Form 140
(Revised 03/15/02)

Case No. 16970

PARTY STATUS APPLICATION

Notice: See other side of party status form for instructions. CLICK HERE.

NAME: Last	First	Middle I.
Hunsicker	Steven	R

ADDRESS: Street	Apt. # (if any)	City	State	Zip Code
3083 Ordway St NW		Washington	DC	20008

Phone No.	Fax No.	E-Mail
202-364-0425	202-585-1031	steve.hunsicker@bakerbotts.com

I hereby request to appear and participate as a party. Signature: Steven R Hunsicker Date: 1/26/03

Will you appear as a(n) ☐ Proponent ☒ Opponent. Will you appear through legal counsel ☐ Yes ☐ No

If yes, please enter the name and address of such legal counsel.

NAME: Last	First	Middle I.

ADDRESS: Street	Ste. # (if any)	City	State	Zip Code

Phone No.	Fax No.	E-Mail

RECEIVED
D.C. OFFICE OF ZONING
2003 JAN 27 PM 2:5

Please answer all of the following questions referencing why the above person should be granted party status.
(If you require additional space, please attach an additional sheet.)

1). How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Board?
NCRC-related congestion and noise already causes severe impacts to the neighborhood. My home is directly across the street from the Ordway St entrance to NCRC. NCRC proposal to construct additions and new buildings to double in size increase adverse impacts and damage.

2). What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee)
owner

3). What is the distance between the person's property and the property that is the subject of the appeal or application before the Board? (Preferably no farther than 200ft.) approximately 30 feet - directly across Ordway.

4). What are the environmental, economic or social impacts that are likely to affect the person and/or the person's property if the action requested of the Board is approved or denied? Further damage to property caused by added traffic congestion, making a dangerous situation worse; the size of the institutional buildings proposed is out of character with the residential neighborhood.

5). Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Board is approved or denied.
Please see attached materials

BZA
Case No. 16970
Exhibit No. 85

6). Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other person's in the general public.
My house is directly across the street from the proposed construction site for the new building and the Ordway St entrance to NCRC. Thus, I will be more directly affected by NCRC's dramatic expansion. NCRC's proposal also violates an agreement that I (and a few other neighbors) reached with NCRC in 1994. Please see attached materials.

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.85A1

Steven R. Hunsicker
3083 Ordway St., N.W.
Washington, D.C. 20008
202 364-0425 (h)
202 585-1031 (fax)

January 27, 2003

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustments
441 4th Street, N.W.
Second Floor
Washington, DC 20001

Re: BZA Application No. 16970
National Child Research Center

Party Status Application And Concurrence In "Motion To Appeal..., Motion To Dismiss, etc." Filed By The Neighbors Of The National Child Research Center

Dear Mr. Griffis:

In addition to Form 140, I submit the following information pursuant to District of Columbia zoning regulations in support of my application for Party Status concerning application No. 16970.

(a) My name is Steven R. Hunsicker. My address is 3083 Ordway St., N.W., Washington, DC 20008.

(b) I request to appear and participate as a party.

(c) I will appear as an opponent of the application.

(d) I will not appear through legal counsel.

(e) I am the only witness who will testify on my behalf.

(f) Written statement:

I live at 3083 Ordway St., N.W., which is directly across the street from NCRC's property and the Ordway St. entrance to the property. My house faces the area in which NCRC propose to build a massive institutional building and wall connecting the new building to existing structures. My property is approximately 30 feet from the NCRC site. I have owned my home and resided here for 15 years.

Institutional Facade Along Ordway

The NCRC proposal would destroy the character of this site in two respects:

First, through the construction of a huge new institutional building, the site would be changed from residential in character (the current school is a large Victorian house) to institutional in character. The residential character of the site would be forever lost, short of the demolition of the institutional building such as is now planned for Rosedale, a former school location also in Cleveland Park. The mistakes at Rosedale should not be repeated at the NCRC location.

Second, the large institutional building NCRC proposes to construct across from my house would be connected to existing structures by a wall and railings that will be approximately 14 feet high. The construction will destroy many mature trees. As a result of this construction, views of the open, wooded space across from my house now enjoyed by the community would be replaced by a solid visual wall of institutional construction. The enjoyment of views of precious open space will be lost not only by me, but by all who live in or visit Cleveland Park.

Traffic Congestion

Under its application, NCRC would double its existing building size and double the permissible enrollment of children over the maximum number of children allowed by BZA's January 21, 1998 Bench Decision in Application No. 16307 ("The maximum number of children shall not exceed 120.") In its BZA Application No. 16970, NCRC seeks authority for multiple programs for 120 students at any one time. NCRC does not specify a total enrollment cap but it is clear that the authority that NCRC seeks would allow a significant increase over the maximum number of 120 specified in 1998 and NCRC's current enrollment of 171.

It should be noted that the record in Application No. 16307 clearly indicated that the neighborhood in 1998 already was adversely impacted by traffic and parking congestion related to NCRC. I have included at Tab A a copy of my September 19, 2202, letter to Ms. Nancy MacWood, Chair – Advisory Neighborhood Commission 3-C, which further explains these issues and includes relevant materials from the proceedings in Application No. 16307.

