or to change its operations in any way..." That reference was included in ANC 3C's 1998 resolution. Lastly, during, the April 1, 1998, BZA hearing, under direct examination by NCRC counsel, Ms. Stafford testified that enrollment and staffing would not increase as a result of the 1998 Orders. (See pages 1-2, 11-12 of the April 1, 1998, testimony.)

These three documents cast a shadow on the "transparent" relations between the neighbors and the Applicant, raising doubts about forthright negotiations. NCRC told the ANC at recent public meetings that they had 168 students in 1998 (and 171 now), but in none of the 1997-98 documents or testimony is that figure cited as the current enrollment. Why did NCRC continue to use an enrollment figure of 108 when they had 168? Did they misinform their own lawyer? The neighbors and ANC, as well as DDoT, relied on the Applicant's stated enrollment of 108 when considering traffic mitigation measures then. So is the Applicant requesting a Special Exception for an additional 10 student or for an additional 68 to 73 students?

Applicant's BZA Orders Violations—Traffic Management

BZA Orders 16307 identified specific student enrollment (120) and staffing (28) limitations. To date, we have seen evidence that the Applicant has violated both of these provisions, having 171 student enrollment and 38 staff. Furthermore, the traffic management conditions that the Applicant implemented have fallen short of the intention to provide safety for the children and neighbors. The traffic management failures have been captured clearly on film and video by the neighbors, showing: (1) parents/caregivers parking and walking to school, sometimes in the street not the sidewalk; (2) extensive queuing of cars dropping at school entrance, which blocked driveways; (3) illegal and dangerous backing up into one-way streets, U-turns; and (4) cars proceeding the wrong way down a street, i.e., westbound on Highland Place in the eastbound lane. On Ordway, having no orderly or safe system for helping children from cars has resulted in numerous offenses of parents and teachers blocking neighbor's driveways to get children or themselves to school.

While I have seen instances of calm automotive operations near NCRC, the video shot over the past 18 months by neighbors shows recurring traffic problems. This evidence is quite compelling and greatly influenced the ANC's decision-making. Further, I understand that District Department of Transportation (DDoT) staff has witnessed for themselves the dangerous traffic conditions captured on the video.

Typical zoning requirements for on-site parking do not apply to NCRC due to the historic district overlay. As a result, the Applicant relies completely on street parking. On-street parking nearby is adequate, it appears, for neighborhood residents. The video evidence shows that the Applicant's numerous pick-up/drop-off times, events, and conferences overload the system, negatively impacting the neighbors.

Over the past several months, several ANC commissioners and I met with the Applicant and neighbors on this expansion proposal. We found it objectionable, for instance, that we requested the traffic study at the ANC's September 2002, Planning and Zoning Committee meeting, and at our September and October 2002, public ANC meetings. At each instance, the Applicant told us that the study was still in process and could not be released. At our January 20, 2003, "working group" meeting, we were told that only a "draft" was available and that a final version was expected in the next few days. The Applicant's attorney assured us that we would have it by week's

end. We still did not have the report prior to the January 27, 2003, ANC meeting. Later, we have learned that the Applicant released a copy of the final traffic study (dated January 22nd) to the District Department of Transportation on January 24th, yet made no attempt to deliver copies to the ANC Commission that was reviewing their proposal three days hence. How can an Applicant who is seeking our support for its expansion proposal be so derelict, ignoring this simple, good-faith request to provide a key, elemental report necessary for us to make an evaluation? Furthermore, if the traffic analysis indicates no negative impacts, as the Applicant and its traffic engineer claimed at the January, 2003, ANC meeting, then why would they not want us to have receipt of, and full understanding of that information prior to that meeting? This is troubling.

The NCRC campus is in a neighborhood with narrow streets. Yet, nearby arterial 34th Street carries more cars per lane than Connecticut Avenue. Cars traveling to and from NCRC must navigate several busy intersections—Newark and 34th or Ordway and 34th Street. Reported accident data from the District government indicates 28 accidents between those two intersections in the last two years. Speeding on Porter Street, one block north of NCRC, has been so precarious that the District Department of Transportation installed a state-of-the-art traffic control system to slow traffic. We have all questioned the impact from additional cars in this neighborhood from increased NCRC enrollment, when evidence clearly shows that the current enrollment over extends the system.

