GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16307 of National Child Research Center, as amended, pursuant to 11 DCMR 3108.1 for a special exception under Section 205 to establish a child development center for 120 students ages 2 ½ to five years and 28 staff in the basement through third floor of an existing building in an R-1-B District at premises 3209 Highland Place, NW [Square 2072, Lot 30 (855 & 866)].

HEARING DATE: **January 21, 1998**
DECISION DATE: **January 21, 1998 (Bench Decision)**

SUMMARY ORDER

This application was amended at the public hearing to eliminate the variance from 11 DCMR 2101 for off-street parking. The applicant submitted into the record a letter dated November 12, 1997, from the State Historic Preservation Officer for the District of Columbia stating that the subject building is either a historic landmark in the D.C. Inventory of Historic Sites or is located within a historic district and contributes to the character of the historic district. The Board determined that a parking variance is not needed based on Subsection 2100.5 of the Zoning Regulations which exempts such historic structures from providing additional parking when the use is changed.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C Register, and by mail to Advisory Neighborhood Commission (ANC) 3C and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3C. ANC 3C, which is automatically a party to this application, submitted a written statement of issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 205. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108 that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.67A2

further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be for a period of **FIFTEEN (15) YEARS.**

2. The maximum number of children shall not exceed 120.

3. The maximum number of teachers and support staff shall not exceed 28.

4. The hours and days of operation shall be between 8:00 a.m. and 5:00 p.m., Monday through Friday.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0 (Betty King, Susan Morgan Hinton and Sheila Cross Reid to grant; Maybelle Taylor Bennett to grant by absentee vote; Laura M. Richards not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Sheri M Pruitt-Williams
SHERI M. PRUITT WILLIAMS
Interim Director

FINAL DATE OF ORDER: JUN 17 1998

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16307/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16307

As Director of the Board of Zoning Adjustment, I certify and attest that on JUN 17 1998 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Matthew Watson, Esquire
1701 Q Street, N.W.
Washington, D.C. 20009

Phil Mendelson, Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20009

Attested By: Sheri M Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Iterim Director

Date: JUN 17 1998

attest/ljp

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

'98 FEB 25 P2:47

February 19, 1998

APPLICATION NUMBER 16307

TO WHOM IT MAY CONCERN:

Notice is hereby given that the Board of Zoning Adjustment will hold a public hearing in Suite 220, 441 4th Street, N.W., Washington, D.C. 20001, on April 1, 1998. Your attention is invited to the following application:

Application of National Child Research Center, pursuant to 11 DCMR 3108.1 and 3107.2 for a special exception under Section 205 to establish a child development center for 120 students ages 2 ½ to five years and 28 staff in the basement through third floor of an existing building, and a variance from the provisions of Section 2101 for off-street parking in an R-1-B District at premises 3209 Highland Place, N.W. [Square 2072, Lot 30 (855 & 866)].

At the public hearing, all interested persons will be given an opportunity to express their views. However, you may submit written views about this case. All written views should be sent to the address below, and must be received by the Board before the hearing on the case is concluded.

This case is in Advisory Neighborhood Commission 3C. Cases in this area will be heard from 1:00 p.m. to 6:00 p.m. Cases will be heard in the order listed on the Board's hearing agenda.

If you have any questions about this application, you may call the Office of Zoning on (202) 727-6311, or come to 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

PLEASE USE APPLICATION NUMBER WHEN YOU WRITE OR CALL ABOUT THIS CASE.

Sincerely,

Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

NOT16307/amb

BZA
CASE No. 16307
EXHIBIT No. 30

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO.: 16307

As Director of the Board of Zoning Adjustment, I certify and attest that letters of notice have been prepared and mailed to all owners of property within 200 feet of the property that is the subject of this application based on the listing of owners submitted by the applicant as required by instructions on the BZA Application Form.

Attested By: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

DATE: FEB 19 1998

attltr

A.2

etfrey A & D C Frank
40 Porter Street, N.W.
ashington, D.C. 20008

ie Liu Shaw
3060 Porter Street, N.W.
ashington, D.C. 20008

vin Sullivan Etal
..62 Porter Street, N.W.
Washington, D.C. 20008

eve & Jane Vanneman
71 Ordway Street, N.W.
Washington, D.C. 20008

Clifford & S M Feldman
135 Highland Place, N.W.
'ashington, D.C. 20008

[redacted]ary A. Lopatto
3126 Ordway Street, N.W.
'ashington, D.C. 20008

obert Marshall et al
3208 Highland Place, N.W.
Washington, D.C. 20008

ucia Newman
204 Highland Place, N.W.
Washington, D.C. 20008

Chase Home Mortgage Co.
3070 Porter Street, N.W.
Washington, D.C. 20008

J. Bressler & U Krzych
3058 Porter Street, N.W.
Washington, D.C. 20008

Glenn E. McLaughlin
3053 Ordway Street, N.W.
Washington, D.C. 20008

Rita M. Rodriguez et al
3075 Ordway Street, N.W.
Washington, D.C. 20008

Doris D Blazek, TR
3207 Highland Place, N.W.
Washington, D.C. 20008

Henry Little & L Mendoza
3220 Ordway Street, N.W.
Washington, D.C. 20008

David McGowan
3211 Newark Street, N.W.
Washington, D.C. 20008

Stephen S & Barbara Haas
3200 Highland Street, N.W.
Washington, D.C. 20008

D P & N F Hughart
3066 Porter Street, N.W.
Washington, D.C. 20008

Steven R & K K Hunsicker
3083 Ordway Street, N.W.
Washington, D.C. 20008

L & Pricie N. Pearlstein
3057 Ordway Street, N.W.
Washington, D.C. 20008

C P Modlin Jr. & L Modli
3056 Porter Street, N.W.
Washington, D.C. 20008

Alan L & Dayle Ginsburg
3130 Ordway Street, N.W.
Washington, D.C. 20008

Cleveland Park Club Inc.
3433 33rd Place, N.W.
Washington, D.C. 20008

Robert H. Pelletreau Jr.
3220 Highland Place, N.W.
Washington, D.C. 20008

Elizabeth Mueller Ellis
3249 Newark Street, N.W.
Washington, D.C. 20008

DISTRICT OF

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16307

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH
LICENSING REGULATION ADMINISTRATION

HUMAN SERVICES
FACILITY DIVISION

PHONE: 202-727-7226
FAX :202-727-7780

MAILING ADDRESS:

614 "H" Street, N.W.,
Room 1035
Washington, D. C. 20001

MAR 2 3 1998

Ms. Maryann Pavetto
National Child Research Center
3209 Highland Place, N.W.
Washington, DC 20008

RE: Licensed Capacity and Certificate of Occupancy

Dear Ms. Pavetto:

The Department of Health, Licensing Regulation Administration, Human Services Facility Division (DOH/LRA/HSFD) has completed it's renewal inspections of National Child Research Center. Enclosed is the current license for ninety (90) children and no infants. As Veronica Singh, Child Care Program Specialist, discussed with you on March 11, 1998, the HSFD's remeasurement of the Center's space revealed that it can comfortably and safely accomodate more than ninety (90) children. However the current Certificate-of-Occupancy was issued for ninety (90) children. Therefore, licensure of the center can only be issued for ninety (90) children .

During the telephone conversation, Ms. Singh also informed you that the National Child Research Center must comply with the licensed capacity in accordance with Title 29 of the District of Columbia Municipal Regulations (DCMR) Chapter 3, Section 302.2 . In keeping with the same, if you are presently over capacity you must reduce the number of children enrolled through attrition immediately. However, the HSFD will increase your licensed capacity when you obtain and provide to the office a new Certificate-of-Occupancy reflecting the increased occupancy load.

If you have any questions regarding the above, you may contact Ms. Helen Jordan, Supervisory Social Worker Program Specialist, Human Services Facility Division, on 727-7226.

