GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16657 of Christian Praise Church, pursuant to 11 DCMR § 3104.1, for a special exception under section 205 to establish a child development center for 20 children (2.5 to 5 years old) and 5 children (5 to 8 years old) and 6 staff in an R-1-B District at premises 3626 Alabama Avenue, S.E. (Square 5668, Lot 34).

HEARING DATE: January 9, 2001

DECISION DATES: March 6, 2001; May 8, 2001; June 5, 2001; June 12, 2001

DECISION AND ORDER

Christian Praise Church filed an application with the Board of Zoning Adjustment on October 20, 2000, pursuant to 11 DCMR § 3104.1 for a special exception under 11 DCMR § 205 to allow the Power to Become Child-Care Center (PTBC) and its president, Minister Aaron M. Brooks, to use church annex property as a child development center. The subject property is located at 3626 Alabama Avenue, S.E., Square 5668, Lot 34, in an R-1-B Zone District. The application is accompanied by a letter from the Zoning Administrator dated August 8, 2000, certifying the need for the required relief. Christian Praise Church and PTBC are represented in these proceedings by the American University Washington College of Law, Community and Economic Development Law Clinic. After hearing, the Board granted the application for a term of two years, subject to conditions.

Preliminary and Procedural Matters

Notice of Application and Notice of Public Hearing. By memoranda dated October 27, 2000, the Office of Zoning advised the D.C. Office of Planning; the Departments of Public Works and Health; Advisory Neighborhood Commission (ANC) 7B, the ANC for the area within which the subject property is located; and the ANC commissioners for the affected single-member districts of the filing of the application.

The Board scheduled a public hearing on the application for January 9, 2001. Pursuant to 11 DCMR § 3113.13, the Office of Zoning mailed the applicant, the owners of all property within 200 feet of the subject property, and ANC 7B notice of hearing, dated November 30, 2000. Notice was also published in the *D.C. Register* on November 24, 2000, at 47 DCR 9331. The applicant's affidavit of posting indicates that on January 3, 2001, six days before the hearing, a zoning poster was placed on the front of the building on the subject lot, in plain view

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of the public. Pursuant to 11 DCMR § 3101.6, the Board waived the 15-day posting requirement of 11 DCMR § 3113.14 to proceed with the hearing, as the mailing and publication requirements of § 3113.13 had been met. The Office of Zoning had thus provided the public with adequate and timely notice of the hearing.

Request for Party Status. The Board granted Barbara B. Ashby party status pursuant to 11 DCMR § 3106.3 to participate in these proceedings as a party in opposition to the application, finding that Ms. Ashby, an adjacent property owner, would likely be more significantly impacted by any adverse conditions associated with the proposed child development center than other persons in the general public.

Applicant's Case. At the hearing, Minister Aaron M. Brooks, president of the Power To Become Child-Care Center (PTBC), described the proposed center operations. Christian Praise Church Pastor Jesse Andrus Jr. addressed traffic and parking concerns, as well as the neighbors' concerns regarding a previous child development center at the site. Following the hearing, PTBC submitted a memorandum and accompanying exhibits in response to the Board's request for additional information, addressing the community's need for additional child-care services, parking, drop-off and pickup procedures, grounds maintenance and landscaping, trash removal, and efforts to establish a working relationship with the immediate neighbors.

D.C. Office of Planning (OP) Report. After reviewing the application against the specific criteria of § 205 for child development centers and the general criteria of § 3104.1 for special exceptions, OP, in its report dated January 2, 2001, recommended that the application be granted. Maxine Brown Roberts presented the report at the hearing.

At the Board's request, OP submitted a supplemental report dated February 27, 2001, regarding traffic and parking conditions associated with the nearby Anne Beers Elementary School. After observing school traffic, OP concluded that the small increase in traffic that the center would generate would not adversely affect traffic conditions. OP did not observe any school-related parking along the alley to the rear of the subject property.

Department of Public Works (DPW) Report. DPW submitted a report dated December 12, 2000, concluding that the proposed child development center would have no significant impact on local traffic or parking. DPW recommended that the center exercise caution in transporting the children to and from the proposed off-site outdoor play area.