The adverse impacts discussed in 1998 have not been mitigated by NCRC and have in fact gotten worse. I have personally observed greater and more dangerous congestion and greater damage to neighborhood property in recent years since 1998. My driveway is constantly used by NCRC parents/care-givers to turn around their vehicles or indeed as a parking place. My property has been damaged as a result and my driveway frequently is blocked. These elements are shown by pictures attached to my September 26, 2002 letter to Ms. Nancy MacWood, which I also include at Tab B. If NCRC is allowed to double in size, I expect that these adverse and dangerous impacts will increase accordingly.

Environmental Problems

The NCRC proposal calls for significant underground construction and excavation on a steeply-hilled site. There is ample basis for concern that NCRC construction may damage the foundations of neighboring homes.

Moreover, Ordway St. already suffers significant muddy runoff following heavy rainfall. Such runoff would be expected to increase to intolerable levels during and following the underground excavation and construction contemplated by NCRC. NCRC has not addressed any of these issues with the neighbors.

Breach of the 1994 Agreement

I am also adversely by NCRC's proposal because it constitutes a breach of an agreement I (and a few other neighbors) reached with NCRC in 1994. This situation involved NCRC's efforts to construct significant modifications to its buildings and playground without seeking required regulatory permits or engaging in prior consultations with its neighbors. NCRC even went so far as to construct a driveway for construction vehicles entering the construction area before a stop work order was obtained. Only at that point, facing enforcement action and unable to proceed with its plans, did NCRC engage in meaningful discussions with the neighbors. NCRC agreed to abandon certain features of its plan, including the retention of the illegal driveway off of Ordway St. NCRC also agreed to install permanent landscaping along Ordway St., including trees and bushes that are now mature. In return, I agreed and my neighbors agreed that we would not push for further remedial or enforcement action by the city. NCRC's current proposal would constitute a breach of the 1994 agreement by replacing the landscaping agreed to in 1994 and the views now enjoyed by neighbors with the construction of an institutional facade along Ordway St.

In summary, as a homeowner directly across the street from NCRC's proposed construction of a large institutional building, and across the street from the Ordway St. entrance to the NCRC property, I am more directly affected by NCRC's proposal than would be other persons in the general public. Because of the location of my home, I will be much more directly

affected than a member of the general public by the loss of open space and natural light, the increased traffic and parking congestion, and the environmental and construct that would result from NCRC's proposal.

Concurrence in the "Motion to Dismiss"

I support the relief requested by the Neighbors' Motion to Dismiss. As explained in the Neighbors' Motion to Dismiss, as well as the materials attached hereto as Tab A and Tab B, in 1998 NCRC was granted a special exception "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." See BZA Orders in Application No. 16307. NCRC has disregarded these limitations by allowing its current populations to grow to 171 children and 37 staff. For this reason, the Neighbors ask that NCRC be declared in violation of the 1998 Order and that NCRC's Application No. 16970 be dismissed.

Very truly yours,

Steven R. Hunsicker

Steven R. Hunsicker

Steven R. Hunsicker
3083 Ordway St., N.W.
Washington, D.C. 20005
(202) 364-0425

September 19, 2002

Ms. Nancy MacWood
Chair -- Advisory Neighborhood Commission
3-C
2737 Devonshire Place, N.W.
Washington, DC 20005

Re: National Child Research Center ("NCRC")

Dear Ms. MacWood:

I have lived on Ordway St. for over 20 years. For approximately 13 years, I have lived in my home at 3083 Ordway St., N.W., across the street from NCRC. Because of the location of my home, I have a real appreciation of the importance of NCRC to the neighborhood, including the value of the NCRC open space. I also have real experience with the adverse impacts of traffic and parking congestion that have plagued NCRC's nearby neighbors to an increasing extent over the recent years.

I am strongly opposed to NCRC's proposed expansion as inconsistent with the historic preservation of the residential site and neighborhood. In addition, the dramatic expansion proposed by NCRC would exacerbate existing adverse impacts of traffic and parking congestion.

Moreover, as set forth in further detail below, the NCRC proposal is inconsistent with commitments made by NCRC to the ANC in 1998 and with conditions recommended by ANC to the Board of Zoning Adjustments ("BZA") and subsequently incorporated in the BZA special exception granted to NCRC. NCRC has failed to comply with its commitments to the ANC as well as the conditions incorporated by the 1998 BZA special exception. Approval of the NCRC expansion proposal essentially would reward NCRC for its non-compliance, and would send a counterproductive message that there is little if any need to comply with commitments made to the ANC and neighbors or with conditions imposed by the BZA.

I have attached the following relevant materials from NCRC's 1998 special exception proceedings to this letter for your reference:

1. BZA Decision Date: January 21, 1998, Summary Order of the BZA on NCRC Application;

2. List of owners of property within 200 feet of the NCRC notified of public BZA hearing;

3. ANC March 25, 1998 report to BZA regarding the application of NCRC for a special exception and variance;

4. April 1, 1998 transcript of the public hearing before the BZA;

5. ANC April 29, 1998 letter to BZA setting forth NCRC's developed traffic and parking mitigation plan for inclusion as conditions to the BZA special exception; and

6. BZA Decision Date: May 6, 1998, Summary Order Upon Rehearing.

I apologize for the resulting length of this submission, but I believe a clear understanding of the 1998 proceedings is important to an evaluation of the NCRC expansion proposal that has been presented to the ANC. The 1998 proceedings, and an experience with NCRC in 1994, demonstrate that NCRC has failed to honor the spirit or the letter of its commitments to the ANC and the neighbors, the conditions to its zoning authorizations, and, in the 1994 instance described immediately below, any obligation to seek prior authorization before undertaking significant construction on its site. Consequently, many of the neighbors, including myself, simply do not believe that NCRC will live up to any undertaking to mitigate the adverse impacts of its proposed expansion. In this respect, NCRC's actions have spoken louder than its words.