Sincerely,

Ellen M. Yung-Fatah
Program Manager

January 21st

voting, the issuance of a summary order.

MR. DIETZ: Thank you.

MS. ROSE: The next application is 16307 of the National Child Research Center, pursuant to 11 DCMR 3108.1 and 3107.2 for a special exception under Section 205 to establish a child development center for 120 students ages 2 1/2 to five years and 28 staff in the basement through third floor of an existing building and a variance from the provisions of Section 2101 for off-street parking in an R-1-B District at premises 3209 Highland Place, N.W. [Square 2072, Lot 30 (855 and 866)].

Would all persons planning to testify in this application please rise and take the oath. Please raise your right hand.

(THE WITNESSES WERE SWORN.)

CHAIRPERSON HINTON: Hello.

MR. WATSON: My name is Matthew Watson. Address is 1701 Q Street, N.W. With me is Kay Stafford, and we'll testify on behalf of the proponents. Notwithstanding the fancy name of the institution, this is a nursery school. The school has been operating in the same location and has certificates of occupancy since 1930 which I think predates us all. And we are requesting at this time

a change in the existing certificate of occupancy which was issued in 1981. When it was issued in 1981, it was for a nursery school, kindergarten, elementary school of 90 students. 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.

If you would like, we could have Ms. Stafford testify to the operation and proceed, but as I say, it's a technical change in that the use has changed slightly during these years and the issue is raised as to number of children because they can have more children as a nursery school and that's the request. It is in the historic district. We have submitted from Historic Preservation the designation that deals with regards to the waiver and, in fact, the community has indicated they would vigorously oppose it if we tried to change the landscaping and put in parking spaces.

MS. KING: One of the prettiest streets in the District of Columbia. If you all haven't seen it, it's worth a trip.

CHAIRPERSON HINTON: I just have a

question about that letter. Was the determination that it's a landmark or that it's in the District and contributes?

MR. WATSON: It's in the District and contributes?

CHAIRPERSON HINTON: Okay. And, therefore, there is no need for parking variance. Is that right?

MR. WATSON: Correct.

CHAIRPERSON HINTON: So you're only here for the special exception?

MR. WATSON: Well, we're here for the special exception. It's not totally clear as to whether you don't have to accept the letter to say that it doesn't meet parking. So that's the reason we requested.

CHAIRPERSON HINTON: Okay. Well, Ms. Rose, it's my understanding that if a building is either historic landmark or in an historic district and contributing that there is no requirement for additional parking regardless of the change of use.

MS. ROSE: I'm not sure on the contributing nor really clear on --

MR. WATSON: I think you are correct on the contributing, as well.

CHAIRPERSON HINTON: I know that we've made that determination previously, although I wouldn't know exactly where in the regulations. But actually, we need to make a determination because there's no sense in us granting a variance that you don't need. That would be really silly. Why don't we get back to the special exception. We do normally with child development centers, we like to have the hours of operation and the number of staff on the record. So could you address those two?

MR. WATSON: If you could the indication of numbers of hours, the hours you operate as well as the staffing.

MS. STAFFORD: Do you need my name and address?

CHAIRPERSON HINTON: Yes.

MS. STAFFORD: I'm Kay Stafford. I'm Acting Director of the National Child Research Center. I reside at 709 N. Greenbriar Street in Arlington, Virginia.

The hours of operation currently are roughly 8:00 to 4:00. Children are on the premises from 8:35 to 3:30. Staff is there from 8:00 to 4:00. The second question was?

CHAIRPERSON HINTON: The number of staff?

MS. STAFFORD: Twenty eight.

MS. KING: And how many students are you asking for now?

MS. REID: One hundred and 20.

MR. WATSON: 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.

MS. KING: A hundred and 20.

CHAIRPERSON HINTON: The C of O that you're currently operating under, did it have a time frame associated with it?

MR. WATSON: The C of O currently has no time frame, either times of day or length. It was issued in 1981. I do have a copy.

CHAIRPERSON HINTON: We don't need a copy. Was that approved by a Board order? Did that also need a special exception?

MR. WATSON: I can not tell that from the record.

CHAIRPERSON HINTON: Okay. Usually we like to put sort of a time limit on these sorts of cases so that every now and then it comes back in front of the Board just in case something has changed and there are some adverse impacts that the neighbors

would like to talk about and maybe find a way to mitigate. So I would think since you've been there since 1930 we could go with a reasonably long time period of approval.

MR. WATSON: Could this be done --

CHAIRPERSON HINTON: Fifteen years.

MR. WATSON: How long?

CHAIRPERSON HINTON: Fifteen years. Fine.

MS. KING: How many parking spaces are there at present?

MR. WATSON: There are not parking spaces on the property.

MS. KING: None at all?

MR. WATSON: No.

CHAIRPERSON HINTON: Off street parking that is in front of the building and to the rear on the property line is not residential zoned. In other words, you don't have to have a residential permit to park there?

MR. WATSON: No. There's no off street parking on the --

MS. KING: On the property.

CHAIRPERSON HINTON: There is none.

MR. WATSON: And both the ANC and the neighbors are opposed to any being put on because as

it is now, you can tell from the pictures, it looks like the other residential houses on the block.

MS. KING: Whenever I have a visitor, I always drive through there and say this is the prettiest street in the District of Columbia and I've never known that you have a day care center.

MR. WATSON: It's quite a street. Nicholas Katzenbach, when he was Attorney General in the Kennedy Administration, lived across the street and -- lives across the street.

MS. BENNETT: I guess but do we not have a problem in that because they're back before us and because our child development center regs have parking requirements, we really have to determine --

CHAIRPERSON HINTON: We have to find in the regs -- it's in the parking regulations that says if the building is an historic landmark or in an historic district and is a contributing element, that there would be no additional off street parking requirement no matter what the proposed use is.

MS. BENNETT: We need to find that.

MR. WATSON: I can provide that citation for you.

MS. REID: Would you?

CHAIRPERSON HINTON: Can you quickly? I

think we'd like to sort of finish up today.

MS. REID: We'd like to dispose of this case today.

CHAIRPERSON HINTON: Why don't you look and we'll look, too. Do you have the regs?

MR. WATSON: I don't have the regs with me. If you can hand me a set of the regs.

MS. BENNETT: Okay. Here we are. Thank you, Ms. Bailey. Once again, Ms. Bailey is right on target. Chapter 21, off street parking requirements, Section 2100.5. "No additional parking spaces shall be required for an historic landmark or a building or structure located in an historic district which is certified by the State Historic Preservation Officer as contributing to the character of that historic district."

CHAIRPERSON HINTON: Which one was it?

MS. BENNETT: 2100.5.

CHAIRPERSON HINTON: Thank you.

MS. BENNETT: So what we have here is a building in an historic district and it is deemed contributing to that historic district. Is that correct?

CHAIRPERSON HINTON: That's right.

MR. WATSON: And we have in the record the

certificate from the State Historic Preservation Officer.

MS. BENNETT: That'll work.

CHAIRPERSON HINTON: So we're going to determine that due to 2100.5 the variance is not needed and we'll need the special exception. So we have your hours for the record. And since it's a special exception, you need to tell us whether the operation is or is expected to have any adverse impact on the adjacent property owners.

MR. WATSON: It has not, we do not believe, for the last 70 years and it will not in the future.

MS. KING: Not 70 years.

MS. BENNETT: Sixty eight years.

CHAIRPERSON HINTON: Sixty eight years.

MR. WATSON: But we're not sure it wasn't operating before the certificate of occupancy was issued.

CHAIRPERSON HINTON: Any other questions from the Board members?

MS. BENNETT: They happen to be in a neighborhood that if there were some adverse impacts we would have heard about it.

MS. KING: Oh, boy. Joe Mendelson isn't

so it must be okay.

MS. BENNETT: I know that's right.

MS. REID: If you refer to Section 205 in your testimony, the special exception.

