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

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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

an Order that simply adopts the performance standards that have been suggested. The Order itself will say there shall be a plan that is -- that will note to the greatest practical extent eliminate double and triple parking on Highland Place or Ordway Street, et cetera, that that plan will be submitted to the neighbors for their comment and approval, that NCRC will request residential permit parking on the prescribed area, et cetera, and I guess that's encompassing the whole proposal.

MR. WATSON: I don't think we can, but we can't request residential permit parking. We will request the parking restriction on Ordway Street to 15 minutes.

MR. FRANKLIN: 15 minute parking.

MS. KING: Mr. Franklin, going back to you, can I just suggest that rather than specifying double and triple parking, we just say illegal parking because blocking driveways and --

MR. FRANKLIN: Sure.

MS. KING: -- and illegal parking on the sidewalk, you know, let's just say illegal parking.

CHAIRPERSON REID: And Ms. Rose, could we also say, will this be too vague to say an acceptable plan?

MS. ROSE: Acceptable by? You have to say whom, to the neighbors?

CHAIRPERSON REID: Yes, acceptable to the neighbors or to the community. Would that be too vague, or would that satisfy what you were referring to earlier?

MS. ROSE: Yes. Who would enforce it? Well, the neighbors will decide what's acceptable, but if they don't come up with an acceptable plan, then what?

CHAIRPERSON REID: Well, Mr. Watson said it's -- any conditions well conditions that we impose, well, I guess they would have the enforcement ability with the DCRA.

MS. ROSE: Will the DCRA be able to say well you didn't come up with an acceptable plan. Therefore, we're going to fine you or whatever?

MS. BAILEY: Perhaps it should just say as Mr. Franklin indicated a plan, there shall be a plan, and leave the word acceptable out.

CHAIRPERSON REID: I think we're talking about the enforcement issue. That was the problem, enforcement.

MR. WATSON: I would assume, though, that the neighbors or the ANC could go to the DCRA and say

that there's a plan complying with the requirement of the BZA.

MS. ROSE: And the whole thing right here is backwards. The plan that complies with the BZA is supposed to come to BZA before today, and BZA is supposed to look at it and either grant it or not grant it.

But to approve what's before the Board and say submit a plan later, and we hope it's acceptable to the neighbors, I just never, and that's why I'm having trouble. I've just never had a process like that before.

CHAIRPERSON REID: In other words, unless we get a plan today where the neighbors and the ANC agree on various issues and it's signed by both entities, then we would have to defer this particular -- making a decision on this particular case until our next meeting. And in the interim, we would then receive the plan that had the correct language and with the signatures affixed thereto.

MS. ROSE: Which is how the Board always does it.

MR. WATSON: If I can say, I think the difference in this case is this is a situation of a long-established operation. This is not the normal

situation that comes to the Board of establishment of a child development center.

CHAIRPERSON REID: That would be all right, Mr. Watson, except for the fact that we do have what we call friendly opposition where there are some concerns that have been put before us today, notwithstanding the fact that this is an institution that has been in business for quite some time.

MR. WATSON: Well, although we are willing to agreeing to doing a plan, we're perfectly happy to go ahead. We don't concede that there is an adverse impact, nor do I believe an adverse impact has been shown.

There are two times a day indicated of picking students up that extend for a period of 15 to 20 minutes when there is an impact on the street by an institution that was there when every single person moved into their property. But we are willing to agree our difficulty has been, and this has been delayed, and it is unfortunate because of the notice problem that we appeared for a hearing in January, and there was a decision made.

And now it is April, and if we go further, we do have concern as to the compliance issue on our child care license because the child care authorities

seem to be losing patience and have actually issued a license with the lower number saying that it can be increased when the approval of the certificate is. But if we continue, we're in technical noncompliance.

CHAIRPERSON REID: Ms. Rose, could this be set for the next hearing date, the next meeting date which is next week?

MS. ROSE: It could be set for May 6 --

CHAIRPERSON REID: May 6?

MS. ROSE: -- depending on how much time. I mean I can give you the dates that I have for due dates, and I don't know if that's adequate time for the Applicant to meet with the ANC and the neighbors, but I can let you know what those dates are.

CHAIRPERSON REID: Beverly, did I hear you say that in the interim that while it's pending before the Board, there will be no sanction, there was no violation or any penalties that would be --

MS. BAILEY: The Applicant has said that there has been no penalties he'd paid at this time. In addition to that, I would imagine if they give the Board Staff, DCRA give the Board Staff a call, he certainly can tell them that this project is in the pipeline and a decision is pending soon.

So hopefully, they would put a hold on

this and not issue any citations until this matter is resolved. This project has been in a time line -- the pipeline now for a number of months, and I can't imagine another couple of weeks is really going to make that much difference.

CHAIRPERSON REID: That being the case, Mr. Watson, I think that the consensus of the Board is, Mr. Franklin, I think we need your support of the May 6th meeting to make sure you're here.

MR. FRANKLIN: Does that give you enough time, May 6th?

MR. WATSON: Well, we will certainly work to that time because we are the ones, we do want this issued as quickly as possible.

CHAIRPERSON REID: Will that give you, as Mr. Franklin said, allow you the time to meet with the ANC, or does the full body of the ANC have to meet? We have to consider that in order to for you to get together to --

MR. WATSON: I'm not sure whether the ANC -- the ANC was talking about --

CHAIRPERSON REID: -- get together to come up with an agreement?

MR. WATSON: -- was talking reasonably so of meeting with the neighborhood.

CHAIRPERSON REID: Could you speak to that matter?

MS. ROSE: And before he does, let me let you know what the dates would be. You would be looking to get submissions?

CHAIRPERSON REID: Well, we would like to get the agreement in --

MS. ROSE: Okay.

CHAIRPERSON REID: -- and ample time for the ANC to have met, if they need to meet, to vote on the agreement and your procedures, and then allow us to get to the next possible date for us to make the decision.

MS. ROSE: We would be talking, what, four and a half weeks? It's awful tight.

MS. STAFFORD: Exactly.

MS. ROSE: I wanted to get some feedback from you.

MR. MENDELSON: Phil Mendelson with the ANC. The ANC-3C meets on April 27, Monday, April 27.

CHAIRPERSON REID: Will that give you ample time to have the meeting --

MR. MENDELSON: We can certainly try.

CHAIRPERSON REID: -- and to come to an agreement, and have it submitted to us?

MR. MENDELSON: We can certainly try. I think there would be, obviously, there would be some back and forth, and it's important to us that the school work with the neighbors. They're the ones who are going to feel this most directly.

And assuming that things can be worked out between the school and the neighbors with the ANC sort of participating, we can take it up on the 27th, our ANC. But that means we would not file with you until, I think you said May 6th is when you meet?

MS. ROSE: May 6th is the date of the meeting, but the documents would need to be -- this is the situation. The documents need to be in in time for us to submit them to the Board. If the Board is willing to get them on the 6th, that's fine with us.

But there's a ten-day period of response time which includes mail. Some people do it in seven, but if they mail it, they have ten days. So I was backing it up. The submission would be due by I have the 17th and the 27th, but I didn't know that there was a need for a meeting here. So I don't think that those dates would work.

MR. MENDELSON: Well, I think we're talking about a process. It would probably be some sort of a joint submission.

MS. ROSE: Okay.

MR. MENDELSON: In other words, there would not be a response, or if things were to completely break down, I can say now that the ANC would waive the ten-day requirement. We would simply respond after we meet on the 27th.

MS. ROSE: Is that waiver also applicable to the Applicant, or would you be willing to waive the ten-day response time for a shorter period?

MR. WATSON: Well, I think that was, Mr. Mendelson indicates sort of automatically works out. The only thing that would be submitted is an agreement. If there's an agreement, by its very nature, neither side is opposing it. So I don't think there's anything to respond to --

MS. ROSE: Okay.

MR. WATSON: -- at that point. So yes, and if the Board will waive its rules as to submission to it because it is approved the 27th, it can't be there many days before the Board.

MS. ROSE: Do you have a problem coming in on the 10th, on the date? Do you have a problem coming in on the day of the 6th?

MS. KING: No. I mean we can always take a few minutes and read it on the dice.

CHAIRPERSON REID: Ms. Rose?

MS. ROSE: Yes.

CHAIRPERSON REID: That wouldn't be a problem for the Board. Mr. Franklin, would that be acceptable to you on that date?

MR. FRANKLIN: That's fine. I can't -- I just don't have my schedule. So I don't know if I'll be here May 6th, but I can certainly look at the material. Let's get some clarity in terms of what you're going to be doing in the absence of any Order of this Board.

Is the operative instrument now the draft of the conditions that the ANC has provided? Is that going to be the constitution for what you're going to do between now and the next meeting with the Board?