I was first involved with NCRC expansion issues in 1994. In summer 1994, NCRC initiated significant construction on its existing playhouse and playground area, including the cutting down of many mature trees, and the construction of a large deck and concrete pad, all without benefit of regulatory permits or substantial prior consultations with neighbors. As I recall, not until NCRC received a stop work order from the city did it evidence any meaningful willingness to acknowledge the resulting controversy or to discuss a resolution with the neighbors. At that point, facing enforcement action and unable to proceed with its plans, NCRC agreed to abandon certain features of its plans, including the retention of a driveway off of Ordway St. that was being used for access to the construction site. NCRC also agreed to install permanent landscaping along Ordway St., including trees and bushes that have since matured. In return, the neighbors agreed not to push for further remedial or enforcement action by the city.

Although NCRC has not shared the details of its current expansion proposal, the sketches I have seen indicate that NCRC wants to do away with this landscaping and replace the neighbors' view from Ordway St. with a large new institutional building on the northwest portion of the site along Ordway St. This new building appears to be two or three times the size

of nearby residences on Ordway St. Further, the new building would be connected visually with the existing playhouse by a wall along Ordway St. with a fence required on top to protect the children from falling over the wall. Consequently, the street level view of the NCRC site would be altered from open space to a solid, sizable wall of institutional construction. In effect, the site would be transformed from residential in character to a permanent institutional campus. These aspects of the NCRC expansion proposal, as well as the construction of any new driveway or drop-off lane that NCRC may again have in mind as part of its expansion, would be inconsistent with its 1994 agreement with the neighbors, contrary to the residential nature of the neighborhood, and contrary to the preservation of precious open space in the Cleveland Park historical area. As evidenced by the April 1, 1998 transcript of the public hearing on NCRC's special exception application, after the 1994 experience, NCRC recognized that the construction of a driveway would "interfere with both the historic and residential character of the remainder of the property since it would require taking down trees." See attachment 4 at p.19. The same significant interference with both the historic and residential character of the property that NCRC threatened in 1994 and recognized in 1998 will result if NCRC goes forward with its expansion project.

I also am familiar with NCRC's special exception proceeding before the BZA in 1998. At the time, NCRC described the matter before the BZA as merely a "technical matter." NCRC took the position that it needed the BZA special use exception to comport with its existing license to operate a childcare facility, and represented to the BZA that it was not intending to do any construction whatsoever or to increase the number of children or staff. See attachment 4 at pp.10-12. NCRC made similar representations at the time to the ANC and the neighbors. NCRC represented to the 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." See attachment 3 at p. 1. These commitments, as well the active and positive participation of the ANC, reduced the apparent need at the time for neighbor opposition at the BZA. I also note, however, that the list of owners notified of the public hearing at the BZA does not include certain of NCRC's closest neighbors, including the Beckners and Taylors on Highland Place. See attachment 2.

NCRC's commitments to no new construction or increases in the numbers of children or staff were important because it was recognized at the time that traffic and parking congestion was already having an adverse impact on the neighborhood. Despite NCRC's assurances of no foreseeable growth, neighbors, ANC and the BZA were concerned that the existing traffic congestion needed to be addressed. Accordingly, the following steps were taken:

First, the BZA placed a cap on NCRC enrollment by specifying a condition that "the maximum number of children shall not exceed 120." See attachment 1 at p. 2. It should be noted that this condition was not a reference to the number of children that could occupy the

building at one time, i.e., it was not a certificate of occupancy that is determined by other agencies based on square footage of buildings and other factors. Rather, it is reference to enrollment, which is more directly related to the traffic and parking impacts that were matters of concern to the BZA.[1] Current NCRC enrollment is well in excess of the maximum number of children specified by the BZA as a condition to NCRC's special exception and would increase under its proposed expansion.

Second, the BZA concurred with ANC's recommendation of a required traffic and parking mitigation plan to be developed and implemented by NCRC. As recognized by the ANC's April 29, 1998 letter to the BZA, the BZA required the development of such a plan by NCRC working with ANC and the neighbors before the Board issued its final decision. See Attachment 5.

Third, the NCRC, in consultations with neighbors and the ANC, developed a list of conditions that would comprise its mitigation plan. Those conditions are set forth in the ANC's April 29, 1998 letter to the BZA. See Attachment 5. The ANC conditions specify several traffic and mitigation steps to be implemented by NCRC. The final condition recommended by the ANC letter states:

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

The purpose of this condition was further explained by the ANC's April 29 letter:

---

[1] Any argument that "the maximum number of children" refers to a maximum occupancy at any one time, rather than a cap on enrollment, makes no sense. The concern of the ANC, neighbors and the BZA over increasing traffic impacts (see transcript of BZA hearing, attachment 4, at pp. 24-29) are much more meaningfully addressed by an enrollment cap rather than a limit on occupancy at any given time. Increasing traffic impacts would not be addressed by a condition that could be construed as permitting multiple populations of 120 young children during the day, e.g., in separate morning, mid-day or afternoon sessions. This is not to say that NCRC currently enrolls 360 children (the actual current enrollment is reportedly about 170) or that NCRC secretly intends to enroll 360 students in its expanded facility. The point is that given the concern about increasing traffic impacts in 1998, it is not credible to suggest that when BZA set a maximum limit of 120 children, it intended to specify a condition that could be construed as allowing the potential additional traffic and parking congestion of multiple populations of up to 120 children, so long as there were no more than 120 children in occupancy at one time.