Building Size

Another issue that appears to violate DCMR 11 Sect. 205.5 is the size of the proposed "Carriage House" building. Surrounding neighbors, especially those living on Ordway Street next to NCRC, expressed objection to the proposed new building due to adverse impacts resulting from diminished sunlight, the noise from commercial air conditioning equipment, and the noise from the close proximity of students/staff in the classroom space designated for music, motor activities, and sports. That multipurpose classroom space is approximately eight feet from the property line of an adjacent house.

Despite attending many meetings and reading literature from the Applicant, I and other commissioners cannot ascertain why NCRC needs to double its square footage (from 9,000 to 18,000) for merely 10 new students. Some residents suspect that the Applicant intends to develop a broader training curriculum for teachers and hold sizable and/or frequent educational

seminars and workshops. If so, outside visitors and educators would exacerbate existing traffic and parking conditions and hazards.

Releasing Proper ANC Resolutions

Allow me to clarify an issue regarding ANC 3C and its distribution of resolutions on this topic. We learned, regrettably, that the Applicant and/or its counsel provided you and other government bodies with copies of a proposed draft from our January 2003 meeting that is very different from our approved resolution. We feel that this disingenuous action impedes collaboration. The ANC takes exception to NCRC having distributed a draft that had been prepared for ANC discussion. In fact, the ANC unanimously approved resolutions that did the following: (1) voted against the Applicant's HPRB request; (2) urged the BZA to reject the Special Exception and requested issuance of a new order with conditions, after such public meeting and time that the ANC could confer with neighbors and NCRC and make specific recommendations that would carry "great weight;" and (3) voted most recently to request that the BZA reject the NCRC variance request.

NCRC's Variance Application

At the regularly scheduled meeting of ANC3C on April 28,2003, the commission considered the NCRC request for variance relief from sections 3202.3, which prohibits more than one principal building on a single record lot, and 2100.6, which requires parking spaces when the intensity of a use of a building increases due to an addition or increased number of people using the building, both of which apply in this case. The ANC concluded that NCRC should comply with the zoning regulations because the facts and circumstances of this case did not meet either the hardship or the peculiar and exceptional practical difficulties tests. Thus we opposed NCRC's request for zoning relief.

Regarding a use variance, the property can still be used consistent with the zoning regulations without a variance. NCRC is operating a successful child development center at the site. That business obviously can continue without the variance. Additionally, the site is zoned residential and is located in a sought-after residential neighborhood. Thus, the site could alternatively be used consistent with zoning as a residential property. Clearly, NCRC has not shown that they require a use variance to make reasonable use of their property.

As regards an area variance, the ANC examined whether there were peculiar and exceptional practical difficulties that would make compliance with zoning

regulations unnecessarily burdensome. We found that there was nothing unusual about the shape, narrowness, or shallowness of the property. In fact, the lot is quite large. The fact that the lot extends to two streets is not unique in the neighborhood since the adjacent lot also extends between two streets, as does another lot across the street. We also considered that this property is in a historic district, but again found that this is obviously not unique to this property and therefore, if the variance were granted on this basis every resident in the neighborhood could seek relief on the same basis. Thus, we could find no peculiar or exceptional practical difficulties; the applicant simply desires to build a second principal building on a single lot. The ANC believes that more than a desire is required.

Granting these variances would result in harm to the public, most directly to the neighbors. Side yard, rear yard, lot occupancy, and other residential zoning requirements exist not only to achieve open spaces and control over density, but they are also envisioned as protections for neighbors. If these regulations are deemed appropriate for a family house, then they should be equally applied to a school building located in a residential neighborhood. The increased intensity of use demands at least the minimal zoning allowances as a buffer for the neighbors. Moreover, granting such an inadequate application would, by its example, impair the purpose and integrity of the zone plan. For these reasons, the ANC opposes NCRC's request for variance relief.

