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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: **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 ½ - 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:

This letter provides the Board with my views on the above-captioned case. My observations and conclusions derive from several distinct perspectives:

- that of a property owner residing on premises just one block away from the site (three homes and the width of narrow 33rd Place, NW separate my home from the applicant's property)
- that of a professional land use planner involved, twenty years ago as a member of the Zoning Commission, in the crafting of the regulations being applied in this case
- that of a neighbor who participated with several others in the second hearing conducted by the Board of Zoning Adjustment in NCRC's prior case, BZA 16307.
- that of an active, practicing land use planner whose professional expertise is recognized by both the Zoning Commission and Board of Zoning Adjustment in specific cases.

BZA
Case No. 16970
Exhibit No. 285

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.285

Property Owner Issues and Conclusions:

My wife and I have lived at our home on Highland Place for a dozen years, and our two sons completed their secondary education from that home prior to attending college. I have lived in Washington, D.C. since 1970, either in Woodley Park or our current home in Cleveland Park. One son attended NCRC prior to attending our public elementary school, John Eaton.

Over the time we have lived at our present residence, we know when NCRC is "in session" and not. We know this from daily cycles of commuter traffic, particularly from those staff who have utilized the unrestricted parking in the 3300 block that has been available; we look forward to the inclusion of this block later this month in the District's Residential Permit Parking Program ("RPPP"). Two to three staff have regularly sought space for their vehicles over the years, and we know the parkers to be staff by instances where my walks to Metro have coincided with their walks to their work at NCRC. Their parking, soon to end, has created an adverse impact since those of us living in non-RPPP areas could not acquire a sticker to park on neighboring streets. Thus, when the 3300 block was parked "full," we had no options. Thus, this adverse impact will soon be diminished unless staff violate RPPP restrictions.

We know that NCRC is starting or ending by dint of the effect it has not on traffic on our street so much as the daily peaks, weekday mornings from 8:30 - 9:00 a.m. and mid-afternoon (3:15 - 3:45) in particular when congestion forms at the intersection of Newark Street westbound trying to enter or cross Reno Road/34th Street. Just as it is a principal exit for those leaving from NCRC, so too is it one of the two "ways out" for those of us living along Highland Place, Ashley Terrace, 33rd Place and all of Newark Street between Connecticut Avenue and Reno Road/34th Street. Exiting peaks from NCRC created then as they will in the future to significant degradation in the "level of service" of that critical and unsafe intersection, to the point where "waits" of five or more minutes are routine. Unlike the parking issue, the issue of peak traffic from NCRC creating or greatly exacerbating movement through a critical intersection is a significant ongoing and projected adverse impact. While transportation system management plans can try to address this to some extent, the most basic solution that would limit departing cars or stagger them over a longer period of time constitute an unacceptable adverse impact now and prospectively.

Perspective of Former Zoning Commission Member:

From 1981-1988 I served as a member of the Zoning Commission, appointed to that body by then mayor Marion S. Barry, Jr. Among the cases considered during that time was Case 81-18, which established the core of the regulations now found in § 205 of the present zoning regulations though the issuance of Order 377 on October 18, 1982, amended substantively only once since (in 1998 by the Commission to broaden the reach of provisions to facilities providing care for the elderly (Case 98-8, Order 907).

Case 81-18 was initiated after the core provisions of the present Health facility licensing regulations had been adopted (which are now found at Title xx of DCMR), with an aim of the zoning case to conform zoning and licensing requirements.

Case 81-18 was also initiated and completed after the initial, massive effort to establish rational rules for community based residential facilities, or "CBRFs". That case (identified as Case 78-18, Order 347, Issued July 12, 1981).

The two cases have a critical common element, namely both are dealing with uses that while allowed in selected zone districts by special exceptions, each has additional "spacing" standards not characteristic of most uses allowed by special exception. Thus, the Board in the instant case and others it hears under § 205 should always note that establishing or enlarging a child(or elderly) development center is involved with a use that was of such significant sensitivity and, I believe, perceived or real risk of adverse impact that the spacing standard was added as an additional element or, to some perspectives, "protection." The spacing standard in lower density Residence districts is the same across all these uses, namely that the Board determine that there is no adverse "cumulative effect" in terms of traffic, noise, operation, or other similar factor." This spacing standard, first adopted in the CBRF case, was applied to child (and then child/elderly) development centers as well.

A critical issue in the CBRF case was conversion of existing residential structures into one or another form of CBRF, and concentrations of adjacent structures creating ghettos of/for specific populations -- the mentally ill (this at the time of significant return of those in asylums and psychiatric hospitals to "their communities," often in the name of "deinstitutionalization"), adult and juvenile offenders, adult and juvenile substance abusers, those with developmental dysfunctions, and the like.

The spacing standard applied in the CBRF case was suggested by the Office of Planning and Development to apply to child development facilities in residence districts, other than those facilities located within public schools or public recreation centers, where they were to be allowed by right provided they obtained approval from the Superintendent of Schools or Director of the Department of Parks and Recreation, as applicable. The Order indicates participating ANCs supported OPD's spacing concept, varying only in details of distance. In the end, the spacing limit was set as no more than one per Square or 1,000 linear feet without additional scrutiny being imposed and higher standards applied.

