GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

★ ★ ★

RECEIVED
D.C. OFFICE OF ZONING
2002 MAR -4 PM 4:00

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE February 12, 2002

SUBJECT: BZA Application 16844
4201 Albemarle Street, N.W.– St. Columba's Episcopal Church

APPLICATION
The applicant is seeking a modification of a previously approved special exception, BZA #16098. The applicant requests a change in the conditions that specify the type of classes and programs outlined in Condition 3 of the BZA Order. The request does not seek to modify the general operating hours. The Condition 3 reads as follows:

3. The hours of operation shall not exceed 8:00 a.m. to 4.00 p.m., Monday through Friday. The center shall conduct classes for children between 9:00 a.m. and 12.00 p.m. An extended day program may be conducted until 2:30 p.m.

The applicant requests that the condition be modified as follows:

3. The hours of operation shall not exceed 8:00 a.m. to 4.00 p.m., Monday through Friday.

SUMMARY RECOMMENDATION
Office of Planning **recommends approval** of the modification.

SITE AND AREA DESCRIPTION
Reference: Office of Planning's Report, March 13, 1996. (Attached)

PROJECT DESCRIPTION
The applicant is seeking relief from specifics of Condition 3, BZA Order #16098, dated March 20, 1996 outlining the hours of operation, times classes are held and the closing time for the extended day program, including:

"[T]he center shall conduct classes for children between 9:00 a.m. and 12:00 p.m. An extended day program may be conducted until 2:30 p.m."

The church is requesting modification of this section of the condition to allow flexibility in the development of its program structure. This is in response to the immediate

BZA
Case No. 16844
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO.16844
EXHIBIT NO.26

community's increased requests for enrollment of their children in St. Columba's programs, specifically supporting an afternoon classroom session, and thus not limiting the afternoon to daycare.

ZONING REQUIREMENTS

The site is zoned R-1-B. A child development center is a permitted use in this District if approved by the Board of Zoning Adjustment. Approved BZA applications may be modified pursuant to Section 3129.7 of the Zoning Regulations that states …

> ***Approval of requests for modification of approved plans shall be limited to* minor modifications that do not change the material facts the Board relied upon in approving the application.**

ANALYSIS

St. Columba's Episcopal Church operates a child development center in the American University Park neighborhood for children aged three to five. Previously approved special exceptions have allowed the church to operate in its current format since 1966. Currently, the church is operating under the latest BZA approval dated March 20, 1996, subject to the following conditions (Attachment 1):

1. Approval shall be for a period of 10 years.
2. The number of children shall not exceed 90. The number of staff shall not exceed 16, with no more than 14 teachers on site at any one time.
3. The hours of operation shall not exceed 8:00 a.m. to 4:00 p.m., Monday through Friday. The center shall conduct classes for children between 9:00 am and 12:00 p.m. An extended day program may be conducted until 2:30 p.m.
4. At least four parking spaces shall be reserved for the school's use at all times.
5. The children shall be escorted into the building by a staff member when they are dropped off.
6. All outdoor activities shall take place under staff supervision.
7. The applicant shall establish and maintain a storm water drainage system, in accordance with Exhibit No. 25 of the record.

The Office of Planning's report dated March 13, 1996 (Attachment 2), recommended approval subject to conditions, including condition 3 that states:

> "The hours and days of operation shall not exceed 8:00 a.m. to 4:00 p.m., Monday through Friday."

This condition was included based on the facts presented to OP in 1996 regarding program/class structure and hours of operation that existed at that time. OP based its condition on the wider hours of operation and did not specify the times when particular classes started or ended. Currently, approximately one-half of the children are in school from 9:00 a.m. to noon, with the remainder in an extended day program until 2:30 p.m., three days a week. The community is now supporting an afternoon classroom session, not limited to day-care, that can be accommodated if the center were granted more flexibility within its conditioned hours of operation. The daycare currently operates in conformance with the remaining six (6) conditions. The number of students enrolled will not exceed the maximum (90), and new staff will not be hired beyond the required sixteen (16)

members. The applicant is not requesting a change in the overall hours of operation (not to exceed 4:00 p.m.). In addition, no adverse traffic impacts are predicted with this request.

COMMUNITY COMMENTS
ANC 3E supports the request to modify the original BZA Order #16098.