Summary

ANC 3C is strongly opposed to the Applicant requesting a new Special Exception and a variance, while currently in violation of the existing BZA Orders. They have consumed countless hours of time from the neighbors, ANC, Cleveland Park Historical Society, Cleveland Park Citizens Association, HPRB, BZA, Office of Planning, Department of Transportation, and surely others, yet felt no responsibility to be in compliance with the existing Orders. This seems cynical and contemptuous. If they do not feel bound by the standing Orders, what are we to expect from a new one? For this and the other reasons stated above, ANC 3C requests (1) that the BZA deny the Applicant's Special Exception application, and (2) that the BZA further instruct NCRC to come into compliance with the existing BZA Orders.

I thank you for you time and consideration today. I and the other members of ANC 3C remain available to you to answer any questions on this matter.



NATIONAL CHILD RESEARCH CENTER
3209 Highland Place, N.W. Washington, D.C. 20008
Telephone (202) 363-8777
Fax (202) 244-3459

Kay Stafford
Acting Director

Dear Neighbor:

The National Child Research Center (NCRC) has operated a school at 3209 Highland Place, NW, for nearly 70 years. Originally founded as a research facility under a three-year grant from the Laura Spellman Rockefeller will, the school has continued as an independent school for young children. The mission of NCRC is to provide the very best in early childhood education. This has been the goal of the school and will continue to be so in the years ahead. Over the years NCRC has witnessed periodic changes in the regulations governing the District's preschools. It is for this reason that I am writing to you.

NCRC has a Certificate of Occupancy for its buildings, as well as a Permit for Child Care Facilities, issued by different administrations of the Department of Consumer and Regulatory Affairs. The Certificate of Occupancy was issued in 1981 in the then current nomenclature for a 90 student "Nursery School & Kindergarten & Elementary School." Currently we do not operate a kindergarten or elementary school, nor do we have any plans to do so. Nursery schools are now named as "Child Development Centers," and the most recent facility permit for NCRC was issued for 120 children of "Ages two and one-half thru five." Although these differences have existed in the permits for a number of years, we are now advised by the Service Facility Regulation Administration that the Certificate of Occupancy issued by the Building and Land Regulation Administration must be conformed to the Child Care Permit. Because we are located in a residential area, any change in the Certificate of Occupancy must be approved by the Board of Zoning Adjustment with a full application and hearing.

In the coming days, notices will be mailed and posted of the filing of the application and the date of the hearing. We want you to know that this is a completely paper matter. The school is not contemplating any construction or change in the maximum number of students, which currently stands at 108. I wish to assure you that there will be no changes in our daily operation or original mandate of providing a safe, stimulating educational experience for young children.

In order to answer any questions you may have, we are holding an informal, informational meeting on October 28th at 7:30 pm in the Annex Building on the playground. Please come and invite any interested neighbors to attend. Please also feel free to call me at 202-363-8777.

Sincerely yours,

Kay Stafford

Kay Stafford
Acting Director

Recd by FAX
10/27/97

LAW OFFICES OF
MATTHEW S. WATSON
1701 Q STREET, N. W.
WASHINGTON, D. C. 20009-2455
(202) 986-7500

ALSO ADMITTED
NEW YORK
MARYLAND

FAX
(202) 986-2386

October 24, 1997

Phillip Mendelson
Chair
Advisory Neighborhood Commission 3C
3871 Newark Street, NW
Apartment B470
Washington, DC 20016

Re: National Child Research Center

Dear Phil:

You asked that I set forth details as to the application which the National Child Research Center intends to make to the BZA for amendment of its occupancy permit. As you are aware, NCRC has operated at 3209 Highland Place NW for nearly 70 years. For the last several years, it has held a Child Care License for 120 students. In the last licensing inspection, it was determined that the Certificate of Occupancy, which was issued in 1981, is inconsistent with the Child Care license in that it is for 90 "Nursery School & Kindergarten & Elementary School" students. In actual fact, the school enrollment is now at 108, 12 less than the license capacity, although in excess of the certificate of occupancy.

In order to reissue the annual Child Care License, it is necessary to conform the Certificate of Occupancy as to both the type of school, which should now be "Child Development Center," since there are no kindergarten or elementary school classes, and as to the number of students. Since the area is zoned residential, any change in the occupancy permit requires an application to the BZA.