DPW submitted a second report dated January 8, 2001, concluding that the center would meet the parking space requirements of 11 DCMR § 2101 by providing two spaces for six teachers and staff. DPW reiterated that in its opinion the proposed use would not cause a large increase in traffic volume or negatively affect the neighboring property owners. Finally, DPW concluded that the applicant failed to meet the requirements of § 205.3 by not providing a detail showing the method of dropping off and picking up children. The applicant subsequently addressed drop-off and pickup procedures during the Board's hearing.

ANC Report. ANC 7B did not submit a report on this case.

Persons in Support of the Application. PTBC submitted a letter from the Anne Beers Elementary School Parent Teacher Association supporting PTBC's efforts to open a child development center. In addition, PTBC submitted survey responses from parents at Christian Praise Church and parents of elementary school children expressing an interest in using the center for child-care.

Parties and Persons in Opposition to the Application. Ms. Ashby described the traffic and parking problems in the immediate neighborhood resulting from the elementary school, as well as her experience with a previous child development center operated by Christian Praise Church. Ms. Ashby also submitted photographs of her property and of vehicles lined up in the alley waiting to pick up school children.

Sheila Milbourne identified seven child-care facilities in the surrounding area, and addressed adverse traffic and parking conditions associated with the elementary school. She indicated that District of Columbia traffic enforcement efforts have only yielded temporary relief. Ms. Milbourne identified yard clutter and rodents at the churchyard as another objectionable condition. She was also concerned that PTBC had not involved the immediate neighbors in its early planning stages. Ruby Person opposed the application on the grounds that it would be a commercial enterprise in a residential neighborhood. She was also concerned about the safe access to the off-site play area at the public library and whether patrons would drop children off on Alabama Avenue. Carrie Turner expressed concerns about neighborhood traffic, the size of the on-site play area, and alley traffic.

ANC 7B Chairman Roscoe Grant Jr. submitted a letter dated January 29, 2001, indicating that as an affected single-member district commissioner, he opposed the application for the reasons stated by the immediate neighbors of the proposed center.

Closing of the Record. The record closed at the conclusion of the hearing, with the exception of the following items specifically requested by the Board: A supplemental OP report on rush hour traffic in the vicinity of the proposed center; an ANC report, which was not submitted; and PTBC documentation regarding its marketing survey and any modifications of its proposed operations to address neighborhood and Board concerns.

Initial Decision Meeting. At its public meeting on March 6, 2001, the Board, voting 3 – 0 – 2, with two members not voting, not having heard the case, granted the application for a period of one-year, subject to conditions.

Exceptions Process. After the Board's decision meeting, the holdover term of Chairman Robert N. Sockwell, one of the members voting to grant the application, expired. Since a majority of the Board would not have personally heard the case at the time of the issuance of the Board's final Decision and Order, the Board, pursuant to the District of Columbia Administrative Procedure Act, D.C. Code § 1-1509(d) (1999), on May 8, 2001, determined to issue a Proposed Decision and Order, affording the parties the opportunity to submit written exceptions and argument concerning the Board's Proposed Decision and Order.

Final Decision Meeting. On May 24, 2001, the applicant submitted exceptions to the Proposed Decision and Order, requesting the Board to remove the one-year term from its final Decision and Order, but otherwise indicating agreement with the Proposed Decision and Order. The Board met on June 5, 2001, to review the applicant's exceptions, but was unable to reach a final decision on the question of the term. The Board met again on June 12, 2001, and voted 4 – 0 – 1 to approve the issuance of the Proposed Decision and Order as the final Decision and Order in this case, with a term of two years from the date of the issuance of the certificate of occupancy for the child care center.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The property that is the subject of this application, the Christian Praise Church annex, is located at 3626 Alabama Avenue, S.E., Square 5668, Lot 34, in an R-1-B District.

2. The property is developed with a two-story, brick, one-family detached dwelling, with a basement. It has a gross floor area of 5,668 square feet. There is a chain link fence at the rear of the property. There are three parking spaces outside of the fence, as well as a garage that is used by the church for storage purposes.

3. Christian Praise Church has owned the property for over ten years, using it from time-to-time for various children's activities, such as summer school and Sunday school. In recent years, the building has fallen into a state of disrepair and has had only limited use.

4. The property is located in a predominantly residential community. There are one-family detached dwellings to the north, south, and west.

