GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** Andrew Altman, Director

**DATE:** March 6, 2001

**SUBJECT:** BZA Application No. 16676 (Application of Washington Hebrew Congregation for a Special Exception in the 1300 block of Missouri Avenue, N.W. – Square 802, Lot 2792)

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## I. APPLICATION-IN-BRIEF

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|---|---|
| Applicant: | Washington Hebrew Congregation |
| Relief Sought: | Special Exception for the Construction of 13 Row-Houses (with 27 off-street parking spaces) in an R-5-A Zone |
| From Section: | 11 DCMR Sec. 353.1 |
| Zoning: | R-5-A |
| Regulations Require: | Review by BZA of all new residential developments other than single-family detached and semi-detached |
| Relief South Under: | Section 3104.1 |
| Applicant Justification: | None provided as of March 2, 2001. Pre-Hearing Statement not yet filed. |

BZA
Case No. 16676
Exhibit No. 29

## II. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning (OP), the applicant and other parties have worked closely on this case. Significant improvements have been made to the design. These have satisfied all concerns except one: the response of the Department of Public Works concerning left turns into the proposed project. Therefore, OP RECOMMENDS THE APPLICATION BE APPROVED, CONDITIONED ON THE APPLICANT'S AGGREEING TO PAY FOR THE STRIPING OF A PROTECTED LEFT TURN LANE FROM EASTBOUND MISSOURI AVENUE INTO THE PROPOSED DEVELOPMENT, SHOULD DPW FIND THIS ADVISABLE.

Board of Zoning Adjustment
District of Columbia
CASE NO.16676
EXHIBIT NO.29

## III. SITE AND AREA DESCRIPTION *(See Attachments 1,2 and 3)*

Square 802, Lot 2792 is located in Ward 4 in Northwest Washington, just west of the intersection of Missouri and Georgia Avenues. It is bounded by:

- West: National Park Service Property (NPS) on approach to Ft. Stevens
- North: Rock Creek Ford Road
- East: Walk-up apartments at 13th Street and Missouri Avenue
- South: Missouri Avenue and Lot 803

The parcel is an approximately 270 ft. by 130 ft. rectangle adjacent to part of the National Park Service's Ft. Circle linear park. Lot 803, a roughly 60 ft. by 90 ft. property at the southeast corner of the rectangle, is in different ownership and is not part of the parcel proposed for development. Both Lot 802 and the parkland were formerly owned by the ancestors of the family that still owns the frame house on Lot 803.

The parcel is vacant, generally overgrown land with a drainage swail running in a north-south direction, and several mature trees on the western edge. Its only previous improvement seems to have been as part of the yard or farmland for the frame house in Lot 803. This house was relocated from a few yards to the west in the first third of the last century, when the federal government was assembling land for the Fort Circle Park complex.

The site's surroundings are residential and open space. The parkland on the west is a grassy field, bordered by Missouri Avenue, a school the NPS wishes to develop as a visitors' facility, a residential street and quadraplex housing, and a thin edge of trees and trash. Rock Creek Ford Road, which becomes Peabody Street, interrupts the linear park on the north. Rock Creek Ford Road is minimally improved, to somewhat "country road" standards. There are abandoned vehicles at the road's edge.

The garden apartments and walk-up apartments to the north and east of the site are adequately maintained and occupied by lower-middle class tenants. The apartments on the south side of Missouri appear to be somewhat better maintained than those on the north side.

The project site is in Ward 4. The commercial areas along Georgia Avenue are only two blocks away. However, the site is also only two blocks from the limited access-portion of Military Road, and has easy access to the neighborhoods west of Rock Creek Park.

## IV. AREA ZONING AND HISTORIC DISTRICTS *(See Attachment 4)*

The site is zoned R-5-A, as is the general area for many blocks around. The Georgia Avenue commercial strip, 2 blocks away, is the exception. It is zoned C-3-A and C-2-A.