NCRC is not intending to do any construction, nor is it intending to increase the number of students from its current enrollment or to change its operation in any other way. I view the application to the BZA as merely technical, since the school conforms in every way, except for the capacity listed no the certificate of occupancy, to the more stringent Child Care Regulations.

LAW OFFICES OF
MATTHEW S. WATSON

NCRC is agreeable to discussing with the Commission any restrictions to be requested from the BZA to insure that the school remains a good neighbor.

The school is planning an information meeting for neighbors to be held next Tuesday evening, October 28th, at the school to discuss the application and answer any questions which the neighbors may have. I am enclosing a copy of the letter which was sent to neighbors earlier in the week. We would welcome you and Ms. Redman, as well as any other commissioners at the meeting.

If you or any of the other commissioners have any questions, please feel free to telephone me. I would also be happy to arrange for any commissioners to meet with staff at the school at any convenient time.

NCRC is probably one of the oldest, if not the oldest, continuous "resident" of Highland Place. It hopes that it will have the Commission's support in its application to conform the certificate of occupancy with the school's operation and Child Care License.

Thank you for your assistance.

Sincerely,

Matthew S. Watson

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENTS

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 1, 1998

+ + + + +

The Public Hearing convened in Room 220, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 1:00 p.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID, Chairperson

HERBERT FRANKLIN

BETTY KING

STAFF PRESENT:

MADELIENE H. DOBBINS, Director

TRACEY WITTEN ROSE, Staff

BEVERLEY BAILEY, Staff

ALSO PRESENT:

BARBARA HAAS

PHIL MENDELSON

ESTHER NAMIAN

ORIGINAL

'98 MAR 17 P4:40

ALSO PRESENT (continued):

MARY PETERS

KAY STAFFORD

LINDSLEY WILLIAMS

RODNEY CREECY

HUGH V. KELLY

SANDRA PEACHES

BENJAMIN SINGLETON

APPEARANCES:

On Behalf of the Applicant
National Child Research Center:

MATTHEW WATSON, ESQ.
1701 Q Street, N.W.
Washington, D.C. 20009
(202) 986-7500

On Behalf of the Applicant
Hugh V. Kelly:

ADAM C. SMITH, ESQ.
JERRY MOORE, ESQ.
of: Arter & Hadden
1801 K Street, N.W.
Suite 401K
Washington, D.C. 20006
(202) 775-7100

WHEREUPON,

KAY STAFFORD

was called as a witness by Counsel for the Applicant and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WATSON:

Q Ms. Stafford, would you, for the record, give your name and address?

A My name is Kay Stafford, 3209 Highland Place, N.W., Washington, D.C. 20008.

Q What is your relationship with the Applicant, National Child Research Center?

A I'm the current Program Administrator/Acting Director.

Q Can you describe for the Board the operation of the Center?

A It's a nursery school.

Q What are the hours of operation?

A 8:00 a.m. to 6:00.

Q In the last five years, has the number of staff or number of children changed at the center?

A No.

Q And do you expect now to have any increases in enrollment or staffing?

A No.

Q And is this application to conform with the continued occupancy to your existing licensed daycare operation?

A That's correct.

MR. WATSON: With regard to operating the Center as a nursery school, I think, unless the Board will later have questions, it's, I think, relatively understood what a nursery school is, and we won't take the time to describe the functioning during the day and when they have juice and cookies.

(Laughter.)

BY MR. WATSON:

Q With regard to questions in the surrounding area, however, how are students dropped off at the center?

A The procedures are that there is a carpool line accessible in the morning for arrivals and at each of the staggered release times. The parents also have the option of parking nearby the school and walking their -- their child into the school.