5. There are a variety of uses to the east. Christian Praise Church, with a street address of 3628 Alabama Avenue, S.E., is located immediately adjacent to the subject property, at the corner of Alabama Avenue and 36th Place. Across 36th Place, at 3600 Alabama Avenue, is the Anne Beers Elementary School, a public school with approximately 600 students. Further east, at 3660 Alabama Avenue, is the Francis A. Gregory Regional Branch Library.

6. To the southeast, going towards Pennsylvania Avenue, is Fairfax Village, a residential community composed of two-story townhouse units and three-story apartment buildings.

7. Approximately 200 feet to the west of the subject property and across Alabama Avenue is St. Timothy Episcopal Church and Child Development Center.

8. At the rear of the property, there is a 16-foot wide public alley that connects 36th Street and 36th Place. The rear yard of a one-family dwelling that fronts on 36th Place, belonging to Barbara B. Ashby, the party in opposition, lies directly across the alley.

9. Ms. Ashby's private garage and garage apron, which provides three parking spaces, are located in her back yard, with the garage entrance and apron facing the public alley. There are other private garages along the alley, with driveways leading to the alley.

The Proposed Child Development Center Use

10. On November 29, 1999, Pastor Jesse Andrus Jr. of Christian Praise Church and Minister Aaron M. Brooks, president of the Power to Become Child-Care Center (PTBC), entered into an oral agreement that would allow Minister Brooks and PTBC to operate the PTBC child development center at the Christian Praise Church annex.

11. PTBC has a year-to-year lease with Christian Praise Church to use the subject property for the proposed center.

12. PTBC would use the basement, first, and second floors of the building for the center, along with the rear yard for a play area.

13. Since renting the property, PTBC has spent approximately $15,000 on improvements, including installation of a fire alarm system, new carpet, age-appropriate toilets, and window replacements.

14. Minister Brooks applied to become licensed as a child-care center in February 2000.

15. PTBC proposes to provide care for 20 children, age two and one-half to five years old, and five children, age five to eight years old.

16. There would be a total of six staff at the center, consisting of four licensed caregivers and two aides.

17. Along with providing care, the center would offer early education in basic reading, writing, and arithmetic skills; language skills; basic science; arts and crafts; biblical principles; cultural heritage; and physical education.

18. The center would operate Mondays through Thursdays from 6:00 a.m. to 7:00 p.m.; Fridays, 6:00 a.m. to 12:00 midnight; and Saturdays, from 8:00 a.m. to 12:00 midnight. The center would be closed on Sundays.

19. The weekday hours would accommodate preschool children for regular daycare and older children, most likely from Anne Beers Elementary School, for before and after-school care. The late weekend hours would serve patrons attending functions at the church or other late night activities.

20. The extended hours on Friday and Saturday night would only be available to patrons with children enrolled in the center for daily care. Minister Brooks anticipates that Friday night and Saturday enrollment would be less than full capacity.

21. Church members would have priority enrollment at the center, but the center would also serve the surrounding community. Minister Brooks expects that the majority of children enrolled in the center would be drawn from families with children attending Anne Beers Elementary School.

22. There is a general need for child-care in the area. While the elementary school provides academic and extracurricular programs for students before and after the school day, it does not provide before and after-school care. The Anne Beers Elementary School Parent Teacher Association president confirms there is a shortage of such care in the vicinity of the school. St. Timothy's Child Development Center, which provides before and after-school care for Anne Beers Elementary School children, and other child-care facilities in the area have waiting lists. PTBC would thus provide families in the area with much-needed services.

Applicable Code and Licensing Requirements

23. The Department of Health inspected the proposed center in June 2000 and approved it as a child-care center with a capacity of 30 children.

24. Prior to issuance of a certificate of occupancy, the Departments of Health and Consumer and Regulatory Affairs will conduct further reviews to determine compliance with applicable code and licensing requirements.

Traffic Conditions and Drop-Off and Pickup Operations

25. The front of the center faces Alabama Avenue, a busy four-lane highway.

26. PTBC would not use its Alabama Avenue entrance, nor allow patrons to drop-off and pick up children from Alabama Avenue.

27. The children would enter the center from the rear of the building. Minister Brooks anticipates that half of the PTBC patrons would walk their children to the center, while the other half would drop-off and pick up their children by vehicle.