There are no historic districts nearby. Ft. Stevens is approximately 3 blocks to the north. It is on the National Register of Historic Places. The owners of the frame house on Lot 803 have inquired about securing local historic designation, but have not filed an application.

## V. PROJECT DESCRIPTION *(See Attachment 5)*

The applicant is the Washington Hebrew Congregation. It was bequeathed this property by a deceased congregant and wishes to develop it, sell it, and use the proceeds for the synagogue and the works of the congregation. The developer contracted by the Congregation proposed to construct 13 new townhouses with 27 off-street parking spaces. The houses would be clustered into three groups of 4 and 5 units. Two groups would face west onto the NPS property. They would be separated by a two-row, 12-space parking area. The third group of houses would also face west, and would have a view of the park from across the 12-space parking area. There would be a two-row, 13-space parking area to the north of the eastern group of houses. A north/south driveway would provide access to the parking areas. The curb cut for this driveway already exists and would be widened to meet Department of Public Works standards.

The houses would each have a back yard facing east. The ground floor level would be finished-out for easy conversion to in-law or rental units. The three sides of the property facing the park, Missouri Avenue and Rock Creek Ford road would have decorative iron fencing. The existing chain link fence would be retained on the eastern edge. A sidewalk behind the iron fence along the western edge would provide access to the front doors of 9 units, and would also help to provide a clear line a separation between the parkland and the private development. There would be sidewalks along the Missouri Avenue frontage, and along both the back yards of the westernmost houses, and the front yards of the easternmost houses.

The western parking area would be screened by 3'-5' evergreen plantings. Indian Hawthorns would be planted behind the northern fence line of the eastern parking area. Ten-foot high Leland Cypresses would be planted along the property line nearest the existing frame house and behind the two houses nearest Missouri Avenue, in order to screen the new development from the existing house.

The Office of Planning has worked closely with the National Park Service and the project developer to achieve the design described above. OP's and NPS' dual objectives were to work with the developer's initial design, help refine it to promote a somewhat more urban

feel to the project, and to prevent derogation of the park through a clearer demarcation between public and private space.

## VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN *(See Attachment 6)*

The District of Columbia Generalized Land Use Map designates the Square for Medium Density Housing. This is the case for approximately 3 blocks bordering the Ft. Circle Park on the north and south side of Missouri Avenue. The predominant land use designation on the north side of Missouri Avenue is moderate density residential; on the south of Missouri Avenue the predominant designation is low density residential.

The provision of new housing at this site is entirely consistent with objectives of the Ward 4 element of the Comprehensive Plan. Section 1508.1 (c) explicitly encourages the private sector:

> *to provide new housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives.*

The site is vacant. The development would displace no one, and would bring new homeowners to the ward. The possibility of conversion of the first floors to rental units may help to make the housing somewhat more affordable.

## VII. REQUESTED ZONING RELIEF

Pursuant to Section 3104.1, the applicant is requesting a Special Exception under Section 353 to construct a new residential development that is not one-family detached or semi-detached dwellings, in an R-5-A zone. This section of the regulations was first adopted in the late 1950's to ensure that larger-scale developments on vacant land did not overly burden:

- the existing school system (Sec. 353.2's requirement for referral by BZA to the Board of Education);
- streets, parks and other services (Sec. 353.3's requirement for referral by BZA to the Department of Public Works [DPW] and the Department of Housing and Community Development [DHCD]);
- and general site environment and planning context (Sec. 353.4's requirement for referral to OP).

As the District became virtually built-out, some of the rationale for this section may have weakened, but the regulations remain in effect, and have been a useful tool for existing residents to protect the character of their communities.