I would say about two-thirds of the families use the carpool lines which are the most efficient way of getting in and out of the neighborhood quickly, and about one-third of the

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ANC 3C RESOLUTION 2003-001

Resolution Regarding NCRC Request for BZA Special Exception

WHEREAS National Child Research Center (NCRC) is applying to the D.C. Board of Zoning Adjustment (BZA) for the purpose of seeking adoption of a new zoning Order to replace the existing BZA Order (#16307) for special exception; and

WHEREAS NCRC proposes to double the size of its present buildings from approximately 9,000 square feet to approximately 18,000 square feet; and

WHEREAS ANC3C and the surrounding neighbors each gave NCRC its support for the previous BZA application in 1998, where NCRC stated that it would not increase its physical size, student enrollment, and staffing throughout the eight-year term of the Order; and

WHEREAS ANC3C and the surrounding neighbors also relied upon NCRC's representation during the 1998 BZA hearing that it is "not intending to do any construction, nor is it intending to increase the number of students from its current enrollment or to change its operations in any other way..." in agreeing to the BZA Order; and

WHEREAS NCRC takes the position that the BZA's 1998 special exception entitles it to a student enrollment the size of which is limited only by a requirement that there not be more than 120 students on the property at a given time; and

WHEREAS NCRC's interpretation of the special exception, if accurate, would permit the school to increase its student population substantially without seeking any additional authorization from the BZA; and

WHEREAS, not withstanding efforts by NCRC to regulate the flow of traffic to and from the school, traffic generated by NCRC continues to be a serious problem to individuals residing on the neighboring streets; and

WHEREAS NCRC and the surrounding neighbors both agreed to continue negotiations with each other on various issues, including enrollment cap, building expansion program, traffic management, use, and noise mitigation; and

WHEREAS NCRC's use of this property in the past has been inconsistent with its representations to the BZA, ANC3C and other governmental bodies, resulting in a widespread outcry from the

neighbors against the applicant's proposed expansion over concerns regarding already excessive traffic, noise, students and faculty; and

WHEREAS NCRC may be in violation of the existing BZA Order by having 38 faculty, 35 percent more than 28 stated in the existing BZA Order; and

WHEREAS dozens of nearby residents allege that NCRC is currently in violation of the existing BZA Order by having caused adverse impacts to the neighborhood for persistent, objectionable traffic management conditions described both verbally and pictorially at the regularly scheduled, Oct. 28, 2002, meeting of ANC3C and at other meetings of NCRC and residents of the surrounding neighborhood; and

WHEREAS neighbors have complained that NCRC events have generated unacceptable noise levels; and

WHEREAS the 1998 BZA approval for a new special exception (DCMR Chapter 11, Sect. 3108.1) to operate a larger child development center in this R-1 district is conditioned on, among other things, averting adverse affects on neighboring property (Sect. 3108.1), creating no objectionable or unsafe traffic conditions (Sect. 205.2), and creating no objectionable audio or visual conditions (Sect. 205.5); and

WHEREAS numerous surrounding neighbors, especially those living on Ordway Street next to and across from NCRC, having expressed objection to the proposed new building due to adverse impacts resulting from diminished sunlight, the noise from commercial air conditioning equipment, and the noise from the close proximity of students/staff in the proposed classroom space designated for music and gymnastics; and

WHEREAS increased student enrollment and staffing will exacerbate traffic problems, yet the applicant has not provided the results of a traffic study; and

WHEREAS the NCRC has not sustained its burden as the requester of a special exception by demonstrating that its proposed development will not generate objectionable, adverse impacts due to resulting noise, traffic, number of students, and the number of faculty it will generate;

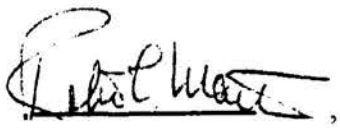
THEREFORE, BE IT RESOLVED THAT ANC3C opposes the NCRC application for the reasons stated above and their ongoing adverse impacts on the surrounding neighborhood, and ANC3C urges the BZA to reject NCRC's request at its Feb. 11, 2003 meeting or subsequent meeting; and

BE IT FURTHER RESOLVED THAT the Chair or her designee be authorized to testify, representing the ANC before the BZA or other body on this topic.

This resolution was approved by the ANC 3C by a unanimous vote of 9-0 at its regular public meeting on January 27, 2003, at which a quorum was present.