MR. WATSON: You mean the requirements in 205? I believe there's no adverse impact, no safety impact in traffic which it doesn't. It's a quiet residential street. And it's located on over an acre of ground which prevents there from being any adverse impact from noise and children at that age are generally well behaved.

CHAIRPERSON HINTON: What age is this?

MR. WATSON: Two and a half to five. They're not junior high school students. They actually still hold hands.

MS. KING: Their teachers are still bigger than they are.

MR. WATSON: Yes.

MS. BENNETT: But Section 205, Madam Chair, includes 11 or 12 little subsections and I didn't know -- I think what Ms. Cross Reid is wondering is if we have adequately documented just for the record that both those --

MS. REID: -- have been met.

MS. BENNETT: -- have been met even though

we know that this is a long-established facility.

MR. WATSON: It's a long-established facility within 1,000 feet.

MS. BENNETT: This is a separate proceeding.

MS. REID: Just for the record, I wanted to make sure you were in compliance and -- negative impact, adverse impacts so perhaps we'll take a look at it.

MS. BENNETT: I think that's appropriate.

CHAIRPERSON HINTON: I think so, too.

MS. KING: I looked over it and it seems to me quite clear that they meet all the criteria.

CHAIRPERSON HINTON: I think so, too. Why don't you take a quick look at 205.

MR. WATSON: If we turn just for the record, "The center should be capable of meeting all applicable code and licensing requirements." It is actually licensed by the District of Columbia. "Center should be located in designated to create no objectionable traffic condition and no unsafe condition for picking up and dropping off children." It does not. It actually has two street frontages. Its address in the front of the building is on Highland Place. The lot goes all the way through to

Ordway Street where there are also steps coming up.

"The center shall provide sufficient off street parking" but that is waived because of the historical character. "The center, including any outdoor play space provided, should be located and designed so that no objectionable noise impacts on adjacent or nearby properties due to noise or activity or visual or other objectionable conditions." As I indicated, it's 45,000 square feet in the lot and it's surrounded by trees which muffle any noise and sight.

"The Board may require treatment by way of design screening." Nature has provided that for us. "Any off site play area shall be located, not result in endangerment to the individuals." There is no off site play area used. "The Board may approve more than one child development center in a square or within 1,000' only if it finds a cumulative effect." 1) there is no other child development center in the square nor is there any within 1,000' and I believe, because I have spoken to Public Works and Human Services, Office of Planning has been referred to and I believe we meet all the requirements.

CHAIRPERSON HINTON: Thank you. Okay. Are there any other questions from Board members?

MS. KING: No.

CHAIRPERSON HINTON: Does that conclude your presentation?

MR. WATSON: That concludes the presentation.

CHAIRPERSON HINTON: Great. Let me just take a look. -- from the ANC which is unusual. I usually get one from -- but that's okay. We have no reports from the Office of Planning or the Office of Zoning or the Department of Public Works.

Are there persons or parties in support? Are there persons or parties in opposition? I did not see any opposition in the file.

MS. REID: Nor did I.

CHAIRPERSON HINTON: Okay. Closing remarks.

MR. WATSON: We would request, since it meets the requirements, that it be granted for the 15 year period.

CHAIRPERSON HINTON: Great.

MS. KING: I so move.

CHAIRPERSON HINTON: I will second. Let's list the hours of operation in our conditions. That would be the hours should not exceed 8 a.m. to 4 p.m. Monday through Friday.

MR. WATSON: Could I request that for some

ease of operation in case they do at some point change slightly that it go to 5 p.m.?

CHAIRPERSON HINTON: Sure. 8:00 to 5:00. Does that work? 8:00 a.m. to 5:00 p.m. The staff should not exceed 28. The number of students should not exceed 120. An approval will be for a period of 15 years. Any other conditions?

MS. REID: Summary order.

CHAIRPERSON HINTON: Summary order. All those in favor.

(Ayes)

CHAIRPERSON HINTON: Opposed.

MS. ROSE: Staff will report the vote as four to zero, Ms. King, Ms. Hinton and Ms. Reid, to grant the application, Ms. Bennett will grant by absentee vote and Ms. Richards not present, not voting, and that an amended application to eliminate the --

CHAIRPERSON HINTON: Yes. And can we be clear in the summary. Would it be possible to be clear that the Board determined there was no need for a variance due to 2100.5.

MS. ROSE: Okay.

MR. WATSON: Thank you.

MS. ROSE: The last application is 16308

ADVISORY NEIGHBORHOOD COMMISSION 3-C

GOVERNMENT OF THE DISTRICT OF COLUMBIA

CATHEDRAL HEIGHTS • CLEVELAND PARK • MASSACHUSETTS AVE. HEIGHTS • MCLEAN GARDENS • WOODLEY PARK

2737 DEVONSHIRE PLACE, N.W.
WASHINGTON, D.C. 20008
(202) 232-2232 . FAX: 232-0667

Single Member District Commissioners:

01-Cheryl A. Opacinch
02-Alan Blevins
03-Maureen Blum
04-Jeanne Ingram
05-Gloria D. Redman
06-Phil Mendelson
07-Gail Daubert
08-Rosalyn P. Doggett
09-Jeremy Bates

March 25, 1998

98 MAR 25 P4:56

Ms. Sheila Cross Reed, Chairperson
DC Board of Zoning Adjustment
441 4th Street, N.W. Suite 210
Washington, D.C. 20001

RE: BZA Application No. 16307 (NCRC)
3209 Highland Place, N.W.

Dear Ms. Reed:

This letter constitutes the report of Advisory Neighborhood Commission 3-C with regard to the application of the National Child Research Center (NCRC) for a special exception and variance for its facility at 3209 Highland Place, N.W. It is our recommendation that the application be approved with conditions.

This ANC is supportive of the school, but has received complaints from neighbors regarding, primarily, traffic and parking. Accordingly, the conditions we recommend are intended to ensure the mitigation of adverse impacts while providing flexibility for the school to work with its neighbors to find the best solutions. The conditions, together with our reasoning in this case, are set forth in the following resolution which was adopted by unanimous vote (8 Commissioners present) at our regular monthly public meeting held March 23, 1998.

WHEREAS: The National Child Research Center (NCRC) is seeking (1) a special exception under 11 DCMR 205 to operate a child development center for 120 students ages 2½ to 5 years and 28 staff and (2) a variance from the provisions of 11 DCMR 2101 requiring 1 off-street parking space for each 4 teachers and other employees (i.e., 7 spaces); and

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 operation in any other way"; and

WHEREAS: NCRC has a child care license for 120 students ages 2½ to 5 years, has a certificate of occupancy for 90 "nursery school & kindergarten & elementary school," and

BZA
CASE No. 16307
EXHIBIT No. 31

is now seeking a certificate of occupancy more closely reflecting its licensed program: "preschool (child development center) 120 students, ages 2½ to 5 years, 28 staff"; and

WHEREAS: Relief is permitted under the zoning regulations where it "will not tend to affect adversely the use of neighboring property..."; this ANC is aware of neighbor complaints relating to this facility primarily with regard to traffic and parking; therefore,

BE IT RESOLVED: That ANC 3-C supports the application of NCRC for both a special exception and variance provided that, to ensure that there is minimal adverse impact, the following conditions are required in the Board's order:

1. NCRC will develop a drop-off/pick-up plan for students that is reasonably likely to eliminate double and triple parking on Highland Place (or Ordway Street), and that includes measures for enforcement (such as by utilizing school employees to escort children and keep cars moving, specifying the timing and content of parental notices, and providing sanctions for violations). This plan will be submitted to NCRC's neighbors and ANC 3-C for comment and, after any revisions the final plan will be made a public record by being filed in the record of this case no. 16307.

2. NCRC will not object to or in any way discourage any extension of residential permit parking on streets within the area of the school (except with regard to the actual frontage of NCRC on Highland Place and Ordway Street, NW).