CONCLUSION
The church has operated the child development center for 42 years. The Office of Planning does not anticipate any negative impacts if the center is allowed the flexibility of its programs within the stated hours of operation and in conformance with the other conditions in the previous BZA Order #16098. This flexibility will allow the applicant to accommodate the current demands of the local community for an afternoon session that is not limited to day-care.

It is OP's opinion that the school has operated in harmony with the general intent of the Zoning Regulations and Map. The Office of Planning is satisfied that modification of the previous order will not change the material facts upon which the Board made its earlier decisions by allowing the child development center to operate between 8:00 a.m. to 4:00 p.m. OP therefore **recommends approval** by the Board of Zoning Adjustment to the applicant's request to amend the condition # 3 as follows:

3. **"The hours of operation shall not exceed 8:00 a.m. to 4:00 p.m., Monday through Friday."**

ATTACHMENTS
1. Board of Zoning Adjustment, Summary Order, Application #16098, March 20, 1996.
2. Office of Planning Report, Application # 16098, March 13, 1996.

ATTACHMENT 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16098 of the Vestry of St. Columba's Episcopal Church, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 205 to continue to operate a child development center of 90 children ages three to four years and 16 staff on the first floor in an R-1-B District at premises 4201 Albemarle Street, N.W. [Square 1677, Lot 7 (800)].

HEARING DATE: March 20, 1996
DECISION DATE: March 20, 1996 (Bench Decision)

SUMMARY ORDER

The applicant amended the application by increasing the number of staff from 14 to 16. The application was heard under the provisions of 11 DCMR 205 as a child development center and not as a private school under 11 DCMR 206.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 3E and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3E. ANC 3E, which is automatically a party to the application, submitted a written statement of issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 205. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and 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. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of 10 years.

2. The number of children shall not exceed 90. The number of staff shall not exceed 16 with no more than fourteen teachers on site at any one time.

3. The hours of operation shall not exceed 8:00 a.m. to 4:00 p.m., Monday through Friday. The center shall conduct classes for children between 9:00 a.m. and 12:00 p.m. An extended day program may be conducted until 2:30 p.m.

4. At least four parking spaces shall be reserved for the school's use at all times.

5. The children shall be escorted into the building by a staff member when they are dropped off.

6. All outdoor activities shall take place under staff supervision.

7. The applicant shall establish and maintain a storm water drainage system in accordance with Exhibit No. 25 of the record.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 4-0 (Jerrily R. Kress, Susan Morgan Hinton, Sheila Cross Reid and Angel F. Clarens to grant; Laura M. Richards not present, not voting).

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

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: MAY 2 1996

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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 BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16098/RCL/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16098

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 2 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Cynthia A. Giordano, Esquire
Arter and Hadden
1801 K Street, N.W., Suite 400K
Washington, D.C. 20006-1301

Vestry of St. Columbia's Episcopal Church
4201 Albemarle Street, N.W.
Washington, D.C. 20016

Paul Strauss, Chairperson
Advisory Neighborhood Commission 3E
P.O. Box 9953
Friendship Station
Washington, D.C. 20016

Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

DATE: MAY 2 1996

ATTACHMENT 2

Government of the District of Columbia

Office of the
Director

Office of Planning
415 12th Street, N.W.,
Washington, D.C. 20004

MAR 13 1996

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Jill C. Dennis
Director

Beverley A. Bailey BAB
Community Planner

SUBJECT: BZA Application No. 16098

OFFICE OF ZONING
DISTRICT OF COLUMBIA
'96 MAR 13 P5:27

APPLICATION

Application of the Vestry of St. Columba's Episcopal Church, pursuant to 11 DCMR 3108.1, for a special exception under Section 205 to continue to operate a child development center of 90 children ages three to four years and a staff of 14 or, in the alternative, a special exception under Section 206 to continue as a private nursery school of 90 children ages three to four years and a staff of 14 on the first floor in an R-1-B District at premises 4201 Albemarle Street, N.W. [Square 1677, Lot 7 (800)].

NOTE: Three to five year old children attend the school. In addition, 16 persons, full and part-time, are employed at the site.

SUMMARY RECOMMENDATION

The Office of Planning recommends conditional approval of this application for a child development center.

APPLICANT'S PROPOSAL

The applicant is proposing to continue to operate the St. Columba's Nursery School at the site. The day care center has been in operation since 1959.