28. Vehicular access to the center would be from 36th Place. Patrons would likely proceed up Branch Avenue, make a right turn onto U Street, which would bring them to 36th Place, and from there, turn into the adjacent churchyard for parking and drop-off and pickup operations.

29. Children would be dropped-off and picked up at the rear of the adjacent church building. A PTBC staff member would be present in the churchyard during drop-off and pickup operations to assist the children in getting out of and into the vehicles. A second staff person would be stationed in the center's rear yard to assist children in entering and exiting the building. Because the staff would be present to assist and escort the children, it would not be necessary for patrons to leave their vehicles unattended.

30. For the after-school care program, a PTBC staff member would escort the children from the school to the center. There is a traffic light at the intersection of 36th Place and Alabama Avenue. A school crossing guard monitors this intersection at the beginning and end of the school day.

31. Beginning the second year of operation, the center plans to offer pickup and drop-off services for children, with a maximum of two eight-passenger minivans. The drop-off and pickup operations for the van would take place in the churchyard, with the parking for the vans in two of the three parking spaces available behind the center.

32. The surrounding neighborhood is congested with vehicles three times a day, during the regular drop-off and pickup at the elementary school, as well as pickup that occurs when the after-school programs end at 6:30 p.m. Traffic is at its worst on 36th Place from 8:30 a.m. to 8:45 a.m. and from 3:15 p.m. to 3:40 p.m. According to Ms. Ashby, 36th Place and the public alley are blocked during those times by patrons waiting to drop-off or pick up school children.

33. The proposed center hours do not coincide with the elementary school hours. Therefore, the Board credits the OP and DPW reports which concluded that the small increase in traffic generated by the center would not adversely traffic conditions along 36th Place or in the neighborhood.

34. Minister Brooks intends to conduct an orientation for patrons. At the orientation, patrons would be given a handbook that would describe parking and drop-off and pickup procedures. In addition, Minister Brooks would provide patrons with a walking tour of the facility that would include pointing out private driveways and permissible and impermissible parking areas. PTBC would require each patron to enter into a "parking and civility" contract relating to parking and drop-off and pickup procedures.

35. PTBC would assign each patron a parking number and window sticker. This would allow staff and neighbors to identify center patrons and report any problems to PTBC.

36. PTBC would also host a mandatory monthly parent night, at which time center staff would remind patrons of parking and drop-off and pickup procedures and of their obligations under the parking and civility contract.

Off-Street Parking Spaces

37. PTBC would provide three parking spaces for staff at the rear of the property, outside of the chain link fence.

38. Christian Praise Church uses its yard for overflow parking for Sunday services. Members also park along 36th Place. The principal church services are on Sundays, with a portion of the congregation attending Bible Study on Wednesdays.

39. PTBC has obtained permission from Christian Praise Church to use the churchyard parking area when additional spaces are needed. This area can accommodate 15 to 20 cars. With 15 cars, there is no difficulty moving a car.

40. With the patrons dropping-off and picking up children at different times, it is unlikely that more than a few vehicles would be stopped or parked in the churchyard at any given time.

41. To eliminate any fire hazard from parked vehicles, Christian Praise Church and PTBC would not allow autumn leaves or other debris to accumulate on the ground. In addition, PTBC plans to pave the parking area.

42. The adjacent property owners experienced difficulty with the drop-off and pickup operations of a previous child-care center operated at the church annex. Some patrons would double park or park on the private driveways along the alley, and respond in a disrespectful manner when asked to move their vehicles.

43. Neither Minister Brooks nor PTBC operated the previous center. Pastor Andrus stated that he was not the pastor at the time the previous center was in operation.

44. OP staff visited the location of the proposed center on three weekdays to observe traffic movements and parking conditions during the peak elementary school hours. The staff did not observe any parking along the alley between 36th Street and 36th Place. OP recommended that to preclude parking along the alley, the applicant and the neighbors might want to investigate the possibility of placing "No Parking" signs at the entrance to the alley.

45. Pastor Andrus acknowledged that parents dropping off children at the elementary school park in front of the gate that provides access to the church's parking area, blocking church members from accessing or leaving the parking area during the Wednesday evening Bible Study program. With PTBC planning to use the churchyard for parking, Pastor Andrus indicated that he would work with the school principal to inform parents not to block the gate and to arrange for the towing of illegally parked vehicles.