Although the application has not included reference to Section 410 of the Zoning Regulations, the proposed project is also governed by its requirements. These requirements are very particular:

- Section 410.2 requires simultaneous erection of all buildings in a group;
- Section 410.3 requires all front entrances to abut a street, front yard, or front court;
- Section 410.4 prohibits rear or service entrances from abutting a street, front yard, or front court, unless the entrances are below the "main floor";
- Section 410.6 links property subdivision to BZA determination of:
    1. Adequate free access to the street from each dwellings or groups of dwellings;
    2. Adequate access for fire protection and other purposes (e.g., solid waste pick-up);
    3. Adequate yards, courts, light, and air for each dwelling or group of dwellings;
- Section 410.7 specifies how dwelling heights shall be measured;
- Section 410.8 specifies that no more than four dwellings' front entrances shall face onto an abutting street;
- Section 410.9 states that all front entrances shall abut a street, front yard, or front court, but then allows a front entrance to abut a side yard if all the entrances of the structure are located at least as far from the adjacent street as the front entrances that actually abut a street, front yard or front court;
- Section 410.10 is essentially the same as Section 410.4, in not allowing rear or service entrances to abut a street, front yard, or front court unless the entrance is below the main floor;
- Section 410.11 places specifications on exterior stairways that are not relevant to this project, which has no exterior stairways.

If these requirements are met, a group of one-family dwellings may be considered as a single building for the purposes of the title. This has important ramifications at the building permit stage.

## VIII. AUTHORITY TO GRANT THE SPECIAL EXCEPTION

Under Section 3104.1, the Board may grant a special exception for row houses in an R-5-A district if:

- The special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and

- It will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and,
- Is subject to the conditions specified in sections
  - 350.4 (c)
  - 353
  - 401.3
  - 410.1 through 410.7.

The minimum 30-day occupancy requirement of Section 350.4 (c) is not relevant, since it applies only to apartment houses.

The requirements of Section 353 were outlined above.

Section 401.3 allows the Board to set the minimum lot area and minimum lot width.

The requirements of Section 410.1 through 410.7 (as well as Section 410.8 – 410.11) were outlined above.

## IX. DOES THE APPLICATION MEET THE SPECIAL EXCEPTION TESTS?

With respect to Section 353, the Office of Zoning referred the application to the appropriate agencies:

> The record contained no statement from the Board of Education as to whether the proposed development would impose a burden on the existing school system. OP's opinion is that 13 townhouses, possibly with some later conversions of first floors into rental units, would not burden the nearby schools. However, this is not OP's determination to make.
>
> The referral to the Department of Public Works (DPW) is important to this application. Missouri Avenue is a major east-west corridor. At this location it is very close to the limited-access portion of Military Road that traverses Rock Creek Park. Vehicular speeds are typically higher than on similar District arterials. It is important that the development not impede the free-flow of traffic. OP has recommended the applicant and DPW consider whether the developer should offer to pay for the striping of a protected turn aisle, should DPW find such a turn lane advisable. This would be intended to allow eastbound Missouri Avenue traffic to turn into the proposed development without impeding through-traffic. The applicant has indicated that DPW had no problems with the development from the standpoint of traffic, and that DPW has not stated a need for a protected left turn lane. However, the Office of Planning has not received confirmation of this DPW position.

The Department of Housing and Community Development registered no objection to the project in its response.

With respect to the Section 353.4's referral to OP for comments on the general site environment and planning context, the development is not in conflict with the Comprehensive Plan. For specific environmental considerations the Office of Planning has worked closely with the National Park Service, because the land is adjacent to NPS property. NPS is satisfied that the grading, drainage and stormwater retention plans are satisfactory. The developer will also have to abide by the usual agreements with NPS with respect to construction-related damage to or need for replacement of trees on adjacent NPS land. OP is of the same opinion as the NPS on these matters. OP is somewhat troubled that approximately a half dozen mature trees on private land will be cut down for the development. However, we are satisfied that the developer has considered several site plan variations to save as many trees as possible, and that it is ultimately more important to address the NPS's concerns about how the development will appear from the park, and to meet the requirements of the zoning regulations, than it is to save the trees on the western edge. NPS has not taken a written position on the project, but it has decided not to oppose it.

