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Chairperson Frederick L. Hill
Board of Zoning Adjustment
441 4th Street NW, Suite 200S
Washington, D.C. 20001

BZA Case No. 21177 – 501 New York Avenue NW (Square 0482-S, Lot 800)

Re: Objection to the condition that individuals will never be released from 501 New York Ave NW

Chairperson Hill and Members of the Board:

As part of the application for the temporary relocation of the District's Central Cell Block (CCB) to 501 New York Avenue NW, the Department of Corrections has promised that: "there will be no detainees released from the CCB at 501 New York Avenue..."¹

The Public Defender Service objects to any limitation on individuals being released from 501 New York Ave NW.

The Public Defender Service for the District of Columbia (PDS) represents individuals who are charged with criminal offenses in D.C. Superior Court. PDS also represents individuals in the mental health system, youth in the District's juvenile system, and has a civil legal services practice related to this representation.

Nearly all PDS clients who are charged in criminal cases spend time at CCB. For years it has been known that CCB is vile and unsanitary and is a terrible place to spend even a few hours. In 2018, a group of pastors who spent six hours at CCB following their arrest for civil disobedience described that "roaches were walking all over that [metal shelf that served as a bed] as well as the ceilings and up the walls and on the floors."² Protesters who came through CCB in 2023 described insufferable heat and "despicable" conditions.³

¹ BZA record, Supplemental information statement of Applicant, October 16, 2024, exhibit 152. Available at: <https://app.dcoz.dc.gov/CaseReport/ViewExhibit.aspx?exhibitId=356775>.

² Matt Ackland, *You're spending the night killing roaches: Pastors detail poor conditions at DC Central Cell Block*, Fox 5 News, June 14, 2018. Available at: <https://www.fox5dc.com/news/youre-spending-the-night-killing-roaches-pastors-detail-poor-conditions-at-dc-central-cell-block>.

³ Anika Arora Seth, *Yale Alumna Testifies About "Inhumane" conditions at D.C. Central Cellblock*, Yale Daily News, March 7, 2023. Available at: <https://yaledailynews.com/blog/2023/03/07/yale-alumna-testifies-about-inhumane-conditions-of-d-c-central-cell-block/>.

A District resident died while at CCB in 2023.⁴ More than six years ago, now City Administrator Kevin Donahue conceded that CCB was in a building that needed a full-scale renovation.⁵

There is absolutely no question that if the District continues to detain people prior to their court hearings, it needs to do so at a location that does not violate their rights and that upholds constitutional and community standards for conditions of detention. The current CCB does not meet those standards. Therefore, if the District continues to detain people it must make a plan to renovate the existing CCB. Importantly, any renovation plan must respect the constitutional rights of people to be released. This current plan does not respect the right to be released from detention.

Under current practice, individuals who are arrested are brought to police districts around the city. They are then transported from police districts to CCB. In the mid-morning, individuals are transported from CCB to the United States Marshal's cell block inside the D.C. Superior Courthouse. The prosecuting authorities, the United States Attorney's Office and the Office of the Attorney General, review arrest paperwork and make charging decisions throughout this process. Prosecutors can review cases long before individuals are brought from CCB to the United States Marshal's cellblock in Superior Court. This is the case because the location of the individual has nothing to do with the prosecutor's decision about whether to charge them. Under current practice, when the prosecutor decides not to formally charge the arrested person, the individual can be released from wherever they are then being detained, whether that detention location is CCB or the United States Marshal's cellblock in Superior Court.

The Department of Corrections' zoning adjustment application forecloses release from CCB, thereby creating the risk that individuals will be held in confinement, despite a decision not to prosecute them. It also creates the risk that a decision not to prosecute will be needlessly but intentionally delayed so that people are not released from 501 New York Avenue NW but are instead transported to Superior Court, only to effectuate a release that could have and should have been done earlier.

People should be released as soon as a determination is made not to charge them. All across the District of Columbia, people are released from police districts when the police decide not to formally arrest them or when police decide to terminate an arrest with a citation⁶ or a post and forfeit procedure⁷. People are also released directly from the D.C. Jail when they are ordered to be released by the Court or when they finish serving a sentence.

Releasing people into neighborhoods, which seems to be a primary objection to this BZA application, is exactly what should happen. People should be released from detention as soon as possible. People who have been detained and who not only are presumed innocent, but were not

⁴ Colleen Grablick, Man Dies at D.C. Central Cellblock, DCist, October 24, 2023. Available at: <https://dcist.com/story/23/10/24/man-dies-dc-central-cell-block/>.

⁵ See footnote number 1.

⁶ Metropolitan Police Department, MPD General Orders, Citation and Release Program. Available at: <https://go.mpdconline.com/GO/3790000.pdf>

⁷ See D.C. Code § 5–335.01, enforcement of the post and forfeit procedure.

even charged with a criminal offense, should be allowed to return to their lives, families, and jobs as soon as possible. It seems to be lost in this discussion that the residents who would not be released into the neighborhood are people who have the right to access any public space and streets in the city. They are neighbors and residents, and if they will not be charged, they should be freed from New York Avenue, rather than being required to board a van, drive 10 blocks, and enter another building, only to be released from there. A process that prolongs detention for uncharged individuals subjects them to more traumatizing and humiliating physical restraints potentially including handcuffs, waist chains, and leg irons, and prolongs the time that they do not have adequate nutrition and prescription medication. Prolonging detention is an unacceptable “solution” to a problem that does not exist about people accessing neighborhoods that they have every right to access.

For individuals whose cases are papered and who will have to appear before a judge, moving CCB will require more time in transportation and will potentially create a greater burden on them. PDS is also concerned about these burdens and about the conditions that individuals will experience at CCB and during transport, but PDS will address those concerns with the Department of Corrections and others.

With respect to this BZA application, because PDS understands the need to renovate CCB in order to respect the dignity of the individuals who are required to pass through there, PDS simply objects to this application including a condition that would prohibit release of innocent and uncharged individuals from the temporary CCB site at 501 New York Ave. NW.

Sincerely,



Katerina Semyonova
Special Counsel to the Director for Policy and Legislation
Public Defender Service for the District of Columbia