BZA
CASE No. 16098
EXHIBIT No. 21

3/13/96

SITE AND AREA DESCRIPTION

The site is located in the Ward 3 neighborhood of American University Park at 4201 Albemarle Street, N.W. The boundaries of the subject Square 1677 are Butterworth Place to the north, Albemarle Street to the south, 43rd Street to the west, and 42nd Street to the east.

The square-shaped site contains 1.7 acres, or 73,928 square feet of land area, and is located on a hilly slope. The site is a corner lot fronting on 42nd and Albemarle streets and Butterworth Place (see attached map for location). The property is developed with a building that occupies approximately one-third of the site. The existing structure appears to have been constructed in three phases, beginning in 1926. In 1989, a wing was added to the building and the number of children attending the center increased from 60 to 90. The portion of the building that houses the center has three stories and is U-shaped. The child development center occupies 10,230 square feet on the first floor of the U-shaped building. The building's upper two floors are used for other church-related activities.

Parking for 24 vehicles is located on the north side of the property (adjacent to Butterworth Place). The parking spaces are not specifically reserved for the day care center. However, during the daytime hours when the day care center is in operation, there are limited activities in the other portions of the building. It appears that sufficient on-site parking is available for use by the day care staff.

The American University Park neighborhood is primarily a low-density residential community. However, the area closest to the site contains a mix of land uses that include rowhouses, high-rise apartment buildings, and institutional and commercial uses. The neighborhood's major commercial corridor is Wisconsin Avenue which is located one block to the east of the site. Woodrow Wilson Senior High School, Alice Deal Junior High School, and Janney and Murch elementary schools are local public facilities that are located nearby. The Tenleytown Metrorail Station is located at Wisconsin Avenue and Albemarle Street, one block to the east of St. Columba's Episcopal Church.

EXISTING ZONING AND RELIEF REQUESTED

The site is zoned R-1-B. The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of 40 percent, and a maximum height of 3 stories/40 feet. A child development center is a permitted use in the R-1-B District if approved by the Board of Zoning Adjustment.

ANALYSIS

Project Description

The school is under the auspices of the St. Columba's Church with school policy being set by a Board of Governors. As such, the school and church are integral parts of the community. Most of the children attending the nursery school live in the neighborhood. However, other children have access to the school, including those with physical disabilities. For many of the children, the pre-school is their first experience away from home on an extended basis.

The St. Columba's Nursery School has 16 staff positions (14 part-time and 2 full-time). The director and administrative assistant are full-time positions. The school has two levels and each level houses approximately 50 percent of the children. The children are in school Monday through Friday between the hours of 9 a.m. and 2:15 p.m.; however, the staff hours are from 8 a.m. to 4 p.m. Approximately one-half of the children are in school from 9 a.m. to noon. The remainder are in an extended day program, until 2:15 p.m., three days a week.

The Board of Zoning Adjustment approved the applicant's request in 1959 to establish a pre-school at the site. BZA Order No. 5557 established the school for 60 children. Subsequently, the Board approved Application No. 14941 in 1989 for 90 children and the continued operation of the school for five years (see attached copy). The last BZA Order expired on August 7, 1994; the applicant applied to renew the application in 1995. The applicant does not currently have a valid Certificate of Occupancy.

Special Exception Requested

The special exception requested in this case must comply with the provisions of Section 205 of 11 DCMR. The application's compliance or noncompliance with those provisions is discussed below, preceded by the applicable subsection number.

205 CHILD DEVELOPMENT CENTERS (R-1)

205.1 Board of Zoning Adjustment Review

The Board of Zoning Adjustment has the authority to approve the use of the site as a child development center for 90 children if the application meets the requirements of the Zoning Regulations.

205.2 Code and Licensing Requirements

The St. Columba's Nursery School is a licensed child care facility as identified on the February 1996 list of city-wide licensed child care facilities published by the Department of Consumer and Regulatory Affairs (DCRA). A copy of the applicant's current license from the DCRA was not submitted into the record.

205.3 Objectionable and Unsafe Traffic Conditions

Based on the Office of Planning's site visit, the area surrounding the site is heavily used by vehicular and pedestrian traffic during the rush-hour. The intersection of Albemarle and 42nd streets is particularly busy when children are arriving for school. Janney Elementary School is located diagonally across from the site. There is significant activity occurring at the intersection. Further, the Iona House Senior Center is currently under construction across the street from the site. It is anticipated that the senior center will generate some vehicular traffic upon completion.