With respect to Section 410:

- The buildings will be erected at the same time;
- Once the lots have been subdivided as proposed, all front entrances will abut a street, front yard or front court, as shown in the units new addresses of record;
- No rear or service entrances will abut a street, front yard, or front court;
- OP is of the opinion that:
    - There will be adequate free access to the street (Missouri Avenue) from each of the dwellings;
    - The development will meet the standards that are designed to ensure adequate access for fire protection and other purposes'
    - With the proposed addresses of record and the present design, there will be adequate yards, courts, light and air for each dwelling;
- At three stories, the height of the buildings is not an issue in this R-5-A zone, which permits 40 feet.
- Because the groups of buildings may be considered as an individual building by the Board for the purposes of this type of development in an R-5-A zone [as long as all other tests are met], there will be no more than four front entrances abutting a street;
- While the developer is considering some of his front entrances to abut a side yard, this is permissible under Section 410.9 because these entrances are located at least as far from the street of record as the front entrances that a lay

person would consider front entrances abutting a street, front yard or front court;
- No rear entrances abut a street, front yard, or front court;
- There are no exterior stairways, so Section 410.11 is not relevant.

In short, the Office of Planning is of the opinion that the proposal seems to meet almost all of the tests of Section 410 and Section 353. The single substantive issue remaining to be resolved is the possible need for a turn lane for east-bound Missouri Avenue traffic.

The question of adverse effect on the use of neighboring properties has been raised by the owners of the frame house on Lot 803. They have questioned whether the proposed development intruded across Lot 803's property line. This concern was borne out by neither the District of Columbia surveyor's office, nor by certified professional surveyors. The adjacent property owners' other concerns are understandable, as the land being developed was once part of their family landholdings, and such larger-scale land ownership by African-Americans was not typical of the post-Civil War period. Since the proposed development's initial site plan proposal, the developer has moved the location of proposed buildings farther away from the existing structure on Lot 803, and has introduced additional screening into the landscaping plans. The developer has also offered to pay for certain exterior repairs and rehabilitation to the frame structure. (The last offer would benefit both the developer's marketing of the proposed townhouses, and the owners of the existing frame house).

There is no question that the proposed development would change the character of the surroundings of the house on Lot 803. It would not do so, however, by adversely affecting the use of the neighboring properties, within the context of the Zoning Regulations or the Zoning Map. To some extent, the development would improve the neighboring property's surroundings, by ridding the site of trash and the remnants of a recent temporary encampment, and would encourage the NPS to remove the debris currently on a portion of its property.

## III. COMMUNITY COMMENTS

ANC 4 A has reviewed the proposal once, and, at the time this report was written, was slated to vote on its recommendation at its March 6 meeting.

As of March 2, the only opposition of which OP was aware was from the owners of the frame house on Lot 803.

## X. OTHER AGENCY COMMENTS

The regulations governing the referrals for this type of development are anomalous, in specifying that the BZA shall refer the proposal to other agencies for comments. As of

the time of this report's being written, only the Department of Housing of Community Development had provided formal agency comments. These expressed no problem with the proposal. However, OP feels that a formal comment and resolution of a possible agreement with DPW, is important.

## XI. OP SUMMARY RECOMMENDATION

We recommend that the APPLICATION BE APPROVED, CONDITIONED ON the applicant's agreeing to pay for the striping of a left-turn lane from eastbound Missouri Avenue into the development, should the Department of Public Works find this to be advisable. OP requests that the record be left open for one month, for possible additional filings by the applicant, the Office of Planning, and other District agencies – especially the Department of Public Works.