> This is a compromise [from the 5 year term recommended by the ANC's March 25, 1998 report] 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. See attachment 5 at p.3.

The BZA adopted these conditions in its decision dated May 6, 1998, including the condition that "Approval shall be for **EIGHT (8) YEARS.**" See Attachment 6.

In sum, NCRC undertook an obligation to operate under the 1998 special exception pursuant to several conditions, including a limitation on the maximum number of students, intended to mitigate the adverse traffic and parking problems that were already affecting the neighborhood. During that period, NCRC represented that it planned no new construction, no enrollment increase and no change in its method of operation. And, after no more than 8 years, if NCRC had not meaningfully addressed the adverse impacts that had already been experienced ("should adverse impacts resume"), it faced the potential modification of its special exception or the conditions thereto, including the potential reduction of the maximum number of students allowed below the 120 maximum specified in 1998.

The present significance of the 1998 proceedings action is clear: NCRC should not be allowed to eliminate the 8 year term of the 1998 special exception, including the neighbors' ability to reconsider the conditions to the special exception, and to disregard its commitment to no new construction, increase in enrollment or change in operations. At a minimum, NCRC must first demonstrate that it has complied with the 1998 conditions and that the adverse impacts of traffic and parking congestion identified in 1998 have in fact been mitigated and have not resumed.

NCRC cannot meet this burden. Prior to the development of its expansion plan, and the recognition that it would again face the neighbors, ANC and the BZA, NCRC made little or no effort to comply with many of the conditions of the BZA order that comprise the traffic mitigation plan that NCRC itself developed. Only now do we observe notices to parents concerning traffic and parking policies, and NCRC staff monitoring drop-off and pick-up points. Moreover, there is no dispute that NCRC's current enrollment exceeds the 120 maximum specified by the BZA. In any event, the adverse impacts of traffic and parking congestion have not been mitigated since 1998. In fact, the impacts have gotten worse, notwithstanding any recent efforts of NCRC to act like it has addressed the issue. It is simply beyond dispute that NCRC has failed to comply with conditions of the 1998 BZA order and that the adverse impacts

addressed by the ANC and the BZA in 1998 have not merely "resumed" they have continued unabated and have increased.

For all the reasons indicated above, the NCRC expansion project is inconsistent with the historical and residential character of the neighborhood and would further increase the adverse impacts of traffic and parking congestion that the neighborhood has experienced since 1998. NCRC also has failed to comply with its commitments to the ANC and the neighbors and the conditions to the 1998 special exception. Consequently, I urge the ANC to recommend that the NCRC expansion project be denied.

Very truly yours,

Steven R. Hunsicker

Attachments

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

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

Jeffrey A & D C Frank
3040 Porter Street, N.W.
Washington, D.C. 20008

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

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

Jane Liu Shaw
3060 Porter Street, N.W.
Washington, D.C. 20008

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

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

Kevin Sullivan Etal
3062 Porter Street, N.W.
Washington, D.C. 20008

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

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

Reeve & Jane Vanneman
3071 Ordway Street, N.W.
Washington, D.C. 20008

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

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

Clifford & S M Feldman
3135 Highland Place, N.W.
Washington, D.C. 20008

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

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

Mary A. Lopatto
3126 Ordway Street, N.W.
Washington, D.C. 20008

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

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

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

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

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

Lucia Newman
3204 Highland Place, N.W.
Washington, D.C. 20008

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

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

DIST
OF

'97 NOV 12 P3:49

#6
16307

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

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. 21

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENTS

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 1, 1998

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID, Chairperson

HERBERT FRANKLIN

BETTY KING

STAFF PRESENT:

MADELIENE H. DOBBINS, Director

TRACEY WITTEN ROSE, Staff

BEVERLEY BAILEY, Staff

ALSO PRESENT:

BARBARA HAAS

PHIL MENDELSON

ESTHER NAMIAN

Original

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ALSO PRESENT (continued):

MARY PETERS

KAY STAFFORD

LINDSLEY WILLIAMS

RODNEY CREECY

HUGH V. KELLY

SANDRA PEACHES

BENJAMIN SINGLETON

APPEARANCES:

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CONTENTS

	PAGE
Preliminary Matters	6
Opening Statement by Mr. Watson	9
Direct Examination of Applicant	11
Cross Examination of Applicant	21
Government Reports Including Office of Planning, Department of Public Works and Others	23
Advisory Neighborhood Commission	24
Statement of Mary Peters	37
Statement of Barbara Haas	38
Statement of Lindsley Williams	45
Closing Remarks by the Applicant	61
Opening Statement by Mr. Smith	84
Statement of Applicant	86
Statement of Ms. Peaches	90
Statement of Mr. Creecy	92
Closing Remarks by the Applicant	116
Statement of Applicant	138
Closing Remarks by the Applicant	148

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.