MR. WATSON: I am expecting -- no, I have to say that what going to -- assuming there is an agreement as to the parking restriction, the only thing that will be agreed to is it will be requested from Department of Public Works. We can't fine Department of Public Works.

MR. FRANKLIN: Mr. Mendelson, why do we have to have both the neighbors and the ANC as part of this process? Doesn't the ANC represent the neighbors?

MR. MENDELSON: The --

MR. FRANKLIN: Why don't we just say they'll meet with the ANC, and the ANC will do its normal good touching of bases.

MR. MENDELSON: Well, our ANC meetings are a little bit like the Board's meetings. We have a lot of agenda items, and we have -- no, they're like -- they're similar. We have a lot of items. We spend a long time on the different items. What we encourage applicants to do, we went through this recently with Luray School, is for the school to work with the neighbors.

They're the ones that are most directly involved. And we participate, but if it were to be formally us and not including, formally including the neighbors, the ANC would just turn around and say to the school you still have to meet with the neighbors.

MR. WATSON: Well, if I can say though with regard, the problem including neighbors, and we're not averse to the neighbors being involved in it, but there's no way to reach an agreement with the neighbors.

There are potentially hundreds of the neighbors, and there's no way we can have a vote on that. I assume what we're talking about is whatever

is reached between the neighbors and the school will then be ratified by the ANC, and what the Board will received is the ANC's ratification of that because otherwise, I don't know what a quorum of neighbors is.

MR. MENDELSON: I am looking at the language that was in our resolution. Our thinking was that somebody was going to have to draft a plan, and I am going to try to put that responsibility on you, Mr. Watson, and I would hope that it would be submitted to the neighbors who are here today and the ANC, and there would be comments.

Sure, in terms of a -- a vote, the ANC is the one who is going to vote, and it would be hard to come up with a quorum of neighbors. So in that sense, yes, the process, I guess, does come to a climax through the ANC and is submitted to the Board.

MS. ROSE: Is it possible to get a due date before the 6th even if it's the 1st of May, the 4th of May, 5th of May, the 30th?

MR. MENDELSON: To get an update?

MS. ROSE: We can get it to the Board before the 6th the document that they're submitting, the agreement.

MS. KING: You're meeting on the 27th of April?

MR. MENDELSON: Our scheduled meeting is the 27th.

MS. KING: And our next scheduled -- our scheduled meeting that we're talking about is the 6th of May?

MS. ROSE: Yes.

MR. MENDELSON: Assuming that we have an agreement by the 27th, we would probably submit -- we would try to submit by Wednesday or Thursday of that week, which should be, I believe, the deadline for your packet. If we're close, but we don't have the final agreement, then we would probably try to figure out a way that we can come up with it before the 6th.

MS. ROSE: Our packages go out on the 1st.

MS. BAILEY: Madam Chair, if the community cannot come to an agreement, the Board has the option of stipulating what the conditions are for that Order if the community is unable to come up with an agreement.

CHAIRPERSON REID: Sure.

MR. FRANKLIN: Yes, that's a good point.

CHAIRPERSON REID: So basically, hopefully you will be able to come up with an agreement that all sides can agree upon that is of your own making and that you're all amenable to.

But in the absence of such then we would, of course, have to do it, and we would prefer not to and allow you the opportunity to be able to make your own agreement based upon your own terms being that you are the two that are most involved.

MR. WATSON: Is it then that we are rescheduled for the 6th, we expect an agreement. In the absence of an agreement, we'll be rescheduling without an agreement. I don't expect that.

CHAIRPERSON REID: I'm sorry. What's the last thing you said?

MR. WATSON: I said I don't expect the prospect of not reaching an agreement.

CHAIRPERSON REID: Okay. Very good.

MR. FRANKLIN: I'm assuming that your expectations are confirmed, there would be no time limit on the special exception.

MR. WATSON: Thank you.

CHAIRPERSON REID: Thank you.

MS. ROSE: Then the record and the application is closed except for the agreement, if there is one, to be reached between the Applicant and the Advisory Neighborhood Commission which will be due on April 30th, by close of business April 30th. That is a Thursday.

MR. MENDELSON: Okay.

MS. ROSE: And the Board will consider a decision on the application on May 6th. The meeting this time will be at 1:00 as opposed to 9:30, 1:00 in the afternoon, May 6th.

CHAIRPERSON REID: At this time, we'll take a two minute recess. We'll resume in approximately two or three minutes.

(Whereupon, the foregoing matter went off the record at 2:48 p.m. and went back on the record at 2:52 p.m.)