Attachments (6)

AA/slc

# VICINITY MAP

Attachment 1

←N



Attachment 2


N



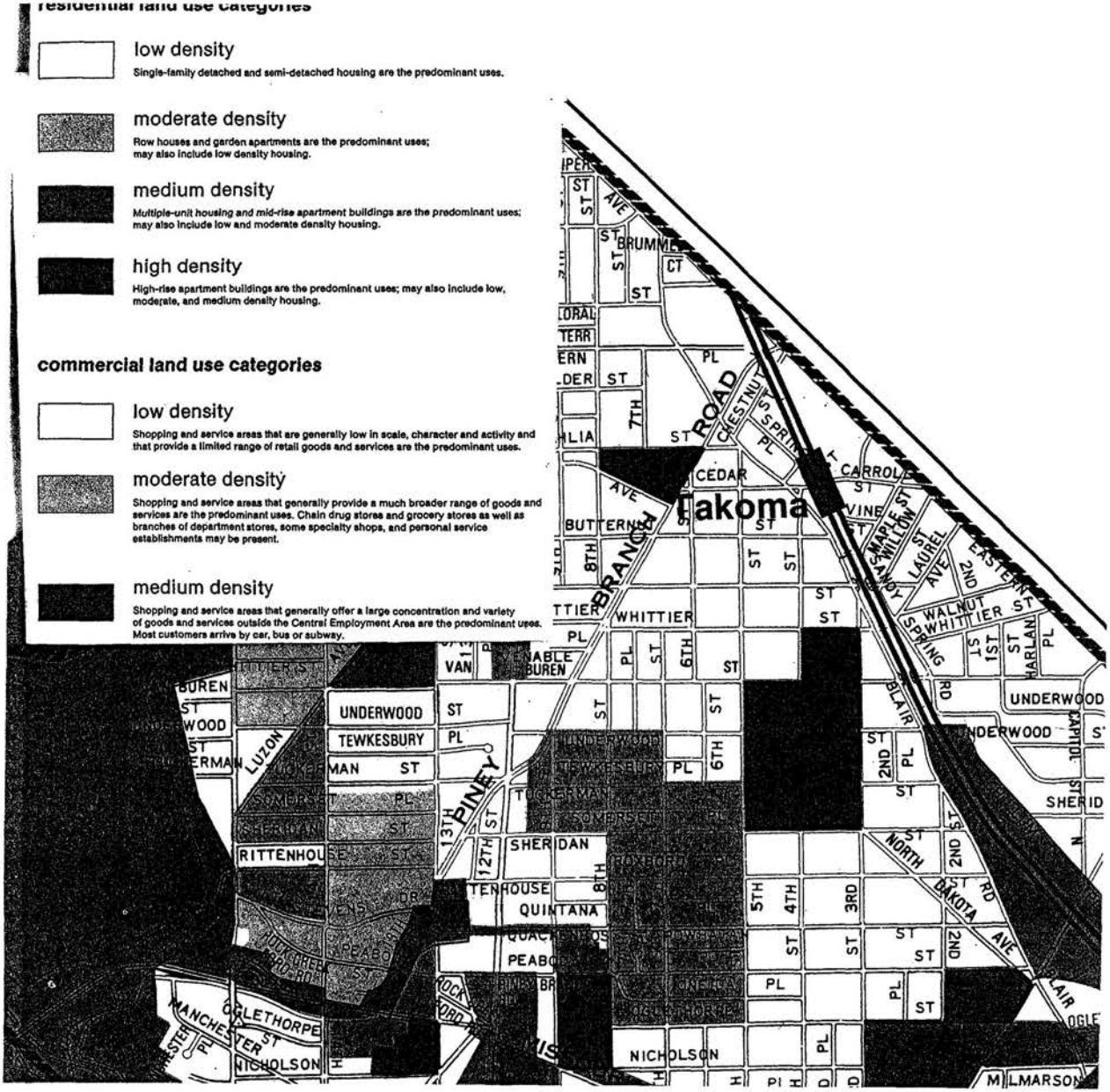

Attachment 4

PARK AREA
U.S. RES. 499
87/537




Attachment 5

N




Attachment 6