3. NCRC, in order to enable staff parking and facilitate student drop-off/pick-up with minimal impact on neighboring residents, will develop a proposal for changes in the parking regulations for NCRC's street frontage on Highland Place and Ordway Street. This proposal will not seek to restrict parking on the public space for school use, but may limit parking times in such a way as to minimize commuter parking along these frontages. The proposal will be submitted to NCRC's neighbors and ANC 3-C for comment prior to being submitted to the Department of Public Works for rulemaking.

4. The special exception will be limited to an initial period of five years. This will enable neighbors to testify on the efficacy of these measures should adverse impacts continue.

It is not our intent that the Board's decision in this case be held up pending NCRC's compliance with these conditions (e.g., development of a drop-off/pick-up plan). Rather, it is our intent that these conditions be made part of the Board's final order, with the expectation that NCRC will comply with them and that in five years neighbors and the Board will assess whether these post-hearing mitigating measures were successful.

FOR THE COMMISSION:

Phil Mendelson
Chairman

cc: Matt Watson, Esq.

ADVISORY NEIGHBORHOOD COMMISSION 3-C

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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03-Maureen Blum
04-Jeanne Ingram
05-Gloria D. Redman
06-Phil Mendelson
07-Gail Daubert
08-Rosalyn P. Doggett
09-Jeremy Bates

April 29, 1998

98 APR 30 P4:13

Ms. Sheila Cross Reed, Chairperson
DC Board of Zoning Adjustment
441 4th Street, N.W. Suite 210
Washington, D.C. 20001

RE: BZA Application No. 16307 (NCRC)
3209 Highland Place, N.W.

Dear Ms. Reed:

I am writing at the request of the Board and in furtherance of this ANC's recommendations regarding the application of the National Child Research Center (NCRC) for a special exception and variance for its facility at 3209 Highland Place, N.W. At the conclusion of the April 1st public hearing it was agreed by the parties and the Board that traffic and parking mitigation plans would be developed prior to the Board making a decision, rather than after. It was also agreed that the Board would decide this case at its May 6th meeting.

The school has met with and in other ways contacted neighbors. From those efforts NCRC developed a list of conditions that would comprise the mitigation plan. The conditions were submitted to the ANC and we, in turn, contacted neighbors whom we knew to be concerned. After some revision the proposal was put before ANC 3-C at its regular monthly meeting held April 27, 1998. The following resolution sets forth the conditions and was adopted by unanimous vote (8 Commissioners present).

> WHEREAS: At the public hearing on the application of the National Child Research Council (NCRC) in application no. 16307 before the Board of Zoning Adjustment (BZA), the parties agreed to develop a drop-off/pick-up plan for students and to develop a proposal for changes in the parking regulations for NCRC's street frontage, and that this would be submitted in time for consideration by the BZA in early May; and
>
> WHEREAS: the neighbors in the immediate vicinity of NCRC have indicated concerns with the impact of vehicles on Highland Place and Ordway Street, specifically: impeding traffic and blocking driveways on Highland Place at student pick-up time; violation of parking restrictions, particularly near corners and on the dead-end segment of 33rd Place;

BZA
CASE No. 16307
EXHIBIT No. 37

8PM
5/1/98

parking of staff within the neighborhood; driving the wrong way on west-bound Highland Place at 34th Street; speeding, particularly upon entering Highland Place and also when leaving after student pick-up; and unsafe driving. Neighbors have further indicated that because parents and caregivers may change during a school year, persons dropping off and picking up children may not be aware of school regulations as the year progresses; and

WHEREAS: These issues have been discussed by neighbors, NCRC, and ANC representatives and the conditions set forth in this resolution have been reviewed generally by these people and have their support; therefore,

BE IT RESOLVED: That ANC 3-C modifies its resolution of March 23, 1997 regarding this BZA case by requesting that the following conditions be required in the Board's order:

1. NCRC will prepare a pamphlet, separate from other school notices, which will define clearly the school's policies and regulations with regard to traffic and parking. The pamphlet will recognize specifically the interests and concerns of neighbors regarding school-related traffic and parking; see the second "whereas" of this resolution for the current concerns. The pamphlet will be distributed at the start of the school year and three additional times during the school year to parents and child care providers. In addition, the pamphlet will be given to families which change caregivers and NCRC will further distribute the pamphlet at such other times to individual drivers if violations of the policy are noted by the monitors or neighbors.

2. Any carpool waiting line, and the carpool waiting line on Highland Place will be clearly defined and the location of its starting point will be marked with a traffic cone placed in the street at each scheduled pick-up time to minimize blocking of traffic, particularly at the curve on Highland Place ("carpool" refers to any automobile used to pick up one or more NCRC students).

3. Formation of the carpool waiting line will not be permitted prior to 10 minutes before dismissal time.

4. Clearly identifiable NCRC staff using walkie-talkies (or other communication technology) will monitor drop-off and pick-up points on Highland Place and Ordway Street with specific attention to ensuring that driveways and traffic is not blocked.

5. NCRC and ANC 3-C will jointly request that the Department of Public Works mark no-parking areas at all the corners of Highland and 33rd Places with both signs and pavement markings to indicate clearly the limit of parking close to these corners, and they will further request that parking adjacent to the school property along Ordway Street be limited to 15 minutes on school days between 7:00 a.m. and 8:30 a.m. with ap-propriate signage and pavement markings.

6. NCRC staff will warn violators of traffic regulations and will request enforcement by the Metropolitan Police if violations persist.

7. NCRC will not object to or in any way *discourage any extension* of residential permit parking on streets within the area of the school (except with regard to the actual frontage of NCRC on Highland Place and Ordway Street, NW).

8. The special exception will be limited to an initial period of eight years. This will enable neighbors to testify on the efficacy of these measures should adverse impacts resume.

Prior to voting on this resolution the ANC elicited discussion from NCRC representatives and residents who were in attendance. The only point of concern was the eighth condition, limiting the Board's special exception approval to eight years. Neighbors questioned why this ANC was now proposing eight years when our previous resolution recommended five. This is a compromise the school can live with: on the one hand NCRC does not want to have to go through the expense of another hearing (a hefty filing fee plus legal representation); on the other hand neighbors want the ability to ensure a reconsideration of these conditions should problems reoccur. As part of this debate I was authorized to represent that NCRC will "remain quiet" on this one condition. This is an important and good compromise.

As noted in our resolution, the eight conditions listed above supplant our earlier, March 23rd resolution. We ask that these be required in the Board's order.

FOR THE COMMISSION:

Phil Mendelson
Chairman

cc: Matt Watson, Esq.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

+ + + + +

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 APR 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:

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1701 Q Street, N.W.
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(202) 986-7500

On Behalf of the Applicant
Hugh V. Kelly:

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P-R-O-C-E-E-D-I-N-G-S

1:15 p.m.

CHAIRPERSON REID: Good afternoon, ladies and gentlemen. I am Sheila Cross Reid, Chairperson, The Board of Zoning Adjustments of the District of Columbia. Joining me today are Betty King and Herbert Franklin. Copies of today's agenda are available to you on the table at the rear of the hearing room.

There is to be no smoking, eating or drinking in the hearing room. All persons planning to testify either in support or in opposition are to fill out two witness cards. These cards are located on each end of the witness tables. Upon coming forward to speak to the Board, please give both cards to the Reporter who is sitting to my right.

Notice of today's hearing was given by posting the subject property, publication in the D.C. Register, and various other means. The order of procedure for special exception in various cases will proceed as follows: 1) preliminary matters, 2) statement of witnesses of the Applicant, 3) Government reports including the Office of Planning, Department of Public Works or others, 4) the Advisory Neighborhood Commissions, 5) parties of persons in support, 6) parties of persons in opposition, 7)

closing remarks by the Applicant.