If you are not prepared to proceed, now is the time to raise such a matter. Does the Staff have any preliminary matters?

MS. ROSE: Staff has a preliminary matter with regard to Case 16307 of the National Child Research Center. On the Affidavit of Posting, the affidavit does not indicate when it was submitted. We didn't stamp it. The Staff didn't stamp it. We need to know when it was submitted to our office. If the Applicant or someone who is familiar with the submission of this --

MR. WATSON: The same day it's notarized.

CHAIRPERSON REID: Would you please speak into the mike?

MR. WATSON: Matthew Watson, Counsel for the Applicant.

CHAIRPERSON REID: Okay.

MR. WATSON: It's submitted the same day it's notarized.

MS. ROSE: All right. It is notarized on the 25th of March, and therefore, it will be timely. Thank you.

CHAIRPERSON REID: Does anyone here have any preliminary matters? Okay. We will now proceed with the first case.

MS. ROSE: Madam Chair, I think that there's a preliminary matter with regard to 16329, a Request for a Continuance. Someone should have been here to ask for that.

CHAIRPERSON REID: Is there someone here that is associated with the Case Number 16329, Robert M. Holland, et al.? I think there was a written request for postponement. There's no one here. So, we can go ahead and act on that at this time.

I have read the request, and unless my Board Members object, I have no problems with waiving the Rules to allow there to be a postponement of this particular case.

MS. KING: I agree.

CHAIRPERSON REID: Okay.

MS. ROSE: At this point, the Board has three cases on the morning agenda of May the 6th, and if you like, you could add one more case to that morning agenda. Then you would have the normal four.

CHAIRPERSON REID: I think that would be all right.

MS. ROSE: That will be May 6th at 9:30 a.m. No further notice will be given on this application except, I guess, to notify the Applicant.

CHAIRPERSON REID: Okay. 9:30 a.m.

May 6 --

MS. ROSE: Yes.

CHAIRPERSON REID: -- it is.

MS. ROSE: That's all the matters that we have.

CHAIRPERSON REID: Okay. Secretary, would you please call the first case of the day?

MS. ROSE: The first case on the agenda for this afternoon is 16307, 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 2½ 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 to take the oath? Please raise your right hand. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth? Please say I do.

(Chorus of I dos.)

MS. ROSE: Would the Applicant please come forward?

CHAIRPERSON REID: Let me ask is there anyone here in opposition to this case?

MS. ROSE: In opposition?

CHAIRPERSON REID: Yes.

MS. ROSE: In party.

CHAIRPERSON REID: Okay. Are you requesting party status?

MR. FRANKLIN: ANC is, too.

CHAIRPERSON REID: That's automatic.

MR. FRANKLIN: Yes, I understand.

CHAIRPERSON REID: ANC is an automatic party. Okay.

MR. WATSON: I am Matthew Watson, attorney for the Applicant. With me is Kay Stafford, who is the Director of the school, who will testify. Just preliminarily, I'd like to note there was submitted the first time the case was heard, which this hearing is following because of a D.C. Register Notice problem that was out of the control of the Board, but we did file at that time, and it is in the record the Memorandum from the State Historic Preservation Office giving the determination that the building qualifies as an historic building. And so we would note that

that is in the record, and we will not reintroduce it.

This is, as I indicated, an application for special exception and variance from the parking requirement for a child development center which are required by the Regulations to have this special exception. We are not intending to do any construction whatsoever, any changes in the physical plant, and in fact, it's basically a technical correction.

The previous Certificate of Occupancy was issued in 1981 for elementary school as well as a nursery school for 90 students, and had never been updated, although they had been licensed and have had more children than that.

We would call as our witness to present the facts, Kay Stafford. Should she use that microphone, or can she testify from here? Can people hear?

CHAIRPERSON REID: She can testify from where she's sitting unless you have something that you want --

MR. WATSON: No.

CHAIRPERSON REID: Okay.

WHEREUPON,

KAY STAFFORD

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

DIRECT EXAMINATION

BY MR. WATSON:

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

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

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

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

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

A It's a nursery school.

Q What are the hours of operation?

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

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

A No.

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

A No.

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

A That's correct.

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

(Laughter.)

BY MR. WATSON:

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

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

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

parents either park on Ordway or Highland Place and walk their student into the school or pick them up and take them out.

MS. KING: Is there a driveway on the property because it's quite a large property? There's no --

THE WITNESS: There's no --

MS. KING: -- circular driveway on the property?

THE WITNESS: There's a circular sidewalk in the front of the residence.

MS. KING: Sidewalk but no driveway?

THE WITNESS: But not a driveway, right.

MS. KING: Thank you.

THE WITNESS: Or semi-circular.

BY MR. WATSON:

Q Do you foresee any changes in parking area? Have there been consideration of any changes in parking regulations?

A We've been asked that about, you know, many times, and we do support the use of the property primarily as a playground and a school. We do not -- we're not looking forward to having parking on the property. So this is a statement that the school has made many times. No, I don't foresee any changes.

Q And this is to keep it within its historic character?

A That's right.

Q Like the neighborhood have there been any discussions with regard to the street parking of changing of regulations?

A We are under some change in that area. In the last few years since Metro came into the area, we've had to comply with the sort of increased usage, and we, you know, we don't see any changes in what we're dealing with right now, but it has -- it has developed that there are greater constraints on ease of parking in the neighborhood.

Q On Ordway Street, directly adjacent to the property, is the parking there now currently basically commuter parking?

A Behind us in the back of the property, there's a section that commuters very often fill up very early in the morning. The rest of the area on Ordway Street has residential only zoned parking.

Q Would the school be amenable in requesting to have 15 minute parking in the early morning hours going to 8:15, 8:30 to free up that space?

A That would be good, yes.

Q Is the Center agreeable to meeting with

the neighbors before any changes are requested from the city or implemented?

A Yes. The Center is very eager to look at any issues in this way with the immediate neighbors.

Q Would the Center also be willing to discuss with the neighbors the drop off and pick up plans?

A Yes, we would.

Q And after meeting with the neighbors and working out potentially changed plans to be requested of the city, is the Center agreeable to filing a report of its drop off and pick up plans with the Board?

A Yes, we are.

MR. WATSON: I have no further questions.

CHAIRPERSON REID: Mr. Franklin?

MR. FRANKLIN: The changes you're referring to are solely with respect to the parking limits? You talk about changes that the city might --

MR. WATSON: It's solely -- we have --

MR. FRANKLIN: Solely parking?

MR. WATSON: Solely parking, the city, and the intent would be to have parking for 15 minutes which would permit drop off of students before school, but it would also have the effect of preventing

commuters from coming there early in the morning and parking all day.

The reason that section doesn't have residential parking permit is that you can't have residential parking permit unless you're abutted by a residence. And since the school is not a residence, there's no residential parking on the south side of Ordway Street.

MS. KING: It's the Department of Public Works -- have you had any kind of preliminary discussions with the DPW about whether, you know, is that something -- I don't remember 15 minute parking. Does that exist elsewhere?

MR. WATSON: It does. This is a standard parking restriction at daycare centers.

MS. KING: Oh, is it? Okay.

MR. WATSON: And we have had discussions with Karen Bennefield's office, and they are agreeable.

MS. KING: All right. I have no further questions at this time.

CHAIRPERSON REID: Okay. I'd like to know where -- where is the -- where exactly is the play area? On the survey, I did not see it so designated.

THE WITNESS: Are you looking at it?

CHAIRPERSON REID: Yes.

THE WITNESS: The play area essentially is every bit of the property other than the two buildings.

CHAIRPERSON REID: Than the carriage house and the main building?

THE WITNESS: Right. It wraps around from Highland Place to the back of the building, and it goes down to the lower end on Ordway as well.

CHAIRPERSON REID: Okay. What about -- Mr. Watson, could you please, for the record, discuss with us the compliance with Section 205?

MR. WATSON: Section -- this is with regard to Parking Section? I think I questioned it. We have the definite -- there are parking requirements required which are, I guess, one space for every seven staff except it provides within the Regulations --

CHAIRPERSON REID: Well, you -- that, I understand, was that you received a waiver of that.

MR. WATSON: We have received the waiver, but that has to then be approved by the Board of Zoning Adjustment in your Order. We are entitled by the Regulations to the waiver, and therefore, filed the --

CHAIRPERSON REID: Letter.

MR. WATSON: -- letter from the State Historic Preservation officer who was the proper party to make the determination of the historic status of the building.

CHAIRPERSON REID: Okay. Thank you.

MR. FRANKLIN: To what extent does the historic status of the building have relevance to this particular issue? For example, if the play area takes up everything that isn't really taken up by the improvements, does that play area comply with the minimal standards for play areas considering your enrollment?

MR. WATSON: Considerably in excess.

MR. FRANKLIN: Considerably in excess of the minimum?

MR. WATSON: It's over an acre of ground.

MR. FRANKLIN: Okay. That's what it appears to be. If you had a drop off area that -- in the form of a driveway as Mrs. King had asked, is that something, and in other words, you could accommodate that and not fall below the standards for the play area you have. Would that driveway be regarded as some degradation of the historic character of the property?

MR. WATSON: We believe that in the past

there has been opposition from the neighborhood to have any encroachment into the property by further paved area. It would be difficult to have the driveway in front of the property because if you look on the plat that because of the irregular shape of the property on the eastern side of the property, it's only 20 feet between the building line and the porch.

The remainder is sidewalk area to the streets. It's awfully close. It would be difficult to put a drive in front of the building and would probably interfere with both the historic and residential character of the remainder of the property since it would require taking down trees.

MR. FRANKLIN: Okay. Thank you.

CHAIRPERSON REID: What about adverse impact? Speak to the issue of adverse impact.

MR. WATSON: Well, as we have indicated, there is no change. The Department of Public Works indicated that it would have no effect in their submission on traffic in the area. We're not aware of any noise problem that emanates from the building.

One, it's -- the property, as we say, is a spacious size which keeps children from being directly adjacent to neighboring properties. The house itself is constructed in an older time, and is

a very solidly built property which buffers any noise. We don't believe that any noise comes from the property.

We believe there's very little impact on traffic. To the extent there may be any impact from dropping off and picking up, although it's a limited number of children, some walk, some take carpools, we would be agreeable to the suggestion of the ANC that there be a requirement that after the permit issues -- the approval issues that we would meet with the neighbors.

We would work out the arrangement. We would file that with the Board. The existence of this nursery school goes back to the 1930s.