46. PTBC would apply for and post "No Parking, Private Drive" and "Tow Away Zone" signs on the gate leading to the churchyard and the drop-off and pickup zone. Additional signs would be posted along the fence at the rear of the proposed center. All signs would comply with applicable District of Columbia regulations.

47. PTBC submitted a draft "parking and civility" contract form that would be executed by PTBC and its patrons. The contract calls for the patron to follow all the rules set out in the PTBC handbook, including drop-off and pickup procedures; to obey all parking and traffic laws while dropping off a child, including refraining from double parking or parking in front of any driveway in the neighborhood; to agree not to drop-off or pick up a child on Alabama Avenue; and to be courteous and respectful of the neighbors' rights. Any violation of the contract would be considered an "infraction," and two infractions would result in the expulsion of the child from the center.

48. Minister Brooks also plans to work with the school principal and ANC on neighborhood parking problems and traffic calming measures.

Impacts on Adjacent or Nearby Properties Due to Noise or Activity or Visual or Other Objectionable Conditions

49. The building that would house the center is located close to Alabama Avenue, leaving a large back yard for a play area.

50. The property is fenced on all sides, except the side adjacent to the church. There is a low brick wall that separates the area behind the proposed center, which would be used as a play area, from the churchyard, which would be used for drop-off and pickup operations and parking.

51. The play area would be across a public alley from the backyard and garage of an adjacent residence.

52. The play area would not be visually objectionable, as there would not be any large play equipment. Smaller equipment would be stored and taken out only at playtime.

53. Due to age differences, the children would not have outdoor play at the same time. PTBC would supervise the children while they are at play and therefore, any impact on the adjacent properties from noise or outdoor activities would be minimal.

Design, Screening, Planting, Parking Areas, Signs, and Other Requirements Necessary to Protect Adjacent and Nearby Property Owners

54. PTBC would not change the exterior appearance of the building, which would remain residential in character. Therefore, screening is not required to protect adjacent and nearby property owners.

55. PTBC does not propose to install a sign to advertise the center at this time, but may seek a sign permit in the future. OP recommends that any future sign be small, discreet, and not detract from the residential character of the neighborhood.

56. PTBC submitted a grounds maintenance proposal and contract from Wilkins Lawn & Maintenance Care that includes mowing, edging, mulching, fertilization of trees and shrubs, weed control, trimming shrubs, turf care, planting flowers and shrubs, and leaf removal. The landscapers will plant shrubbery and generally attend to the property to ensure that its condition conforms to the aesthetics and character of a residential neighborhood.

57. Christian Praise Church maintains three 40-gallon trash receptacles. These receptacles are large enough to meet the needs of the church and the proposed center. To prevent rodent infestation, they have heavy lids and are placed on a raised wooden grate.

58. PTBC submitted a letter from UNEEDA Disposal and Recycling Service, Inc., regarding contract trash collection services to be performed twice a week, to include seven trash cans and pick up of loose debris at the collection site.

Off-Site Play Areas

59. The Francis A. Gregory Regional Branch Library, with outdoor playground equipment, is located along Alabama Avenue, approximately 500 feet from the proposed center. PTBC has coordinated with the library officials concerning use of the outdoor play area and equipment. To access the library, PTBC staff would escort the children across the 36th Place crosswalk, and then along the sidewalk to the library.

60. Crossing 36th Place would not endanger the children, as it is a short, southbound one-way street that primarily serves eight homes and the elementary school. The children are scheduled to go to the library near the middle of the day when the school is in session and traffic is at a minimum. The Board finds therefore that the short walk would not endanger the children.

Cumulative Impacts from More than One Child/Elderly Development Center in a Square or Within 1000 Feet of Another Center

61. The St. Timothy Child Development Center, with an enrollment of 88 children age 6 months to 12 years old, is located approximately 200 feet from the proposed center at the intersection of Alabama Avenue and Suitland Road. It is on the opposite side of Alabama Avenue from the proposed PTBC center.