Attested by Nancy J. McClellan, Chair, on January 27, 2003

Nancy MacWood Date

Attested by  , Secretary, on January 27, 2003
Robert Martin Date

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ANC 3C RESOLUTION 2003-002

Resolution Regarding NCRC Request for BZA Special Exception

WHEREAS National Child Research Center (NCRC) is applying to the D.C. Board of Zoning Adjustment (BZA) for the purpose of seeking adoption of a new zoning Order to replace the existing BZA Order (#16307) for special exception; and

WHEREAS ANC3C voted this night in opposition to NCRC's special exception application pending before the BZA; but

WHEREAS ANC3C does not know the outcome of the BZA's discussions and decision on this application;

THEREFORE, BE IT RESOLVED THAT ANC3C urges the BZA to issue a new zoning Order at a later date and after ANC 3C has an opportunity to consult with the neighbors and NCRC on conditions.

This resolution was approved by the ANC 3C by a vote of 8-0 with one abstention at its regular public meeting on January 27, 2003, at which a quorum was present.

Attested by _____, Chair, on January 27, 2003
Nancy MacWood Date

Attested by _____, Secretary, on January 27, 2003
Robert Martin Date

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ANC3C RESOLUTION 2003-011

Resolution Regarding Variance Application by NCRC

WHEREAS National Child Research Center (NCRC) is seeking variance relief from sections 3202.3, which prohibits more than one principal building on a single record lot, and 2100.6, which requires parking spaces when the intensity of use of a building is increased due to an addition or increased number of people using the building; and

WHEREAS section 5.420 of the DC Code provides the granting of variances by the Board of Zoning Adjustment (BZA)

> Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application ... [of zoning regulations] would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize,...a variance from such strict application so as to be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the zoning regulations and map; and

WHEREAS the BZA has not determined whether a use or area variance is the necessary relief for the proposed second principal building on NCRC's single record lot; and

WHEREAS a use variance "cannot be granted unless a situation arises where reasonable use cannot be made of the property in a manner consistent with the Zoning Regulations" and thus, would result in exceptional and undue hardship*; and

WHEREAS NCRC is currently operating a successful child development center in a sought after residential neighborhood; and

WHEREAS an area variance is based on a showing that "compliance with the area restriction would be unnecessarily burdensome"* due to peculiar and exceptional practical difficulties; and

WHEREAS it is "fundamental that the difficulties or hardships be due to unique circumstances peculiar to the applicant's property and not to general conditions in the neighborhood"*; and

WHEREAS sect. 2100.6 requires the provision of parking spaces for additions when the intensity of use will be increased; and

WHEREAS the zoning regulations provide an exemption from the parking requirement only when a building is located in a historic district and has been certified by the State Historic Preservation Officer as contributing to the character of that historic district; and

WHEREAS Advisory Neighborhood Commission 3C has unanimously opposed the NCRC application on historic preservation grounds (Resolution No. 2002-042) and the application for special exception relief under section 205 for NCRC (Resolution No. 2003-001):

BE IT RESOLVED that ANC 3C finds

1. that there is no exceptional narrowness, shallowness, or shape of the NCRC property or any exceptional topographical conditions that are unique to this property;
2. that NCRC has not shown that its property, which is zoned residential, could not be put to a conforming use without a variance;
3. that there is no unnecessary burden placed on NCRC by either continuing to operate under current conditions or complying with the zoning requirements to create a second record lot for the proposed second principal building; other similar lots on the same street have been subdivided and the new structures have complied with the area zoning requirements;
4. that there is no extraordinary or exceptional situation or condition of the NCRC property , including the fact that it is in a historic district since this fact is not unique to this property in the neighborhood;
5. that granting the variance could result in substantial detriment to the public good because it would allow NCRC to build a new principal structure and avoid side yard, rear yard, lot occupancy and other residential zoning requirements that protect neighboring property owners;
6. That with the proposed addition and proposed increase in enrollment and faculty there will be an increase in intensity of use and we further find that the new principal building would not be certified by the State Historic Preservation Officer as contributing to the historic district and therefore, it does not qualify for a parking exemption under sect. 2100.6.

THEREFORE BE IT FURTHER RESOLVED that ANC 3C finds that the requested variance should not be granted and urges the BZA to deny the application.

RESOLVED that the Chair, Commissioner Welsh, or the chair's designee is authorized to represent the ANC on this matter.

Attested by Nancy J. MacWood, Chair, on April 28, 2003
Date

* *Gardner E. Palmer,et al. v. Board of Zoning Adjustment, 287 A.2d 535; 1972 D.C.App*