

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17982 of House of Mercy, Inc., pursuant to 11 DCMR § 3104.1, for a special exception for a child development center (163 children, ages 6 weeks to 5 years, and 89 full and part-time staff) under section 205, in the R-4 District at premises 2000 Rosemont Avenue, N.W. (Square 2618, Lot 155¹).²

HEARING DATE: October 27, 2009

DECISION DATE: October 27, 2009 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 5)

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) 1D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1D, which is automatically a party to this application. ANC 1D filed a report dated September 15, 2009, recommending approval of the application. The ANC's report was filed on a timely basis and met the requirements of section 3115.1 of the Zoning Regulations. (Exhibit 24). The Office of Planning (OP) submitted a report in support of the application. (Exhibit 27). The District

¹ The lot previously was known as Lot 807.

² The Applicant amended the original application in which it had sought variance relief in addition to special exception relief. The request for variance relief was withdrawn as unnecessary, due to the Zoning Commission's adoption of ZC 08-16A, which amended the definition of "Child Development Center" to allow for the care of infants in child development centers. (Exhibit 18). The remaining relief that the application sought was to increase the number of students at the child development center by 16 and the number of staff by 4. The hours of operation of the child development center are from 8:00 a.m. to 6:00 p.m., Monday through Friday.

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Department of Transportation (DDOT) recommended conditional approval of the application.³ (Exhibit 26). The District's Child Care Licensing Unit in the Office of the State Superintendent of Education (OSSE) recommended approval of the application. (Exhibit 23).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 205. No parties appeared at the public hearing in opposition to this 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 and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 205, 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.

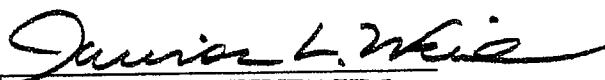
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: 3-0-2 (Meridith H. Moldenhauer, Shane L. Dettman, Marc D. Loud, to APPROVE. Two Board members not present, nor voting.)

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

The majority of the Board members approved the issuance of this order.

ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: NOV 5, 2009

³ DDOT recommended approval, but suggested that the Applicant provide more Transportation Demand Management measures to alleviate the Mt. Pleasant roadway network of vehicle trips.

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UNDER 11 DCMR 3125.9, "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 FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, STATUS AS A VICTIM OF AN INTRAFAMILY OFFENSE, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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As Director of the Office of Zoning, I hereby certify and attest that on NOV. 5, 2009, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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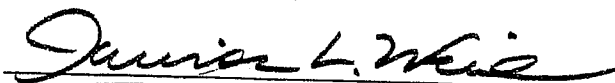
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ATTESTED BY:

A handwritten signature in dark ink, appearing to read "Jamison L. Weinbaum", written over a horizontal line.

JAMISON L. WEINBAUM
Director, Office of Zoning