62. St. Timothy's, whose school age program consists mainly of Anne Beers Elementary School students, has limited capacity. It operates from 6:30 a.m. to 6:00 p.m. Most of the children attending St. Timothy's are dropped off and picked up at the Suitland Road entrance. Since neither center would have drop-off and pickup operations along Alabama Avenue, the combined operations of the two centers would not be likely to have an adverse traffic impact. Further, given their respective locations and different hours of operation, the cumulative impact of the two centers would not likely adversely affect the neighborhood due to noise, operations, or other similar factors.

Harmony with the Zoning Regulations and Map

63. As stated in 11 DCMR § 200.1, the R-1 District is designed to protect quiet residential areas developed with one-family detached dwellings and adjoining vacant areas likely to be developed with such dwellings.

64. The zoning regulations applicable to the R-1 Districts are "intended to stabilize the residential areas and promote a suitable environment for family life." 11 DCMR § 200.2. As a result, "only a few additional and compatible uses shall be permitted." *Id.* Child development

centers are allowed in an R-1-B District pursuant to § 205 as a special exception if approved by the Board.

65. According to OP, the proposed center would be an asset, as it would provide a needed service to families residing in the community. The church annex, which is in a state of disrepair, would be occupied and become a functioning building. OP, in recommending approval of the center in its January 2, 2001, report, states that "Although this child-care center is another institutional use in the community, its location, small size, and hours of operation will not negatively impact this quiet community."

Impacts on Neighboring Property

66. The Board's findings with respect to the impacts of the proposed center on the neighboring properties are set forth above in Findings of Fact Nos. 32 - 62 and will not be repeated here.

67. Minister Brooks plans to provide the neighbors with contact information so that they can get in touch with him immediately if they have any concerns about center operations.

68. Minister Brooks, with the assistance of Pastor Andrus and Christian Praise Church, has also resolved to organize seasonal gatherings for community members, at which times Minister Brooks would be available to address community concerns about the center.

69. In light of the fact that Christian Praise Church operated a previous child development center at the subject property which caused adverse impacts on the neighbors along the public alley at the rear of the center due to parking and drop-off and pickup operations, the Board has determined that this approval should be limited to a term of two years from the date of issuance of the certificate of occupancy for the proposed center. The neighborhood is already impacted by other nonresidential uses. Given the number of conditions under which the proposed center must operate to avoid adversely affecting adjacent and nearby properties, the Board finds that it is appropriate to limit the term of this special exception to two years. The two-year term will afford Christian Praise Church and PTBC the opportunity to carry through on the commitments they have made with respect to parking, drop-off and pickup procedures, trash removal, and grounds maintenance and landscaping and to demonstrate that the center would not adversely affect the neighboring properties.

CONCLUSIONS OF LAW AND OPINION

The Board is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Code § 5-424(g)(2) (1994)), to grant special exceptions as provided in the Zoning Regulations. Christian Praise Church is seeking a special exception pursuant to 11 DCMR § 3104.1 to use the subject property as a child development center in accordance with § 205. The notice requirements of 11 DCMR § 3113 for a public hearing on the

application have been met; and the Office of Zoning has provided OP and the Departments of Public Works and Health with a copy of the application as required by § 205.9.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zone district, provided that the specific regulatory requirements for the requested special exception are met. The Board's discretion in reviewing an application for a child development center is thus limited to the determination of whether the applicant has met the requirements of 11 DCMR §§ 205 and 3104.1. If the applicant meets the burden of proof, the Board must ordinarily grant the application. *See The Washington Ethical Soc'y v. District of Columbia Bd. of Zoning Adjustment*, 421 A.2d 14, 18 (D.C. 1980).

In addition, the Board is required under D.C. Code § 5-412.4 to give "great weight" to OP recommendations. The Board has carefully considered OP's reports and, as explained in this decision, finds its recommendation to grant the application persuasive. The Board is also required under D.C. Code § 1-261(d) to give the affected ANC's recommendations "great weight." ANC 7B did not make a recommendation in this case. The Board is therefore unaware of any specific issues or concerns that ANC 7B may have had with respect to this application and unable to afford ANC 7B the great weight to which it is entitled.

The Specific Requirements of 11 DCMR § 205

First, based upon the Department of Health's preliminary review of the proposed center, the Board concludes that the proposed center is capable of meeting all applicable code and licensing requirements. The Departments of Health and Consumer and Regulatory Affairs will continue to review the proposed center as part of the licensing and permitting process for compliance with applicable code and licensing requirements.

