BARBARA B. HAAS	MARY G. PETERS	ESTHER C. NAMIAN	LINDSLEY WILLIAMS
3200 HIGHLAND PL., NW	1443 NEATAWANTA ROAD	3312 NEWARK ST., NW	3307 HIGHLAND PL., NW
WASHINGTON, DC 20008	TRAVERSE CITY MI 49686	WASHINGTON, DC 20008	WASHINGTON, DC 20008
1986 - PRESENT	3250 HIGHLAND PL.,NW 1985-2000	1967- PRESENT	1990 - PRESENT
(202) 966-5146	(231) 223-7562	(202) 363-3312	(202) 537-4884

November 4, 2003

The Honorable Geoffrey Griffis, Chairperson
The Honorable Members
Board of Zoning Adjustment
Government of the District of Columbia
One Judiciary Square – Suite 210 South
441 Fourth Street, NW
Washington, DC 20001

Re: **DECLARATION OF NEIGHBORS OF NCRC ABOUT THE 1998 BZA PROCEEDING AND THE BASELINE AND POTENTIAL FOR THE FACILITIES SOUGHT IN BZA 16970, Relating in Part to Recollections of Matthew S. Watson, Esq., as Set Out in His Letter to Maureen E. Dwyer, Esq., dated February 10, 2003, a Copy of Which is Found at Exhibit 104 within the Records of the Proceeding in BZA 16970 – Application of the National Child Research Center**, pursuant to 11 DCMR § 3104.1, for special exception approval to continue an existing child development center (last approved by BZA Order No. 16307) with morning and afternoon programs for 120 children at any one time, ages 2 1/2 - 5 years and 38 FTE staff on all floors of the existing and proposed buildings on the site and for new construction of an addition and new building pursuant to § 205; and pursuant to 11 DCMR § 3103.2, for variance relief from § 3202.3, in order to allow the construction of an additional principal structure and the use of an additional principal structure, such that more than one principal structure will exist on a record lot and for relief from § 2100.6 which requires the provision of parking spaces for the proposed additional principal structure on the NCRC property, in an R-1-B District at premises 3209 Highland Place, NW (Square 2072, Lot 30 (855 & 866)).

Dear Mr. Griffis and Members of the Board:

The undersigned respectfully request that the Board receive and consider our "Declaration of Neighbors of NCRC about the 1998 BZA Proceeding and Baseline and Potential for Facilities in BZA 16970" and a document related to that, a letter that the Acting Director of NCRC at the time, Ms. Kay Stafford, sent to some individuals residing in the area at the time.

With the exception of Ms. Peters, who now resides in Traverse City, Michigan, each of us who appeared before the Board in 1998 will appear again in the current case. We are prepared to deem this letter as testimony if the Board wishes to ask us questions or allows the various parties to cross-examine us on the facts and conclusions herein contained.

We swear the enclosed declarations to be our best understanding of the facts in the case heard in 1998. Our conclusions differ significantly from those reported to you by Matthew S. Watson

BZA
Case No. 16970
Exhibit No. 275

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.275

in his letter of February 10, 2003 to Maureen E. Dwyer, a copy of which is found at Exhibit 104 in the record of the current proceeding, BZA 16970.

Thank you for your attention to this request and the issues it identifies.

Barbara B. Haas **Mary G. Peters** Nov 3, 2003 **Esther C. Namian** **Lindsley Williams**

Enclosures:
1. Declaration of Neighbors of NCRC about the 1998 BZA Proceeding and Baseline and Potential for the Facilities Sought in BZA
2. Ms. Stafford's "Dear Neighbor" letter, circa October, 1997)

cc: National Child Research Center
Office of Planning
Office of Policies and Plans, DC Department of Transportation

DECLARATION OF NEIGHBORS OF NCRC ABOUT 1998 BZA PROCEEDING AND THE BASELINE AND POTENTIAL FOR THE FACILITIES SOUGHT IN BZA 16970

We, the undersigned, under oath and knowing the penalty for perjury, respectfully submit the following Declaration:

(1) In 1998, we were neighbors of NCRC. One of us moved away from the neighborhood in 2000 (Mary G. Peters). The remaining three of us are still neighbors of NCRC.

(2) In 1998, the Board of Zoning Adjustment took up the question of "establishing" the National Child Research Center as Special Exception in BZA Case 16307 pursuant to Section 205 of the Zoning Regulations. The Board took up this same matter twice, one on January 21, 1998 and then again on April 1, 1998 of that same year.