CHAIRPERSON REID: So to your knowledge, there have not been any complaints from the neighboring property owners?

MR. WATSON: We won't say there have not been no complaints. When you have anyplace, there are some neighbors, and they're here to speak as well --

CHAIRPERSON REID: Okay.

MR. WATSON: -- who believe there's some impact.

CHAIRPERSON REID: Some impact, okay.

MR. WATSON: There's no living memory prior to the existence of this nursery school.

CHAIRPERSON REID: Okay. All right.

MS. KING: There must be someone who has been around for more than 30 years?

MR. WATSON: I don't think there are in the properties around it.

(Laughter.)

MR. WATSON: Well, you have to have been there for 67 years.

MS. KING: 67. That's right.

CHAIRPERSON REID: All right.

MR. FRANKLIN: Before my time.

(Laughter.)

CHAIRPERSON REID: Okay. Cross examination, ANC. Mr. Mendelson, would you like to cross examine?

CROSS EXAMINATION

BY MR. MENDELSON:

Q Good afternoon, I'm Phil Mendelson. I'm with ANC-3C. I have several questions. Ms. Stafford, how long have you been with the Center?

A Ten years.

Q And are you familiar with our report in this case, which is the letter that I gave you before

the hearing --

A Yes.

Q -- and I sent to Mr. Watson last week?

A Yes, I am.

Q Do you have any objection to the inclusion of the first three conditions that we cite in the Board's Order?

A You have to give me an opportunity to read them.

Q Sure.

(Pause for witness to read document.)

A Okay.

Q My question was asked to the first three.

A We are in agreement.

Q Your answer is yes to my question?

A Yes, we can.

Q You have no objection to the inclusion of those in the Board's order?

A Right. No objection.

MR. MENDELSON: Okay. I have no other questions. Thank you.

CHAIRPERSON REID: Okay. Thank you. Mr. Watson?

MR. WATSON: Just in summary, we ask that it be granted the only --

CHAIRPERSON REID: -- procedure first, and then you can --

MR. WATSON: I assumed we were going -- I assumed there were no further cross examinations.

CHAIRPERSON REID: No, there are no further cross. Thank you.

MR. WATSON: I was just saying --

CHAIRPERSON REID: I assume you have some closing remarks.

MR. WATSON: Okay.

CHAIRPERSON REID: Okay. Government reports. We have a letter from DPW which basically is in support of the application, and it says, in part, that's basically the project is required to provide a minimum of seven parking spaces.

We note that the site is located in the Cleveland Park Historic District, and the property appears to be a historic landmark. Therefore, the requirement for parking is waived. Will transportation stand for an additional traffic impact that is up with this proposal?

We have seen that the Center has been operated for several years without parking. Therefore, the Department will not object to the continuation of Center's use.

And then there was a letter from the Historic Preservation that states, in part, this building is either a historic landmark in the D.C. Inventory of historic sites or is located within a Historic District in the D.C. Inventory and contributes to the character of the Historic District in location, design, setting, materials, workmanship, feeling and association.

Okay. So next, we'll have the report from the ANC.

MR. MENDELSON: Good afternoon. Again, for the record, I'm Phil Mendelson. I'm Chair of the Advisory Neighborhood Commission 3C. I'm here to present the report of the ANC. You should have in the record a letter that I sent on March 25th which states the resolution adopted unanimously with eight Commissioners out of nine present at our meeting on -- our public meeting on March 23rd.

Our position, in summary, is one of conditional support, and we, on the second page of the letter, I was going to say the second page of the resolution, but that's not quite accurate, we list four conditions. The first is that NCRC will develop a drop off/pick up plan, that the plan will be submitted to NCRC's neighbors and the ANC-3C for

comment, and will be made public record by being filed in the record of this case.

We're not asking that it be submitted for review by the Board but that it be made a public record by being submitted to the file. The second condition is that NCRC will not object to or in any way discourage any extension of residential permit parking on streets within the area of the school.

And the third condition, and I'm sort of summarizing these instead of reading them in their entirety, is that NCRC will develop a proposal for changes in parking regulations for NCRC's street frontage on Highland Place and Ordway Street. The Center fronts on Highland and backs up onto Ordway.

And again, that this proposal would be submitted to NCRC's neighbors and the ANC for comment prior to the process that DPW goes through to implement it. The fourth condition that we request is that the special exception 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.

In the course of our ANC's review of this matter, we became aware of the fact that there had been some traffic impacts, and some of the neighbors

are not fully satisfied that the school has been as responsive as it should be. We nonetheless feel that the application should be granted, the application that's before you.

In addition, it is the impression of some of the neighbors that over the years, the traffic use has changed. I guess some of that has to do with how many of the children who attend the facility are families in the neighborhood who walk to school as opposed to being driven, the nature of families changing, I guess, from being a one working parent to two working parents so that there's more of a use of automobile and dropping off.

The point is that apparently there has been some increase over the years in the traffic impacts. The purpose of our requesting this time limit is really to provide a mechanism to monitor the effectiveness of the plans, the two plans that we talk about and that the school has agreed to.

To ensure that we are eliminating the adverse impacts, there's a trade-off here, and the trade-off, this is what we went through in our own thinking, is that we could say we don't want you to approve this today, that we want this case to be continued while we work out these plans, and we have

the plans finalized, then we all come in here and say we're all happy, approve it.