Cross examination of the witness is only permitted for parties in the case. The Board will adhere to this schedule as strictly as possible. Those presenting testimony should be brief and non-repetitive. If you have a prepared statement, you should give copies to the Staff and orally summarize the highlights. It gives us your statements before summarizing.

The record will be closed at the conclusion of each case except for any materials specifically requested by the Board. The Staff will specify at the end of the hearing exactly what is expected. The decision of the Board in these contested cases must be based exclusively on the public record.

To avoid any appearance to the contrary, the Board requests that persons present not engage the Members of the Board in conversation. At this time, the Board will consider any preliminary matters. Preliminary matters are those which relate to whether a case will or should be heard today, such as a request for a postponement, continuance, or withdrawal, or whether proper and adequate notice of a hearing has been given.

proceed with the decision now, but that the decision would allow that this document could be filed so that it is in the public record.

So if the Board is able to close its record for purposes of decision-making with the exception of allowing this document to come in after the decision.

MS. BAILEY: Would not the document contain the boundaries and other information that the Board would need concerning the conditions? In other words, the document that you plan to submit, would that not help to put some definition to the conditions?

MR. MENDELSON: Not as we've stated them. Not as we've stated them, but that's also, again, a reason why we have the fourth condition, which is the five year period. So if it turns out there are problems with the drop off/pick up plan and with the parking proposal or changes that we can revisit this and work it out.

But our -- I know this is unusual. I'm seeing some interesting expressions from the Staff.

MS. KING: Tracey, it's analogous, it seems to me, to the meeting -- to the case we had this morning.

MS. ROSE: I thought you would say that.

(Laughter.)

MS. ROSE: I didn't know if he was trying to get the Board to -- a lot of times people want the Board to incorporate the agreements that they have with the community.

MR. MENDELSON: No.

MS. KING: No, he just wants it to be on the record. So when they come back, they can say look, this is what they agreed to, and they didn't live up to it, I think, is why you want it on the official record. Is that right?

MR. MENDELSON: Yes.

MS. ROSE: And you want them to agree to submit to the ANC the agreement that would reflect these conditions.

MR. MENDELSON: Yes. The way we worded it, I believe, is we submit it to the neighbors in ANC-3C, and I'm looking at number 1 for comment, and after any revisions, the plan will be made a public record.

MS. KING: You just want it to be a matter of record that they have agreed to submit to you.

MR. MENDELSON: Yes. And then we all have access to that document.

MS. ROSE: And the plan the Board will be approving would be on the record before it makes its decision?

MS. KING: We wouldn't be approving the plan. We would be, by inference, am I not correct, Madam Chair?

CHAIRPERSON REID: No, you're correct.

MS. KING: We're just simply saying that all the parties have promised to do this, and when they have worked it out, they're going to file it with us, and it just becomes part of the record. We don't approve or disapprove.

MR. MENDELSON: Correct.

MS. ROSE: Leaving it to them to make, you know, to determine the acceptability among themselves is not going to be something that we're going to require.

MS. ROSE: Okay.

MR. FRANKLIN: And if it turns out that there isn't a consensus or their neighbors feel that the plan is inadequate, the plan is filed, but we revisit that five years hence.

MR. MENDELSON: Correct. And I have a sense that everybody's going to work well together.

MR. WATSON: I assume so.

CHAIRPERSON REID: It appears that we have a consensus among the Applicant, and the ANC, and the community to try to work out any differences, and they seem to be amenable to addressing the concerns that you have indicated. So I don't see that as being a problem here.

MR. MENDELSON: If you're done with me.

CHAIRPERSON REID: Yes.

MR. MENDELSON: Thank you very much.

CHAIRPERSON REID: Thank you very much for your report. It does indicate that there was a quorum present at the meeting, and that the vote was unanimous to support this particular application. So it was certainly given the great weight which it's entitled.

And we also, again, commend you on working -- trying to work with the Applicant to mitigate the problem areas to come to an amenable solution to having this go forward.

MR. MENDELSON: Thank you.

CHAIRPERSON REID: Thank you. All right. Next is going to be the persons in support of this application. Are there any other persons that would like to testify in support?

MR. WATSON: --

CHAIRPERSON REID: Yes, come together please. And I ask that you try not to be redundant or repetitive. I said I would ask that you try not to be redundant or repetitive and that you, when you speak, try to let things flow as quickly as possible. Do you have someone that you would like to speak on your behalf, or do you all want to speak individually?

MS. PETERS: Individually.

CHAIRPERSON REID: Proceed. Your name?

MS. PETERS: I will start. I'm Mary Peters. I'm at 3250 Highland Place, which is at the corner of 33rd Place and Highland. First of all, as a neighbor, I'm very appreciative of their desire to maintain the residential and historic nature of the building and what they're doing in the parking particularly in thinking about the Ordway Street drop off.

As a neighbor, the impact that we have at, particularly, the 11:30 pick up and the 3:30 in the afternoon pick up is substantial, and I at the intersection find that there are a lot of parents who basically abandon their cars to go pick up the kids. These are that third of the group who do not get into the carpool line.

And so I want to bring to the attention

that this problem has been there. I've lived in the house I have for 12 years. So I am well aware that the problem is not getting any better. It is, in fact, getting worse. So I just wanted to emphasize that what the ANC brought up is a very important thing to do.

CHAIRPERSON REID: So basically, you're in support with some concerns that you want to address, is that correct?

MS. PETERS: Yes. I'm in support of what they are doing, but I am very concerned and in support of what the ANC wishes to be done in the neighborhood and with the neighbors.

CHAIRPERSON REID: Okay. So you support the Applicant and the conditions that have been suggested by the ANC?

MS. PETERS: Right.

CHAIRPERSON REID: Thank you.

MS. HAAS: My name is Barbara Haas. We live at 3200 Highland Place, which is across the street and down a little bit from the school north, I guess.

CHAIRPERSON REID: East.

MS. HAAS: East. And I, too, appreciate the effort to find a solution to this problem. We

have had great difficulty with traffic in front of our home, our driveway being blocked during pick up times particularly for the school. I missed the ANC meeting because I was out of town.

I agree with what the ANC has agreed to do, but I would suggest that -- had I been there, I would have suggested that the conditions of this resolution be strengthened a bit because I think that there is no reason why some of these problems can't be resolved and fairly quickly.

And I would have suggested also that perhaps a time limit be put on the effort to put together plans that the neighbors could review with the school. I'd like to see, you know, some kind of timeframe for when those plans will be worked out, and I look forward to working with the school to do that.

We have -- as I left to come down here today, which was at about 11:15 to catch the subway, there were cars lined up for the pick up, and there was -- and I have reason to believe that they were all waiting to pick up children at the school.

There was one car that had parked with its front end on the curb, and its back end out in the middle of the street, and the street has a curve right where the school is located which makes problem for

two-way traffic. And there was another car, a yellow car, that was double-parked, and there was no driver in it, and it was also, I think, was in the line of the edge of the school property.

And this kind of thing, to me, is a big problem. We have difficulty getting out of our driveway because often it's blocked even though we're on the other side of the street. And I guess that about sums up my concerns.

MR. FRANKLIN: Have you lodged your concerns to the attention of the school in the past?

MS. HAAS: I did. I sent a letter to the Head Mistress in the fall, in November because, actually because there were a couple of parents who got in a fight about a parking place out front, and I thought it was inappropriate for the children to see their parents fighting over who was in line, and this was a line of double-parked cars to begin with.

And so I did send a letter to the school thinking that road rage was not appropriate on Highland Place.

MR. FRANKLIN: Did you get a satisfactory response?

MS. HAAS: Well, I got a letter back basically saying that they were going to send a note

to the parents to remind them once again.

MR. FRANKLIN: Not to fight in the public streets.

(Laughter.)

MS. HAAS: Well, it wasn't quite that strong. It was reminding parents to review the procedures, and frankly, I haven't seen a lot of difference in what's going on out there since then.

CHAIRPERSON REID: How long ago was the letter sent?

MS. HAAS: It was sent in November. And I received a quick -- it was a fairly quick response with a copy of something that was sent out to the parents with a P.S. on it about paying attention to the rules and regulations for it.

CHAIRPERSON REID: But you're not seeing, as a result of your letter, a lot of improvement in that situation?

MS. HAAS: No, I'm not. And there was one other item that I wanted to bring to the attention of the Committee and that is that often banners are put out in front of the school, and this is our neighborhood.

And it's fine to have banners about cake sales or whatever is going on, festivals, et cetera,

but I think that it is probably fair to say that we would appreciate it if they weren't there for more than a week before the event takes place.

CHAIRPERSON REID: Perhaps that could be something that could be included in the agreement that we were speaking of with the ANC.

MS. HAAS: Fine idea.

CHAIRPERSON REID: Okay.

MS. HAAS: That's about it.

MS. NAMIAN: My name is Esther Namian, and I live at 3312 Newark Street, N.W., and so, of course, I'd like to be sure that Newark Street is included in the traffic pattern that was discussed earlier. Newark Street is a main artery for the parents to bring the children in and out of the school.

And I live -- when they -- mostly when they -- I'm affected mostly when they exit because when they exit, the vehicles travel up one block, and then there's a stop sign at Newark Street. And the congestion starts there, they turn right to go to 34th Street, and at 34th and Newark, that's a very dangerous intersection.

We have an accident there every couple of weeks or so. And the cars even back up. My house is the fifth house down from Newark -- from 34th Street,

and the cars do back up, and I, you know, there is that big concern about accidents.

So I also would like to say that I haven't been there 67 years, but this month I've lived in this house for 31 years, and so I have seen the change. And I would also say that my children were very fortunate to go to this wonderful nursery school. I've had children there from '68 to '71.

However, I notice that the program has changed over the years. I don't remember that it went -- school kept until 6:00 back then, but I understand, you know, the differences in the needs today, too. But at 11:30 and at 3:30, there really -- the congestion with everyone trying to hurry to get away from the school, and in the morning when they come in.

Everybody is meeting a deadline in the morning to get their kid to school. The other thing that wasn't mentioned here today, and I think we really should think about it is, you know, when my kids went to school there, there were many neighborhood children who went to school and we walked. They walked. But now, they're most of them are from Maryland, the tags I see, and a lot from Virginia, too.

However, when they drop their children off

now, the children are in carseats. A law was to there were teachers out to take the children out of the cars and into the school, and I don't always see that. I also have to walk by the school four mornings a week because I go down to the gym on Connecticut Avenue.

So at 9:00 I'm walking there, and I do see the double-parking as the others have said. And I also I've noticed a bus lately, but I don't know. We didn't used to have buses come in, but I don't know. The program has changed, too, but I don't know. But there is a bus that's at Newark Street in the morning.

And I'm in favor of doing, you know, of cooperating where we can, but I do think we should go on record of being concerned about, particularly if there's an increase in student number from -- say, I heard a number go to 90 in 1981. I didn't hear what that was all about, but I do see a number of 120 in the original regulations that were made long before there was the traffic and vans that people and children travel in today.

CHAIRPERSON REID: Thank you. Is there any cross examination of these witnesses?

MR. WATSON: We have these witnesses.

CHAIRPERSON REID: Oh, I'm sorry. I

didn't realize that you -- I did not mean to not acknowledge you. Sorry.

MR. WILLIAMS: Good afternoon, ladies and gentlemen of the Board. My name is Lindsley Williams. I live at 3307 Highland Place, N.W., Washington, D.C. This is located one physical block away to the west from the subject site. Let me just describe for the Board the traffic flow in the area as part of getting the facts.

Before you do happen -- if I'm showing you right now something that I'll turn in as an exhibit if you don't already have it. This is an older plat of the area, and it depicts on its top Ordway Street. Highland is the next street down the sheet. Then below that is Newark. Then below that is a street that's labeled Milwaukee, which is now Macomb Street.

(Laughter.)

MR. WILLIAMS: I'm just identifying this for the record. Do you have this diagram in your record?

CHAIRPERSON REID: I don't believe so.

MR. WILLIAMS: Let me submit it so that we can get this in. What I wanted to do in these remarks is to characterize the streets as 34th Street at the western end of the overall area is a minor arterial in

the District of Columbia scheme of things. It has two northbound lanes, one southbound lane.

Ordway Street is a local street as is Newark Street in terms of the highway designation system. Macomb Street is, I believe, a minor arterial. Highland is also a local street as is 33rd and Ashley. This diagram that I am submitting has some historically interesting elements on it including the continuation of Reno Road through my backyard. That has long since been closed.

Ashley Terrace also appears to be connected to Ordway on this. That, again, is not the case. It dead ends very close to Ordway. In the course of the earlier remarks, Mr. Franklin asked about the nature of the property, and I think it would be fair to add that in addition to having landscaping and play areas it is populated with a large number of very mature trees.

It is also the characteristic of the site that it's at a different grade level than the grade that's common along both Highland Place and particularly from Ordway. It rises approximately five feet from the plane of Highland Place and considerably more than that to get up off of Ordway, and thus, the idea of putting in a driveway or parking area, if

that's even needed, is something that would create a substantial difficulty in addition to which it would desecrate the area that we value.

When the case was read at the beginning of the day by Ms. Rose, she indicated that it was to establish the use. I think it's important in the course of the deliberations of the Board to have it be recognized that really what the case is about is to continue to operate a use that's been there for some period of time, and potentially to think about it as an expansion of that use from the numbers that Mr. Watson identified earlier on the order of 90 up to 120, and likewise, to clarify the number of staff.

In that light, I'm not as certain about the degree of variance relief as may be stated in the letter that you have received because to a certain extent, there were staff and students there already. And those uses were put in before the schedule of parking requirements was amended in the 1980's to put in this one for seven rule.

My sense is if there is any required parking at all that the number relates to probably just one or two spaces as being required. The rest would be excused as they were not there when the regulations took effect. That's a legal matter which

Mr. Watson can address at a later point if he chooses to do so.

The real reason I'm here relates to the residential permit parking program which is addressed partly in the ANC's resolution. Living where I do, I see a lot of the traffic coming in in the morning. I'm not troubled by the departure problem or the queuing problem in the afternoon. I'm away from all that.

Highland Place and the 3300 block where I live is actually a one-way segment of Highland leading off of 34th Street towards NCRC but so oriented in such a way that the people travel down 30 Highland Place to get onto Highland in front of the school, they're on the opposite side of Highland from the school itself, and thus, they have to make a U-turn or do something.

And basically, it's an inconvenient way to get in. And so my sense is that doesn't happen. What did happen a few years ago, and perhaps Ms. Peters can remember the date more precisely than I did, but there came to be a petition submitted by the neighbors in that area of Highland Place to establish the residential permit parking system.

And what I can tell you happened on that

date, the day those signs went up is that the parking for staff moved off of the segment of Highland in front of the school where they'd been able to park with relative ease, and they moved, as you might suspect, just like water finding its own level, the parking of the staff moved to the area where there was no restriction.

And that area of no restriction includes the 3300 block of Highland Place, which is still not under that system, as well as the first half of 33rd Place between Highland and Newark, and that is because the 3300 Highland house goes back halfway. And thus, since Highland and the 3300 block does not have residential permit parking for the depth of that lot, there is equally no residential permit parking on the corner at the edge of 33rd Place.

And so this creates a small zone of opportunity for staff to park in, and indeed, they do. It fills up, and what we suffer from now, it isn't an awful suffering, but it's a dilemma that we come back and find that the spaces are basically taken up beginning at about 8:30 by staff that are going off with professional looking briefcases and things going down to NCRC.

And it's no great secret that that's

what's going on. The concern that my neighbors had was that since we did hear something about this a few years back when the residential permit parking, oh my gosh, where are we going to park. We know now where they're going to park. We didn't want to see a further expression or an anxiety propelled officially through the school channels saying please don't do that to us. We won't have a place to park.

And so this led us in discussions with Mr. Watson and with the school, and that's why we're thinking that with the current scheme of things, it may continue to work, particularly if we can persuade DPW to change the rules of parking along the unprotected or the unresidential permit parking section along Ordway, that it will provide more opportunities for staff to park down there after the restricted period ends, and that everything should work out pretty well.

The other observation I can give you from direct study of the site at various hours are these. There is some lighting which is currently affixed to the Ordway Street building which is called the --

MS. KING: The playhouse?

MR. WILLIAMS: The play -- not the playhouse.

MS. KING: The carriage house?

MR. WILLIAMS: The carriage house, which, in addition to illuminating their own property manages to blast out -- sounds like the Luray school case, doesn't it. Anyway, it's not suitably established. The rays of it are not confined to the school property, and it would seem to me that the usual standard condition of the lighting should be so arranged so that the rays are confined to the property of the subject site would be in order.

I think you also may wish to clarify with Mr. Watson the hours of operation because it's my understanding that from time-to-time, perhaps once a month, there is some evening hours in which the program is operated without detriment to the neighborhood, but it would be a shame to have the order be limited and then find them back here in front of us.

And finally, I would comment on the fact that properties such as this, even though this to my knowledge has never happened, but properties such as this from time-to-time become attractive as a place for other organizations to rent out from time-to-time.

To the best of my knowledge, this has not happened, and I think that if it were to become a

rental facility for other organizations with other hours of operation, it would present problems the likes of which you haven't heard today. And one place to stop that is with you. Thank you very much. If you have any questions, I'll be glad to answer them.

MS. KING: Does the school provide anybody on the sidewalk and on the street to help regulate the -- maybe I should be asking the Applicant, but I mean have any of you ever seen anybody from the school out there trying to control the situation?

MS. HAAS: I have.

MS. KING: You have?

MS. HAAS: Yes.

MS. KING: Not effectively or not on a regular basis?

MS. HAAS: Not when our driveway is blocked.

CHAIRPERSON REID: Speak into the microphone please.

MS. HAAS: Well, I'm not sure what his job description is, but he -- I have observed that he writes down carpool numbers from cars that are lined up, the double-parked cars along the street. And what happens after that, I'm not sure I can answer that. I guess they line the children. Again, I'm guessing.

MS. KING: I'll ask the Applicant when they come up. I have no further questions.

CHAIRPERSON REID: Okay. You're done.

MR. WILLIAMS: Could I just add one more thing and that is, as you consider the question of the time limit, I think you'll notice that the ANC has suggested that the special exception be limited to a certain period of time that's within the scope of their resolution.

To my way of thinking, a variance is something which runs with the land. And as long as the use is there and the number of staff doesn't change so as to change the parking schedule, the Applicant need not reappear before this Board for the variance question. Thank you.

CHAIRPERSON REID: Thank you. Let's see. Mr. Watson, do you have any cross examination?

MR. WATSON: We have no cross examination.

CHAIRPERSON REID: Okay. Mr. Mendelson? Mr. Mendelson, do you have any cross examination questions?

MR. MENDELSON: No.

CHAIRPERSON REID: Okay. Thank you. Are there any persons in opposition to this application? Okay. Closing remarks from the Applicant.

MS. KING: Could you all address the question of whether, in addition to what the ANC has recommended, you couldn't have somebody on the street to sort of knock people's heads together and get them not to be so wicked?

MS. STAFFORD: In the dismissal times, we try to expedite the traffic through the area as rapidly as possible by having currently our groundskeeper go down the line collecting numbers, which he transfers to a staff member who is on the front porch.

She gets the teacher of that child to prepare the child to get them down the steps, down to the end of the sidewalk and ready to enter the car as soon as it pulls up, puts the child in the carseat, secures the seatbelt, and sends them on their way.

In the first few weeks of school, this process takes about 15 to 20 minutes. Once it's worked out, we are able to begin carpool and get everyone through it in about ten minutes. These are procedures that I'm more than happy to, you know, share with the neighbors, to discuss, to brainstorm, do whatever we can do.

They've been in place for the ten years that I've been there, but if they're not satisfactory,

we need to go back to the table and talk.

MS. KING: What do you think is a reasonable amount of time for you to prepare this plan for submission to the neighbors and the ANC?

MS. STAFFORD: What we can do is meet immediately in terms of where we are now. I think it, you know, it might be good to put our heads together on how long that will take them to get a meeting organized and back and forth a bit.

MS. KING: You're prepared to begin immediately to submit a plan immediately to the ANC and the neighbors?

MS. STAFFORD: What we can do is submit immediately what we have, what we're operating under, and you know, begin the dialogue.

MS. KING: Immediately?

MS. STAFFORD: Yes.

MR. WATSON: We are not averse. We should say prior to the beginning of this case, we gave notice to all of the surrounding area to have a meeting, and it was not attended.

MS. KING: And this question of lighting?

MS. STAFFORD: I wasn't aware of the lighting difficulty, and I imagine that's something that can be, again, addressed immediately by having

the Vector Security people come out, take a look at the light, and see if they can shoot it in an area that does -- would be confined to the property.

MR. FRANKLIN: I have a question. The first condition that the ANC has recommended in which you stated earlier after reading that you had no difficulty with talks of providing sanctions for violative. Have you ever sanctioned parents?

MS. STAFFORD: If I'm aware of an individual, I will speak to that individual personally. I have never sanctioned an individual or community. Sometimes difficulties arise on the street, and I cannot ascertain who it was, if it was a delivery person or a neighbor.

In other words, I may not get to the bottom of who it is. But if it is someone who is a member of the school community, I will personally speak to them and have in the past.

CHAIRPERSON REID: Has it been effective?

MS. STAFFORD: I hope it has. I think that the incidents that the neighbors have addressed, I certainly don't question that these things do occur. What we want to do is try to contain and maintain as safe a neighborhood as possible.

If sanctions is something we need to

discuss, I'm happy to do it. I don't know quite how we're going to be able to do that, but I'd be happy to brainstorm about that.

MR. FRANKLIN: In a particularly egregious case, what would a sanction be?

MR. WATSON: To the extent that they have discussed things that are contrary to the District of Columbia Traffic Regulations, one can have a car ticketed. If this is a situation of blocking driveways, a situation of double parking, these are violations of the District of Columbia Traffic Regulations. And if it reached that point, we don't believe it would, but if it reached that point, one could request that they be ticketed.

MS. KING: A citizens arrest --

(Laughter.)

MS. KING: -- or are you going to produce a police person on 15 minute notice?

MR. WATSON: Reasonably close by to act on this, but not 15 minutes.

MS. STAFFORD: We have one in the parent body, but he hasn't ticketed anyone.

CHAIRPERSON REID: The concerns that have been aired here today, obviously, there is a problem, and if you haven't been made aware of those problems,

it appears to me that if you have a mechanism in place where you are doing something to try to alleviate the problem, however, that does not seem to be effective, then perhaps you look at what you can do to try to do a better job because taking down the license plate numbers and speaking to the parents, I know for a fact, being a parent with a child in elementary school, that does not always work.

Unless you have, as Mr. Franklin mentioned, something that would be a sanction or some type of penalty that would dissuade the parents from doing otherwise, it's not going to work.

MR. FRANKLIN: Do you have a waiting list to get in?

MS. STAFFORD: We do.

MR. FRANKLIN: I suppose the ultimate sanction would be expel the student.

CHAIRPERSON REID: Perhaps a remedy in working out the agreement would be the areas that you would discuss with them since they were the ones who left that as a possibility in the first place if they have some suggestions they feel would be effective to help you with that matter.