The Order also established the central definition of the use as it now stands (only amended to reflect care for the elderly in 1998):

> ***Child/Elderly development center*** - a *building* or part of a *building*, other than a *child development home* or *elderly day care home*, used for the licensed care, education, counseling, or training of individuals fifteen (15) years of age or less and/or for care of elderly individuals,

> totaling six (6) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours per day. This definition encompasses facilities generally known as child care centers, pre-schools, nursery schools, before-and-after school programs, senior care centers, elder care programs, and similar programs and facilities. A *child/elderly development center* includes the following *accessory uses*: counseling, education, training, and health and social services for the parents or principal guardians of children attending the center. (46 DCMR 8286)

In contrast to the definition of *public school*, the above definition ***does not*** provide authority to include *accessory structures.* Thus, when such accessory structures are planned relative to a child development center, each accessory structure or building must comply with long-standing general provisions governing same.

Strictly speaking, the application before you in this case is to expand an existing facility, not to create a new one. **Yet, as I see it, the parameters of what is before you today call for an increase in facility and occupancy that is twice the size of many entire child development cases the Board has recently considered** (e.g., Barbara Schreiver Allen, BZA 16915, which you approved for 23 children and 4 fullt-time and 2 part-time staff, mornings only in a single session where all children attend all five weekday sessions each week) with many, many conditions.

What Does This Application Seek?

Applicant in this case seeks approval on its current single record lot to:

- continue to use and occupy its present main building as a child development center with extensive remodeling of the existing building on that building's ground, first and third floor areas, and relatively minor changes on its second floor.
- "continue" the occupancy of the premises by no more than 120 children at any one time
- operate the expanded program and facility with as many as 38 FTE staff (an increase in staff from 28, the number allowed in BZA Order 16307 to either 38 or that number of Full-Time Equivalent staff, an even greater number of persons).
- build and occupy an addition to the main building on its ground, and first floors; and provide elevator access to the second floor area
- convert space on the ground floor an existing additional building (variously the "Annex" or "playhouse") to a classroom
- build and occupy another building (the proposed "Carriage House") of two stories facing Ordway Street but on the same *record lot* as the existing buildings
- obtain a variance from the prohibition about having more than one principal building on a single *record lot*
- obtain a variance from the requirement to provide the required number of parking spaces on the "same lot" as the use generating the requirement in the first place.

Applicant in this case has not explicitly sought authority from the Board to:

- have more than two principal buildings on a single, subdivided lot in a Residence district (§ 2516), noting that this restriction appears to overlap that of § 3202.4.
- occupy and use the present, habitable Annex or playhouse (with heat, power, served by water and sewer) as part of the applicant's program
- have and occupy a child-scaled second playhouse (with walls and a roof, but no utilities, a building apparently established without benefit of permit, zoning or historic preservation review or approval) on applicant's premises, particularly when located in other than the rear yard area established from the rear or the present main building or the reduced rear yard after the addition is built to the rear of the main building and it is occupied
- deviate in any degree from requirements that accessory buildings of the types existing and planned comply with the applicable requirements allowing such accessory buildings to be located only in a rear yard area, and only then if not more than 30 percent of the area so occupied is in the *required* rear yard area itself or deviate from story and height limits for such accessory buildings.

- deviate in any degree from requirements that rear and side yard requirements remain satisfied when there is more than one principal building on a record lot, "required" inasmuch as there is no exception that accompanies the basic governing provision in the first place.

- replace the present "shed," an accessory building located in the northeast corner of the property, with a new accessory structure with two levels (and having two stories?) that has a far larger footprint than the existing shed, the new structure's total height being unspecified relative to the 15 foot limit imposed by the zoning regulations for such accessory buildings.

- demonstrate that the plans before you will satisfy outstanding building code issues, particularly the requirement of the Health Regulations (at 29 DCMR 327) that the facility conform with the Building Code or, for a facility built prior to 1975 (as existing parts of this one originally were), that the applicant has sought and obtained a whatever variances are needed from the Mayor as allowed by § 313.1 for the program as it now operates and for the program as it would operate in the expanded and renovated facilities for which approval is now sought from the BZA. For example, the present facility includes classrooms on the third floor, accessed by only one enclosed stairway and an exterior metal fire escape.

Standards for Variances:

Uniqueness of Property		Practical Difficulty		No Substantial Detriment	
Claim	**Comment**	**Claim**	**Comment**	**Claim**	**Comment**
Large lot	Others in area		Subdivision possible under zoning standards	No adverse to integrity of zone plan	Allowing one super lot for multiple primary structures effectively repeals well considered and long standing yard requirements.
Through lot	Others in area, incl. one adjacent, CP Club, and south side of Highland 3100 and 3300 blocks		Subdivision could create multiple through lots, each with a conforming rear yard area		
Topography	Adjacent properties share similar characteristics				
Historic	Not a landmark; the main building is likely only one declared (to date) a "contributing" structure				
On site parking incompatible with historic district	Lower level of Carriage house could accommodate three or more vehicles; similar to character of homes facing it across Ordway		Idea neither explored with or rejected by HPRB, or neighbors		

On the basis of the above, I recommend that you:

- consider the application, given the increases in enrollment and staffing sought, as equivalent to the establishment of an additional child development facility, whereby "cumulative effect" is explicitly considered in establishing "adversity."

- deny the application before you without prejudice as to the portions relating to existing structures and fully deny the remaining portion (additional structures and additions to existing ones)

- impose clear limits on factors leading to automobile traffic any given day, namely families (or groups of unrelated children in carpools) sending children to concurrent sessions

- impose clear limits on paid or volunteer staff, aides to children not employed by the applicant, and others needed for that day's children for professional consultation as well as those who might serve as paid or unpaid interns from area universities.

- require that traffic management plans be implemented to reduce issues not just adjacent or proximate to the property but at adversely affected area intersections at which congestion now forms at times the program is receiving or discharging children, particularly Newark at 34th Street, NW.

- impose such additional conditions as needed to address the other concerns raised by the neighbors that you determine are "objectionable" (see, for example, the earlier referenced Barbara Allen Schreiver Case, BZA 16915).

Thank you for considering the above in your deliberations. I also thank you for accepting my prior observations and filings about this case, including helping determine that the issue of height and stories, which could have been a factor here, was not among the many issues to be considered by the Board at this time.

Sincerely,

Lindsley Williams

Enclosures

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

Occupancy Limits as a Function of Spatial Attributes of Existing and Proposed Facilities: National Child Research Center (Current Daily Peaks Shown)

Building
Floor/Story
Class or Other Room

Existing Classrooms and Areas				**Proposed Classrooms and Areas**			
Classroom Name or Room Function or Description (from Health Licensing and Fire Exit Plans)	**Classroom** Area (Sq. Ft.)	Maximum **Classroom** Capacity per 29 DCMR 328.3	Highest Daily **Classroom** Occupancy (Ms. Tiffany Williams' Testimony)	**Classroom Number** or Function of Room (Plans of Charles Anthony)	**Classroom** Area *(Estimated)*	Maximum **Classroom** Capacity (Area/35.0, *Estimated)*	***Maximum Number of Children by Building***
Main Building				**Main Building**			***109***
Third Floor				Third Floor			
Treetops	807	23	23	(Classroom converts to adminstrative space)			
Second Floor				Second Floor			
Explorer (SW front corner)	816	23	20	**Classroom 5** ("Explorer")	816	23	
Rainbow (NE Rear)	679	19	18	**Classroom 4** ("Rainbow")	679	19	
First Floor				First Floor			
Sunshine	642	18	17	**Classroom 3** ("Sunshine" area)	*550*	*15*	
Bunny	330	9	9	**Classroom 2** (in new addition)	*879*	*25*	
Level Below First				Ground Floor			
Beehive (becomes non-classroom)	570	16	16	**Classroom 1** (in new addition)	*951*	*27*	
Playhouse (Original Garage/Caretaker Building)				**Playhouse (Original Garage/Caretaker Building)**			***19***
Second Level				Second Level			
Center Room				Faculty Work Room			
Therapy Room 1				Storage & Supplies			
Therapy Room 2				Faculty Workroom			
First Level				First Level			
Main Room (Library and Motor Skills)				**Classroom 6 main**	*484*	*19*	
Early Bird (Lunch)				**Classroom 6 part**	*200*		
				Proposed Carriage House			***32***
				Second Level			
				Classroom 7	*631*	*18*	
				Classroom 8	*535*	*14*	
				Ordway Street Level			
				Motor & Community	*1,120*	*?*	*?*
				Music	*771*	*?*	*?*
Maximum Capacity / Highest Occupancy	**3,844**	**108**	**103**			***160***	**... not counting**
Capacity (Certificate of Occupancy)		**120**					**motor & music**
Current Unaccounted Classroom Area (for 120)	***420***	***12***		***Unaccounted function space***	***library, lunch, early bird***		**rooms**

Occupancy Limits as a Function of Spatial Attributes of Existing and Proposed Facilities: National Child Research Center (Current Daily Peaks Shown)

Building

Floor/Story

Class or Other Room

	Existing Classrooms and Areas		**Proposed Classrooms and Areas**
Staffing Ratios by **Classroom** (Age Yr/Mo)	Adults Req.	Minimum Staffing Determined As Ages & Rooms Known	
Bunny (2/7 - 2/12)	2		
Beehive (3/1 - 3/6)	2		
Sunshine (3/6 - 3/12)	2		
Rainbow (4/1 - 4/6)	2		
Explorer (4/7 - 4/12)	2		
Treetop (5/1 and older)	2		
Director	1		
Minimum Staffing Required	13		
Staffing Provided	28, 38, 38 FTE?	Staffing Projected	???

Group Size and Ratios	Max. Group	Child/Adult Ratio	
2/1 - 2/6 ***[not applicable to NCRC]***	*8*	*4:1*	*same*
2/7 - 3/12	16	8:1	same
4/1 - 4/12	20	10:1	same
5/1 - 5/12	25	15:1	same
6/1 and older	30	15:1	*same*