Second, the center is located and designed so as to create no objectionable traffic conditions and no unsafe condition for the dropping off and picking up children. Approximately half of the patrons are expected to walk their children to the center. The center would thus generate a relatively small amount of traffic, with patrons travelling along 36th Place to access the churchyard parking area for drop-off and pickup operations and any required parking. Center staff would escort the children into and from the center.

Third, the center would provide sufficient off-street parking to meet the reasonable needs of teachers, staff, and visitors. The center would provide three parking spaces at the rear of the center for staff parking, plus additional parking in the adjacent churchyard parking area. The Board concludes that this amount of parking, which exceeds the requirements of the parking schedule in 11 DCMR § 2101.1, is sufficient to meet the center's needs. PTBC's plans relating to improvement of the churchyard parking area, signage, coordination with the elementary school as to parking warnings and towing, the parking and civility contract, and the patron handbook, orientation, facility tours, and monthly reminders would prevent any adverse parking impacts, including parking along the alley or on private driveways.

Fourth, the Board concludes that the center, including the outdoor play area provided, is located and designed so that there would be no objectionable impacts on adjacent or nearby properties due to noise or activity or visual or other objectionable conditions. The rear yard, which would serve as the on-site play area, is separated from the adjacent neighbor's rear yard and garage by a 16-foot wide public alley. Moreover, only a portion of the children would be outdoors at any given time, and they would be under supervision at all times.

Fifth, PTBC would provide landscaping and grounds maintenance, trash removal, and small, discreet "no parking" and "towing" signs conforming to District of Columbia requirements. Any future signage advertising the center would also be small and discreet, as requested by OP. Christian Praise Church and PTBC also plan to conduct neighborhood outreach activities and to work more closely with the elementary school to address parking and traffic issues of mutual concern.

Sixth, the Board concludes that the proposed off-site play area at the public library is located so as not to result in endangerment to the children at the center or travelling from the center to the library. The library is close to the center and can be safely accessed from the traffic-signal controlled intersection at 36th Place and Alabama Avenue, along the crosswalk and sidewalk. PTBC, which has coordinated with library staff regarding use of the play area, would escort the children to the play area during the least busy times of the day.

Finally, the Board concludes that the cumulative impact of St. Timothy's Child Development Center and the PTBC Center would not adversely affect the neighborhood. St. Timothy's is located across Alabama Avenue from the proposed center, with drop-off and pickup operations taking place along the Suitland Road side of the center. Given the location of the two centers relative to each other and their different hours of operation, it is unlikely that the cumulative impact of the two centers would adversely affect the neighborhood due to traffic, noise, operations, or other similar factors.

The General Requirements of 11 DCMR § 3104.1

The Board concludes that the proposed special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map. A child development center is permitted in an R-1-B District as a special exception. The proposed center, as conditioned by the Board, would not adversely affect neighboring property and otherwise meets the specific requirements of the regulations for child development centers. Moreover, it would further the purposes of the residential districts expressed in 11 DCMR § 200.2 by providing families attending Christian Praise Church and families with children enrolled in the adjacent elementary school with needed child-care services, thereby promoting "a suitable environment for family life."

Finally, as determined in connection with the specific requirements of § 205, the Board concludes that as conditioned in this order, the proposed center would not adversely affect the use of neighboring property.

For the reasons stated above, the Board concludes that the applicant has met its burden of proof. It is hereby **ORDERED** that the application is **GRANTED,** subject to the following conditions:

1. This approval shall be valid for a period of two year from the date of issuance of the certificate of occupancy for the child development center;

2. The center may enroll up to 30 children;

3. There shall be no more than 25 children present at the center at any one time, no more than 20 of whom may be age 2.5 to 5 years old and no more than 5 of whom may be age 5 to 8 years old;

4. The number of teachers and staff shall not exceed six;

5. The center may operate within the following hours: Monday through Thursday, 6:00 a.m. to 7:00 p.m.; Friday, 6:00 a.m. to midnight; and Saturday, 8:00 a.m. to midnight;