The other thing I had was the traffic problem on 34th Street and is it Newark that was

brought up by one of the witnesses here, are you aware of that problem?

MR. WATSON: There was traffic referred to. I think we have to say, though, even if every child drove themselves to the school, the volume of traffic on Newark Street it would be totally unnoticed. We're talking about, you know, in the order of 30 cars or so since there's some carpool, there's carpooling, and there's walking to school.

Newark Street in a general time probably has 30, 40 cars a minute going by. We will certainly look into that question, but impacting the flow of traffic on Newark Street would be awfully difficult with our size compared to the traffic there because that is a major east-west corridor.

CHAIRPERSON REID: So you're saying, basically, Mr. Watson, the traffic problem that has been discussed is not one that is necessarily caused by the daycare center?

MR. WATSON: Certainly on Newark Street. We don't dispute that cars do pick up on Highland Place as well as on Ordway Street. On Newark Street, the cars do drive through there, but it is such a small portion of the total traffic that goes by on Newark Street.

Similarly, I'm sure Mr. Williams is absolutely correct that there are people who park there on the street and walk off with their briefcases. We believe that they're more likely walking down to the Cleveland Park Metro Station. Nursery school teachers are generally not the briefcase carrying type of people.

The other thing we should comment is they are absolutely correct that a bus does arrive. In fact, three buses arrive, but we should note that they are District of Columbia Public School buses that arrive, and we provide special education for students who are provided by the D.C. Public Schools. They are not our school buses. They are D.C. Public Schools' school buses, and they do drop three children.

They use small buses, and I will not, for one say that the transportation plans of the District schools are efficient, but three children are dropped in three different buses.

CHAIRPERSON REID: You -- I understand at one time you had a staff member who went to the car as it drove up to take the children out of the carseat rather than having to park or stop their car to physically take them in?

MS. STAFFORD: That's right. We do.

CHAIRPERSON REID: You do or do not?

MS. STAFFORD: We do. We do that on a routine basis both at arrivals and dismissals. Any car that is in the carpool line, the driver is to remain in the driver's seat, not open their driver's side door, and pull to the curb, where the child is waiting, with their hand held by a staff member, a teacher, and then they are put in their carseat, buckled in, and then they are to move down the street.

MS. KING: How many children constitute a carpool?

MS. STAFFORD: It could be as small as one. For convenience sake, families may use the line. As many as three children, perhaps four in a vehicle, but quite frequently, it's one or two.

CHAIRPERSON REID: All these things, I'm sure, will be addressed in the drop off/pick up plan of the agreement to the satisfaction of the community.

MS. STAFFORD: That's right.

CHAIRPERSON REID: Mr. Watson, you have something else?

MR. WATSON: I would just like to summarize. We ask that it be granted. We are amenable to meeting as quickly as possible with the ANC as well as the immediate neighbors there. I would

expect, in terms of the order, that the ANC and the school will have no difficulty agreeing as to what constitutes the neighborhood.

And in fact, if the point be, we could ask the ANC to designate what constitutes the neighborhood for meeting with. There has been a good working relationship and if that was done. I do differ, however, on the length of time. We have to recognize that this is an institution that's been there at least 68 years.

The first certificate of occupancy was in 1930 and has been a good neighbor, has, in fact, served the neighborhood and still continues to serve the neighborhood. The original Order after the first hearing granted it for 15 years. One might do it slightly shorter than that, but I think five years is too short.

What was alluded to by way of cost is a problem we have in the city that the fee for applying for this sort of special exception is $25 per child with a maximum of $2,500. It's $2,500 application fee because the District puts a premium on quality child care.

And we think to space that -- in effect, what we would be saying is that the BZA process would

cost $5 per child per year roughly, which is a fairly substantial thing. We would recommend that it be longer than five years, and believe that a ten-year period might reasonably apply.

With regard to Mr. Williams' comment as to the variance on parking, I think he is right. A variance, once granted, is granted. If you grant the variance, I don't think it has a time limit on it. The time limit that the Board puts on is for special exceptions.

MS. KING: Does the variance for them not to have parking on the site.

MR. WATSON: Not to have parking on the site.

MS. KING: Which they can't anyway, because of the historic --

MR. WATSON: That's right. So we would request that it be granted, and we would also like it if you could do it as quickly as possible so we can come into compliance with all the District laws.

MS. KING: We're going to be able to dispose of it today, Mr. Franklin?

MR. FRANKLIN: Sure.

CHAIRPERSON REID: Absolutely. Let's do it.

MS. ROSE: May I just say one thing out of respect to your authority, and perhaps I missed something, but what did -- in approving this case, you're essentially saying that there are no substantial-- there is no substantial detriment. And clearly, on some issues with regard to traffic, parking, there are problems with the case.

And what the Board is about to allow to happen is for the Applicant to come after a decision has been made come up with a plan for picking up children and eliminating the parking problems. Therefore, enforceability of that plan will not be in the Board's Order because you're approving what's before you currently, today.

And I just want -- I didn't know if the neighbors were aware of that fact, but I don't think that it would be in, whatever the agreement they come up with, would be enforceable in court, but would not be enforceable by the Board's Order.

MS. KING: The only question is, I mean the neighbors who spoke about the problems made it clear that they were testifying in support of the application and in support of the ANC's plan for how to overcome the problems. I don't see this as being a matter that will end up in litigation.

MR. FRANKLIN: I think your point is well taken. I think that maybe the thing to do is to address it in some way in the final Order so that should it occur that there's some inability to agree that we can reopen the matter. Maybe that's the way to do it.

MS. KING: Is that a possibility?

MS. ROSE: That's an option. One other option would be to decide this case after the parties or participants have had an opportunity to discuss it and submit it to the Board, let the Board take a look at it, and approve or disapprove it at a meeting date.

MR. WATSON: Our difficulty is that we remain in technical noncompliance with the childcare regulations in the District by having more students than are permitted by the existing Certificate of Occupancy.

Even though there's no question that the space qualifies in the District for having the greater number of students, it doesn't meet the technical requirement to check off the box of the Certificate of Occupancy.

MS. BAILEY: But you're not being fined. As long as it's before the Board, you're on hold until this matter is resolved.

MR. WATSON: Well, that's not clear because they have now issued, again, issued a permit at the lower number of students with the indication that it is to be reduced by attrition.

MS. BAILEY: Are you being fined?

MR. WATSON: We have not been fined, but I don't think there's any clear indication that we could not be fined.

MR. FRANKLIN: Well, it seems to me that we could have a bench decision that approved the variance and the use, could we not, and --

MS. ROSE: The use is the special exception though.

MR. FRANKLIN: Well, okay.

MS. ROSE: That's the whole application.

CHAIRPERSON REID: Well, we're thinking -- well, could we include within our conditions the issues, addressing the issues that have been raised as well as the issues that Connolly had for child development centers. And with regard to the agreement between the ANC and the Applicant to allow, Ms. Rose?

MS. ROSE: Yes.

CHAIRPERSON REID: In regard to that, that agreement, even though we can condition this particular Order, we would not be able to, you're

that it doesn't have the level of adverse impact. We are not arguing that just because we want to agree with the community.

I think were the situation to come up if there was a school that didn't want to agree with anything further, that there could not be a finding that there was a sufficiently adverse impact on the community to preclude granting of a special exception, or you'd have to deny a special exception to every nursery school that had any cars coming to it to drop off and leave off.

But I don't think we have to reach that. I really do think that you can grant this, and that we can go ahead and put on the record. I think Sunshine really does work, and I think it's an innovative proposal by the Advisory Neighborhood Commission that requires it to be in a recorded form, that in future years when there are different Commissioners and likely to be different neighbors, but still NCRC there, that people will be able to go back to it, and there will be a standard.

And frankly, I think that's probably more effective than the enforcement that often occurs by the city of Board Orders.

MR. FRANKLIN: I do think we can also have