(3) At the initial hearing (January 21), no members of the community appeared. The BZA granted the application but adopted some conditions. The transcript of this hearing is found at pp. 99-111 in the BZA's hearing transcript of that date. ("Tr.") The only testimony at that hearing came from Acting NCRC Director, Ms. Kay Stafford, and NCRC's counsel, Mr. Matthew S. Watson.

(4) That January 21 hearing took place without adequate notice having been given to the neighbors. One of the undersigned, Ms. Barbara Haas, complained to the Office of Zoning and the ANC about the failure adequately to notify interested parties, and the BZA determined that it would hear the case again. The BZA scheduled a second hearing on the same NCRC matter on April 1, 1998.

NCRC's Representations to Neighbors and the Board of Zoning Adjustment (January 21)

(5) In October 1997, NCRC's Acting Director, Ms. Kay Stafford sent a letter to NCRC's neighbors announcing the school's plans and explaining NCRC's intentions. In that undated letter she said, "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."

(6) Consistent with Ms. Stafford's December 1997 letter, NCRC's General Counsel, Mr. Matthew Watson advised the BZA at the start of the January 21, 1998 hearing: "Currently, what we're asking for is merely to be a certificate of occupancy as a nursery school for a larger number of students

which it is licensed by the city to have. There's absolutely no construction being done. There's no change in anything." Tr. at 100 Lines 3-7.

(7) During this first hearing, Mr. Watson also informed the Board, without any further elaboration: "The original request for student occupancy was at 120 which was previously the number that was in the license. At present, they have 108 students. We would like it for 120. Tr. At 102, lines 17-20.

The Second Hearing (April 1)

(8) All (four) of the undersigned attended the second hearing – April 1, 1998. In Mr. Watson's introductory remarks, Mr. Watson stated: "The previous Certificate of Occupancy was issued in 1981 for elementary school as well as a nursery school for 90 students, and had never been updated, although they (NCRC) had been licensed and have had more children than that. Tr. April 1 at 7, lines 23-25.

(9) In Mr. Watson's examination of Ms. Stafford, he asked her if she " . . .expected now to have any increase in enrollment or staffing." Ms. Stafford answered "No." Tr. April 1 at 8, lines 24-26.

(10) At the April 1 Hearing, the following parties appeared and testified: the applicant (NCRC), the ANC Chair (Phil Mendelson); four neighbors appeared and testified as persons (Haas, Peters, Namian and Williams). The transcript of the hearing reflects that the testimony did not focus on any increase in enrollment or occupancy, although Ms. Namian testified that she would have concerns about any increase in student numbers from 90 to a possible 120. (tr. April 1 at 28-29) and Mr. Williams urged the Board to clarify the 120 figure Tr. April 1 at 30.

(11) At its regular monthly meeting on May 6, 1998, the BZA considered NCRC's application and voted to approve the application for 120 students and 28 staff.

(12) NCRC never provided either the Board or the neighbors with numbers of students enrolled or staff then at the property. NCRC only stated that no change was planned or sought. Based on NCRC's representations to the BZA, we assumed that 120 was the total enrollment, inasmuch as it exceeded the facility licensing standard of 108.

Current Issues

(13) Based on the evidence presented to the BZA in 1998 and the BZA's decision on that occasion, we believe that the BZA should treat the current "baseline" as being an occupancy limit on the present premises of 108 children at any one time with an overall enrollment limit of no more than 120. Accordingly,

we believe that the BZA should view NCRC's current application as a request for permission to increase the school's enrollment from 120 – which the BZA approved in 1998 – to 181 – which NCRC seeks in its application today.

(14) If BZA approves NCRC's pending application, NCRC would have sufficient classroom space – under the Department of Health's licensing requirements – to accommodate about 160 children at any given time. (This number is based on the square-footage associated with only those elements of the proposed plan that are identified as "classrooms." It does not relate to the space that *could* be designated as classroom space in the future but, in the plan currently before the BZA, is identified as space for a music room or as space to be used for motor skills or occupational therapy.) We believe it is important that the Board evaluate the proposed new facility against the population that *could* be housed under the Department of Health's regulations at the maximum possible level of occupancy rather than under the artificial, temporary number – one that is well below that maximum capacity – that NCRC has adopted today to advance its prospects for approval.

Signed:

Mary G. Peters 11-03-03

Esther Chanoine

Linda S. Wilson 11.04.03

Barb B Hua 11/04/03



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