CHAIRPERSON REID: We will now come back to order. Thank you. Ms. Rose, please call the next case.

MS. ROSE: The next case is 16328 of Hugh V. Kelly pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to establish an accessory parking lot in the residential portion of a site in a C-1/R-5-A District at premises 3922 12th Street, N.E. (Square 3887, Lot 5).

Would all persons planning to testify in this application please rise to take the oath? Raise your right hand. Do you swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

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

April 29, 1998

98 MAR 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

SPW 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
BOARD OF ZONING ADJUSTMENT

Application No. 16307 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)].

HEARING DATE: January 21 and April 1, 1998
DECISION DATE: January 21, February 4 and May 6, 1998

SUMMARY ORDER UPON REHEARING

The 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.

For the January 21, 1998 hearing, the Board provided notice of 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 this 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. However, on, February 3, 1998, ANC 3C submitted a letter dated January 27, 1998 protesting the inadequate public notice in the application and requested that a new public hearing be held after proper notice has been given. The ANC noted that the notices were received very late due to the holiday season and new hearing would allow for a full discussion about parking and child drop-off and pick-up.

The Board considered the request at its public meeting of February 4, 1998 and granted the rehearing. The new hearing was held on April 1, 1998.

For the April 1, 1998 hearing, the Board provided proper and timely notice of 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.

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 appearing as a party to this case testified in opposition to the application. 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 this application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be for **EIGHT (8) YEARS.**

2. The applicant shall 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. 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 that change caregivers, and the applicant will further distribute the pamphlet at such other times to individual drivers if violations of the policy are noted by the monitors or neighbors.

3. The applicant shall clearly define the carpool waiting line on Highland Place and any carpool waiting line, and the location of its starting point shall 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. In this instance, "carpool" refers to any automobile used to pick up one or more NCRC students.

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

5. Clearly identifiable NCRC staff using walkie-talkies (or other communication technology) shall 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.

6. The applicant and ANC 3-C shall 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. 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 appropriated signage and pavement markings.

7. The applicant's staff shall warn violators of traffic regulations and shall request enforcement by the Metropolitan Police if violations persist.

8. The applicant shall 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, N.W.).

9. 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.

DECISION DATE: February 4,1 998

VOTE: **4-0** (Susan Morgan Hinton and Sheila Cross Reid to **APPROVE** the request to **REHEAR** the application; Betty King and Maybelle Taylor Bennett to approve by absentee vote).

DECISION DATE: May 6, 1998

VOTE: **3-0** (Betty King and Sheila Cross Reid to grant; Herbert M. Franklin to grant by absentee vote).

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: MAR - 3 1999

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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

16307ord/twr/ljp

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16307

As Interim Director of the Office of Zoning, I certify and attest that on MAR - 3 1999 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment 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

Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008

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

Attest/ljp

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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Washington, D.C. 20008

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

Attest/ljp

BZA

No.
BIT No. 41

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16307 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)].

HEARING DATE: January 21 and April 1, 1998
DECISION DATE: January 21, February 4 and May 6, 1998

SUMMARY ORDER UPON REHEARING

The 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.

For the January 21, 1998 hearing, the Board provided notice of 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 this 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. However, on, February 3, 1998, ANC 3C submitted a letter dated January 27, 1998 protesting the inadequate public notice in the application and requested that a new public hearing be held after proper notice has been given. The ANC noted that the notices were received very late due to the holiday season and new hearing would allow for a full discussion about parking and child drop-off and pick-up.

The Board considered the request at its public meeting of February 4, 1998 and granted the rehearing. The new hearing was held on April 1, 1998.

For the April 1, 1998 hearing, the Board provided proper and timely notice of 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.

BZA

No.
BLT No. 40

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 appearing as a party to this case testified in opposition to the application. 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 this application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for **EIGHT (8) YEARS.**

2. The applicant shall 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. 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 that change caregivers, and the applicant will further distribute the pamphlet at such other times to individual drivers if violations of the policy are noted by the monitors or neighbors.

3. The applicant shall clearly define the carpool waiting line on Highland Place and any carpool waiting line, and the location of its starting point shall 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. In this instance, "carpool" refers to any automobile used to pick up one or more NCRC students.

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

5. Clearly identifiable NCRC staff using walkie-talkies (or other communication technology) shall 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.

6. The applicant and ANC 3-C shall 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. 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 appropriated signage and pavement markings.

7. The applicant's staff shall warn violators of traffic regulations and shall request enforcement by the Metropolitan Police if violations persist.