Or we say, and I think this is what the school wants, let's get this over with. They want to get on with their -- the appropriate certificate of occupancy. So let's approve this, but conditionally, and with that trade-off, we feel the time limit is important.

I'm sort of second guessing here that there might be some concern that having a time limit means that there's some cost to the school because they have to refile, and I'm not sure how the Board can handle that. I think it's unfortunate that there has been some discussion, I guess outside the hearing, about the costliness of fees, and that should not influence the decision-making process of what is the best way to assure that the school could function while at the same time, there is no adverse impact.

I don't know if that means that the Board can waive its fees when the school reapplies, or whether the Board can treat it as a reopening of this case so it wouldn't have to apply new. But in any event, we feel that if there's concern about that, that that should not dictate the need for us to work out these plans.

And we are willing for the school to be granted the special exception and variance, but with these conditions, and as I say, the limitation of an initial period of five years so that we're sure that everything works out and the neighbors are satisfied. Thank you very much.

CHAIRPERSON REID: Mr. Watson, do you have any cross examination, or are there any questions? Mr. Watson, do you have any?

MR. WATSON: We have no questions.

CHAIRPERSON REID: None. Okay.

MR. FRANKLIN: I have a question. Thank you for your suggestions. They're helpful for us, in my opinion. We refer to NCRC's neighbors. Who is encompassed within the ambit of neighbor for these purposes?

MR. MENDELSON: The residents, the homeowners, residents in the area, which is primarily Highland Place. With regard to looking at these plans, because parking would effect Ordway Street, we would include within the meaning of neighbors the residents in the immediate area on Ordway Street as well.

MR. FRANKLIN: Can somebody look at that definition and determine who -- whether they're a

neighbor or not? I mean should we do it within 200 feet? I mean that's our normal standard.

MR. MENDELSON: If you're asking in terms of the conditions that we cite, it should be larger than 200 feet. I would look at a map and I would probably take a compass and put the outside point on Newark Street, which is the opposite side of the lot that's across the street.

MR. FRANKLIN: Well, I'm only suggesting if we have this kind of condition it ought to be specific so that people know who's encompassed within it.

MS. KING: Highland Place is, what, two blocks long?

MR. MENDELSON: Something like that.

MS. KING: Two, two and a half blocks long?

MR. MENDELSON: Yes.

MS. KING: And it is very much a unit. There's only one way to get into it and one way to get out of it. So I think whatever definition we adopt, Mr. Franklin, that it should include all the residents on both sides of the street on Highland Place and is it Quebec Place? What is it?

MR. MENDELSON: 33rd Place.

MS. KING: 33rd Place at the bottom of the street which is this sort of funny little half block to Highland and then half block to a dead end. So certainly all of those people, and then maybe you all can -- and say a block on both sides of -- of Ordway or maybe that's where the 200 feet might come in, but it seems to me that --

MR. MENDELSON: I would say probably the 3100, 3200, and 3300 blocks of Ordway Street, all of Highland Place, 33rd Place, which is, I'm not sure if there's any houses on it. That's a half block, and Ashley Terrace, which is what I was thinking of.

MS. KING: That's the dead end?

MR. MENDELSON: Yes.

MR. WATSON: Just to correct you, you'd have to modify --

MR. FRANKLIN: You're not on the record.

MR. WATSON: Matthew Watson. Just to correct you, you'd have to modify. There's an anomaly in this neighborhood on Ordway Street. Although it's 3200 block of Highland, it's the 3000 block of Ordway. The 32nd doesn't go through, and they just continued numbering.

(Laughter.)

MR. WATSON: So --

MR. FRANKLIN: Well, I would suggest to you two gentlemen that if we adopt this condition, it might be useful just to annex this and indicate the boundaries on this so everyone's clear as to who is a neighbor for purposes of involvement. This is in the record.

CHAIRPERSON REID: Good idea.

MR. MENDELSON: That's fine. And you know, the ANC process is the process. So if there's anybody who's outside the area, the area that we're discussing, who feels they have to comment, the ANC will hear it.

MR. FRANKLIN: Whatever. I have no further questions.

CHAIRPERSON REID: Ms. King, any further questions?

MS. KING: Yes. What is the extent of residential permit parking on Highland Place and Ordway Street? Is it pervasive except the property its body, is it?

MR. MENDELSON: It's pervasive with the exception of the frontage both of the school on Highland Place and on Ordway Street, and then also the 3300 block of Highland Place, as I understand it. I think somebody will testify to this.

MS. KING: Has the -- I mean, your item number 2 seems to indicate that NCRC has been fighting you on --

MR. MENDELSON: No.

MS. KING: No, they haven't.

MR. MENDELSON: No.

MS. KING: So what you're asking, essentially, I just wanted to clarify --

MR. MENDELSON: It's just reassurance.

MS. KING: -- you're asking them not to do what they haven't done before?

MR. MENDELSON: Correct.

MS. KING: Okay.

MR. MENDELSON: Which is why I think they agreed to --

MS. KING: Yes, they do. I have no further questions.

MS. ROSE: Madam Chair, under the condition, when would the record be closed, or would it just be open until this document came in, the Agreement?

MR. MENDELSON: Well, I'm not exactly sure how the Board -- what the -- how the Board considers its procedures would apply. Our thinking was that the document would simply be filed, that the Board could

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