6. The center teachers and staff shall escort the children to and from off-site play areas;

7. The applicant shall use its best efforts to prevent and mitigate any adverse traffic and parking impacts on the adjacent residences, including:

    a. The applicant shall provide three parking spaces at the rear of the center for use by center staff and vehicles;

    b. The applicant shall make its churchyard parking area available for use by the center for parking and drop-off and pickup operations;

    c. The applicant shall apply for "No Parking, Private Driveway" and "Tow Away Zone" signs, to be posted at the entrance to the churchyard parking area;

    d. The applicant shall post additional "No Parking" signs along the fence at the rear of the subject property;

    e. The applicant may not use the public alley at the rear of the center or its Alabama Avenue entrance for drop-off and pickup operations;

    f. The center shall provide all patrons with a handbook containing information and instructions regarding parking and drop-off and pickup procedures; and shall advise its patrons of such procedures as part of its orientation program, facilities tour, and monthly meetings; and

g. The applicant shall require all center patrons to enter into a parking and civility contract, substantially in accordance with the form and contents of the draft contract attached as Exhibit 8 to the Applicant's Memorandum in Support of Christian Praise Church's Application for a Special Exception (hereafter "the Applicant's Memorandum"), BZA Exhibit 36, prior to or at the time of enrolling a child at the center;

8. The applicant shall provide for trash removal for the center at least twice a week or as appropriate, substantially in accordance with the UNEEDA Disposal Service, Inc., proposal, attached as Exhibit 18 to the Applicant's Memorandum, BZA Exhibit 36; and

9. The applicant shall provide for landscaping and grounds maintenance for the center, substantially in accordance with the "Grounds Maintenance Proposal and Contract" attached as Exhibit 11 to the Applicant's Memorandum, BZA Exhibit 36.

Motion to amend the Main Motion (to approve the application for a term of five years, subject to conditions) to provide for a term of two years:

VOTE: 4 – 1 - 0 (Carol J. Mitten, Anne M. Renshaw, Geoffrey H. Griffis, Susan Morgan Hinton, to provide for a term of two years subject to conditions; Sheila Cross Reid, opposing the two year term).

Main Motion, as amended, to approve the application for a term of two years, subject to conditions.

FINAL VOTE: 4 – 0 – 1 (Susan Morgan Hinton, Anne M. Renshaw, Geoffrey H. Griffis, and Carol J. Mitten, to approve the application for two years, subject to conditions; Sheila Cross Reid, abstaining).

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

Each concurring member has approved the issuance of this Decision and Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 15 2001

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME EFFECTIVE UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS CONTAINED IN THIS ORDER, IN WHOLE OR PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER AND MAY RESULT IN THE IMPOSITION OF FINES AND PENALTIES PURSUANT TO THE CIVIL INFRACTIONS ACT, D.C. CODE §§ 6-2701 TO 6-2723 (1995 & SUPP. 1999).

THE APPLICANT SHALL COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, CODIFIED AS CHAPTER 25 IN TITLE 1 OF THE D.C. CODE. *SEE* D.C. CODE § 1-2531 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16657

As Director of the Office of Zoning, I hereby certify and attest that on JUN 15 2001, a copy of the foregoing BZA Order No. 16657 was mailed first class, postage prepaid or sent by inter-agency mail, to each party and public agency who appeared and participated in the public hearing and who are listed below:

Minister Aaron M. Brooks
1621 28th St., S.E., Apt. 1
Washington, D.C. 20020

Pastor Jesse Andrus Jr.
Christian Praise Church
3628 Alabama Avenue, S.E.
Washington, D.C. 20020

Susan Bennett
Stefanie Birbrower
Rachel Coyne
Washington College of Law
Office of Clinical Programs
4801 Massachusetts Ave., N.W.
Washington, D.C. 20016

Barbara B. Ashby
2145 36th Place, S.E.
Washington, D.C. 20020

Roscoe Grant Jr., Chairperson
Advisory Neighborhood Commission 7B
Ryland Methodist Church
3200 S Street, S.E.
Washington, D.C. 20020

BZA APPLICATION NO. 16657

Honorable Kevin P. Chavous
Councilmember, Ward 7
Council of the District of Columbia
441 – 4th Street, N.W., Room 705
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Building and Land Regulation Administration
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ATTESTED BY: Jerrily R. Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning