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STATEMENT OF EXISTING AND INTENDED USE AND STATEMENT OF SATISFACTION OF APPLICANT'S BURDEN OF PROOF FOR AREA VARIANCES

Application of Northwest Settlement House

March 2, 2004

This statement ("Statement") is of the existing and intended use of the proposed building by Northwest Settlement House ("Applicant") and an explanation as to the manner in which the application ("Application") meets the specific tests and burden of proof identified in the Zoning Regulations for the area variances described below. This Statement is submitted on behalf of the Applicant by its attorneys, Greenstein DeLorme & Luchs, P.C., by Jacques B. DePuy, Esquire and Lyle M. Blanchard, Esquire.

Summary of Application. The Application seeks area variances pursuant to the Zoning Regulations, 11 DCMR § 3103.2, from the maximum lot occupancy requirement under section 403.2, from the maximum number of individuals permitted in a child development center under section 330.5(d) and from the minimum parking requirements under section 2101.1.

Property Description; Existing Zoning. The property is located at 448 Ridge Street, N.W. (Square 513, Lots 825-828) ("Property" or "Site"). The current use of the Property is as a child development center. (See copy of certificate of occupancy in Exhibit "A".)

The property is bounded on the north by Ridge Street, N.W., on the west by a burned-out residential structure at 454 Ridge Street, N.W, on the east by a residential structure at 444 Ridge Street, N.W. and on the south by the adjoining rear lots of four residential structures located at 443, 447, 449 and 451 M Street, N.W.

The Site is zoned R-4 and is located in the Mount Vernon Square Historic District. Matter of right uses in the R-4 zone district include row dwellings, flats and other residential dwellings, churches, clinics, private clubs, fraternity and sorority houses, certain CBRFs, museums, child/elderly development centers and other uses.

The Historic Preservation Review Board ("HPRB") will review the Project in the next few months. HPRB's rejection of a "curb cut" is anticipated due to its publicly stated policy in opposition to curb cuts in Historic Districts.

Existing and Intended Use. The prior use of the Property was once an automobile impoundment lot. Later it became a playground. From 1961 until present Currently the site is used as a child development center by the Applicant.

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District of Columbia
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The current improvements to the Property consist of a one story child development facility and playground area. The current building occupies 25% of the lot and the remainder is a paved playground area which surrounds the building.

The Applicant intends to raze the existing building and construct a two-story child development center on the Site. The proposed building will have a footprint of approximately 5,300 square feet and will contain a large multi-purpose hallway area, five (5) classrooms, two (2) meeting rooms, five (5) small offices for teachers, a teachers lounge, director's office, small kitchen and a computer lab.

Statement of Satisfaction of Burden of Proof for Zoning Relief Sought. The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction therewith, (ii) the evidence to be presented at the public hearing and (iii) other evidence to be submitted subsequent hereto, it will satisfy and comply with the applicable legal standards and burdens of proof for the area variances requested. Specifically, the Application will satisfy the requirements of Section 3103.2 of the Zoning Regulations.

The Property is unique in that its shape has an unusually large frontage on Ridge Street (78.51 feet) particularly when compared to the smaller residential lots on the rest of the block. It is also unique in this residential neighborhood because of its long history of use for nonresidential purposes. The Property is also within the Mount Vernon Historic District, which requires consideration of the proposed plans by the Historic Preservation Review Board ("HPRB"). [The Applicant anticipates that the HPRB will deny a "curb cut" which will negate its ability to provide off-street parking. The Applicant also believes that HPRB will not approve a three-storey building at this site given the predominance of two-storey buildings in the block. Thus, it is not feasible to reduce the building "footprint" and the percentage of lot occupancy and, at the same time accommodate the neighborhood's strong need for a child development center of the size proposed by Applicant.] The Square is also served by a very small "T" shaped alley which does not adjoin the Property, thus making it "land-locked."

The maximum lot occupancy in the R-4 is forty (40%) percent for "all other structures" (§403) even though for row dwellings, flats, churches and public schools 60% lot occupancy is allowed. The Project provides a lot occupancy of 62%. As stated above, the lot occupancy cannot be reduced without causing the building to increase in height from two to three stories. Since HPRB will not permit such a building height, the Applicant cannot accommodate the strong neighborhood need for a large child development center without exceeding the forty percent (40%) maximum allowed lot coverage.

The existing cinder block building built in 1961 is antiquated, small and oddly-situated and thus unable to meet the operational and programmatic needs of a modern child development center. The proposed structure has been designed to meet the needs of the community and to ensure adequate facilities for accreditation by the National Association for the Education of Young Children). The open courtyard in the rear yard will serve as a playground area for the

students. The proposed child development center will accommodate 40 students, thus exceeding the restriction of sixteen students in a child development center in an R-4 District (§ 330.5(d)), because of the strong neighborhood need for this facility.

The center currently has nine (9) teachers and other staff. The proposed number of teachers and staff will be 12. The parking requirement cannot be met on site because it is anticipated the HPRB will not grant a curb cut and there is no rear alley or other access. There are no parking spaces located currently on the Property. Thus, the Applicant requests a variance from the three (3) parking spaces which would otherwise be required (at a ratio of one parking space per every four teachers and other employees.)

The Project will provide substantial benefits to the Shaw community by providing a pre-school and before-and-after-school facility which can accommodate a greater number of students than are currently accommodated at the site and in a severely underserved neighborhood. The Project is similar to a church or public school (including a charter school) in its mission and with respect to the size and type of improvements needed. Therefore, the Applicant submits that it should be evaluated on terms similar to those applicable to comparable institutional uses (i.e., a 60% lot occupancy as allowed for churches and schools, not the 40% standard for "all other structures").

In addition, the proposed development is consistent with the Comprehensive Plan Generalized Land Use Map designation for the Site of "Moderate Density residential Land Use Category". The Comprehensive Plan is not sufficiently detailed to raise specific issues about the needs in the Shaw area for educational facilities and programs, however, the Ward 2 Plan includes support for the following objectives (in italics) which "*promote health, environmental, and life-style conditions to strengthen the well-being of the ward's children and youth*" (§ 1322.1(b)) and "*strengthen Ward 2 libraries, schools and community learning centers*" (§ 1336.1(e)). The enlarged educational facility will allow Northwest Settlement House to enhance its 50 year presence in the Shaw neighborhood . The new facility will allow the Applicant to reach a larger number of children and youth with educational programs and maintain the neighborhood's diversity by providing an increased amount of affordable daycare, before-and-after-school and community programs.

In addition to the considerable public and community benefits of the proposal, the Applicant's Project -- and the requested variances -- will not create substantial adverse impacts or detrimental effects on the public. The number of students will have no adverse impact because of the need in the community for an expanded child development center. There is street parking in the surrounding neighborhood. There will be no traffic congestion generated by this use because many parents will walk their children to the facility. Ninety-five percent of the students come from the Shaw neighborhood. There will be no increase in noise that might disturb nearby neighbors because the facility will close at 8.00 p.m. There will be no glare of lights on adjacent properties. The new structure will enhance the community and it will be operated in a such a way as to minimize any negative impacts.

Conclusion. For the reasons set forth above, Northwest Settlement House, by and through counsel, submits that the Application has satisfied (and will satisfy) all applicable zoning requirements and the requisite burden of proof and, therefore, should be granted.

Respectfully submitted,

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