8. The applicant shall 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, N.W.).

9. 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.

DECISION DATE: February 4,1 998

VOTE: **4-0** (Susan Morgan Hinton and Sheila Cross Reid to **APPROVE** the request to **REHEAR** the application; Betty King and Maybelle Taylor Bennett to approve by absentee vote).

DECISION DATE: May 6, 1998

VOTE: **3-0** (Betty King and Sheila Cross Reid to grant; Herbert M. Franklin to grant by absentee vote).

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: MAR - 3 1999

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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

16307ord/twr/ljp

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16307

As Interim Director of the Office of Zoning, I certify and attest that on MAR - 3 1999 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment 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

Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008

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

Attest/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

BZA

No.

IT No.

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

BZA
No.
BZA No.

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

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

BY E-MAIL AND
FIRST-CLASS MAIL DELIVERY

September 26, 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 want to follow up the ANC meeting on September 23 by providing copies of the pictures of Ordway Street that I displayed. First and foremost, however, I want to commend you and the other Commissioners on your dedication and professionalism. I was very impressed by the way the meeting was handled and the willingness to listen to and absorb the disparate views expressed concerning a difficult matter over a long evening. Each of you provide real service to the community.

The attached pictures are self explanatory, and demonstrate on-going adverse impacts related to NCRC traffic and parking congestion. Despite NCRC's statements that they have now implemented a traffic management plan, I have observed ongoing illegal parking and congestion that continues to date.

I also want to make a few observations that I believe may point the way to a beneficial resolution of this difficult matter:

1. NCRC tries to make the point that it has met with the members many times in an effort to address the "needs of the neighbors." But still here we are looking at a proposed doubling of the NCRC floor space, including a new 6200 square foot building along Ordway, and an increase in enrollment. The "needs of the neighbors" were captured in 1998 by NCRC's commitment to no new construction and no growth in enrollment. See ANC March 25, 1998 report to BZA (Attachment 3 to my September 19, 2002 letter). The "needs of the neighbors" are simply not addressed in any meaningful way by relatively minor tinkering with a huge expansion proposal that is ill-conceived in basic concept, inappropriate for the historic area and beyond the capacity of the neighborhood to absorb.

2. There is no question that the adverse impacts issues identified in 1998 have continued and gotten worse. See attached pictures and statements presented at the

September 23, 2002 ANC meeting. In 1998, the ANC intended to ensure that the adequacy of the conditions to the special exception would be reconsidered should the adverse impacts resume. The ANC and BZA surely did not intend that a reconsideration of the conditions and worsening adverse impacts could have the perverse result of a doubling of the size of NCRC, an increase in enrollment and staff and a further increase in the associated adverse impacts imposed on the neighborhood! See ANC April 29, 1998 letter to BZA (Attachment 5 to my September 19, 2002 letter).

3. I think the logic of the above clearly compels a rejection of NCRC's current expansion proposal. At the same time, I recognize that it may be difficult to just say no to NCRC without offering NCRC some encouragement that it will be able to address some if not all of its issues. In this regard, the neighbors have not "stonewalled" NCRC; we have been clear that we would be willing to discuss an alternative, less grandiose project that includes a cap on enrollment at an appropriate level not to exceed the current enrollment and reasonable improvements to the existing buildings as may be appropriate to serve that enrollment.

4. Where I think this leads is that while the NCRC expansion plan should not be recommended, there is the prospect of a plan that could receive sufficient neighbor support that it could be recommended. In fact, the plan could adopt elements of NCRC's current proposal, which is premised on NCRC's desire to take a few children out of existing classes to reduce class size. Such a plan could feature a modest reduction in enrollment equal to the number of children NCRC would move to new classes under its current expansion plan in order to reduce existing class size, but there would be no new classes formed and no additional enrollment to fill any new classes. The plan also could include reasonable improvements to NCRC's existing structures as may be appropriate to serve NCRC's reduced enrollment.

5. NCRC should recognize that such a plan would represent a very real compromise compared to the neighbors' reasonable alternative of insisting that NCRC must be held to its 1998 commitments and the conditions to its special exception. It would result in a total enrollment that is somewhat below the current reported enrollment of 171, but above the 1998 condition specifying that "[t]he maximum number of children shall not exceed 120". (See Attachment 1 to my September 19, 2002 letter). The compromise would thereby avoid a very costly controversy over whether this condition represents a cap on total enrollment, which I believe the BZA clearly intended, or a certificate of occupancy.[1] It also could include the

[1] It is my understanding that BZA does not issue certificates of occupancy. Further, as my September 19 letter addressed, BZA's zoning concerns regarding traffic and parking congestion are much more directly related to total enrollment than occupancy limitations. If BZA had intended to refer to occupancy, it easily could have done so by expressing the condition as "the

construction of reasonable improvements to NCRC's existing buildings as may be appropriate to serve NCRC's smaller enrollment, a compromise of NCRC's 1998 commitment of no new construction or change in its physical plant. (See Attachments 3 and 4 (p.10) to my September 19, 2002 letter).

The above-described process could result in a productive exercise that would benefit the neighborhood and NCRC, and conserve the resources of all concerned, including the regulatory and administrative bodies involved. The first step to such a resolution is that NCRC must understand that its current expansion plan cannot be recommended, and that ANC will recommend that it be denied if it is not withdrawn by NCRC. At some point in that process, NCRC hopefully will return to the drawing board to produce a plan that is more compatible with the neighborhood and more consistent with NCRC's 1998 commitments to the ANC and the neighborhood.

Very truly yours,

/s/ Steven R. Hunsicker

cc: John Welsh

Attachments

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maximum number of children and staff in occupancy at any time shall not exceed 120." That is how NCRC wants the condition to be interpreted, but that is not what the words say.



#1 VIEW OF NCRC OPEN SPACE FROM ORDWAY ST.

1. EXISTING ORDWAY STREETSCAPE--OPEN GREEN SPACE--WOULD BE REPLACED BY A MASSIVE INSTITUTIONAL STRUCTURE. ALL OPEN SPACE LOST FROM VIEW.
2. BECAUSE OF NARROW STREET, VEHICLES ALREADY PARK PARTIALLY ON NEIGHBOR YARDS (SEE DAMAGED TREE ROOTS), CAUSING DAMAGE TO NEIGHBORS' PROPERTY.
3. PLACEMENT OF CONES AT EDGES OF DRIVEWAY SHOWS VEHICLES ARE JAMMED INTO THE AVAILABLE SPACE--RESULTS IN DANGEROUS BLIND EXITS FROM DRIVEWAYS.



#2 VIEW OF 3220 ORDWAY ST, NEXTDOOR TO NCRC.

1. ALSO SHOWS DAMAGE TO NEIGHBORS YARD AND VIEWS THAT WOULD BE LOST ALONG ORDWAY STREETSCAPE.
2. MAMMOTH NEW BUILDING APPEARS TO BE APPROXIMATELY 3 TIMES THE SIZE OF NEXT DOOR HOME.
3. BIGGER SUVs TAKE UP MORE SPACE AND CAUSE MORE DAMAGE TO NEIGHBORS' PROPERTY.



#3 VEHICLES ILLEGALLY PARKED ALONG NORTH SIDE OF ORDWAY ST.

1. ILLEGALLY PARKED VEHICLES ARE COMMON.
2. INADEQUATE ROOM FOR LEGAL PARKING BETWEEN DRIVEWAYS; ILLEGAL PARKING CAUSES DANGEROUS BLIND SPOTS.
3. WHEN LARGE VEHICLES PARK ON BOTH SIDES OF THE STREET THERE IS NO ROOM FOR TWO-WAY TRAFFIC. DANGEROUS FOR PEDESTRIANS, MANY OF WHOM WALK IN THE STREET BECAUSE THERE IS NO SIDEWALK ON THE SOUTH SIDE OF ORDWAY, AND REPEATED INSTANCES OF DAMAGE TO PARKED CARS.



#4 PROPERTY DAMAGE CAUSED BY VEHICLE TURN-AROUNDS.

1. CONSTANT USE OF NEIGHBOR DRIVEWAYS FOR TURN-AROUNDS CAUSES DAMAGE. VEHICLES TEND TO ENTER FROM THE WEST, PARK AND DROP OFF CHILDREN, THEN TURN AROUND AND LEAVE BY THE SAME WAY THEY ARRIVED.
2. TURN-AROUNDS CAUSE FURTHER DANGEROUS CONGESTION.
3. DRIVEWAYS ALONG NORTH SIDE OF ORDWAY SLOPE DOWN TO BELOW STREET LEVELS; STREET PARKING UP TO AND BEYOND THE EDGE OF DRIVEWAYS CAUSES TOTALLY BLIND, DANGEROUS EXITS FOR NEIGHBORS TRYING TO USE THEIR DRIVEWAYS.