To the east, less than one-half block away, is the commercially-zoned area of Wisconsin Avenue and Albemarle Street. This area is heavily travelled. For example, the old Sears Roebuck and Company building is currently being remodeled to be used by the Hechinger company. A Fresh Fields supermarket recently located in the area. The Tenleytown Metrorail Station is also located at the intersection. Although most of the commuter and commercial traffic in the area use Wisconsin Avenue, some traffic filters into the residential neighborhood.

The applicant has taken measures to ameliorate traffic to and from the site. Parents do not park when they arrive at the site to drop off their children. Instead, they pull up to the curb on Albemarle Street, or they drive into the parking lot on Butterworth Place, and an employee escorts the children into the building. The applicant refers to this concept as "split" drop-off. Vehicular access to the parking lot is from Butterworth Place only.

205.4 Off-street Parking

The Zoning Regulations require one parking space for each four teachers and other employees. The applicant is required to provide four parking spaces; however, the parking lot can accommodate 24 vehicles. The application meets and surpasses the requirements of the Regulations.

All of the parking spaces that exist at the site are needed for the following reasons: (1) the site is located in the midst of a low-density residential neighborhood; (2) all-day parking is restricted on streets that surround the nursery school; (3) the church has on-going activities during the daytime, in addition to the child care facility; and (4) the nearby commercial businesses generate a demand for short-term parking.

205.5 Adverse Impacts

The Office of Planning is aware that a water run-off problem exists at the site. However, this office was informed that discussions between the Advisory Neighborhood Commission and the applicant are underway to resolve the problem. The Office of Planning is not aware of other outstanding issues that may create adverse impacts on the community.

205.6 Special Treatment

Properties that are developed with single-family detached houses abut the site to the west and south, adjacent to the school's playground. The applicant has screened the portion of the site that abuts the residential properties with a privacy fence and landscaping. The screening that currently exists appears to be adequate.

As noted above, the applicant informed the Office of Planning that water run-off has been a problem at the site. Attempts have been made to resolve the problem with the installation of a berm and an underground drainage

system. However, there still appears to be unresolved issues concerning the water run-off. Prior to completion of this report, the Board's files did not contain any documentation on this matter. It is therefore not possible for the Office of Planning to adequately assess the situation.

205.7 Play Area

A large playground that contains a variety of equipment is located on the site. The playground is an important part of the school's program because of its philosophy about teaching young children. Therefore, the playground is used continuously, particularly in good weather.

When children play they make noise. However, the noise that is generated by the children should not be disruptive to the neighborhood. The children do not play on the playground late in the afternoon or early in the morning. The school is closed on weekends when most families are at home. The school has been at the site for 36 years. For these reasons, the Office of Planning does not believe that the noise generated by the children is disruptive to the adjacent residential area.

205.8 Cumulative Impact

The applicant indicated that there is no other child development center in the square, or within 1,000 feet of the site. Accordingly, the application meets this requirement of the Zoning Regulations. An elementary school is, however, located close to the site. The nursery school's impact on the neighborhood should be considered in context with all of the uses that are located close to the site. See the Objectionable and Unsafe Traffic Conditions section of this report.

205.9 and 205.10 - Referrals to District Government Agencies

This application was referred to the Office of Planning and other District government agencies for review and impact assessment.

AGENCY REFERRALS AND COMMENTS

The Office of Planning referred this application to the following District government agencies for review and comment:

1. Department of Public Works;
2. Department of Fire and Emergency Medical Services; and,
3. Metropolitan Police Department.

The comments of the above-identified government agencies were not available to the Office of Planning prior to completion of this report.

COMMUNITY COMMENTS

The site is located within the jurisdictional boundaries of Avisory Naighborhood Commission (ANC) 3E. The Office of Planning was unable to determine the ANC's position on this case at the time this report was prepared.

RECOMMENDATION

The church has operated a nursery school at the site for 36 years. Based on the record in this case, congestion around the site, screening and water runoff problems are issues that previously arose. However, the applicant has attempted to resolve the issues by working with individual property owners and through the ANC. The Office of Planning is not aware of current major unresolved issues associated with the nursery school. It is the Office of Planning's opinion that the school has operated in harmony with the general purpose and intent of the Zoning Regulations and Map. Therefore, based on the foregoing discussion, the Office of Planning recommends approval of this application with the following conditions:

1. Approval shall be for a period of five years.

2. The number of children shall not exceed 90. The number of staff shall not exceed 16.

3. The hours and days of operation shall not exceed 8 a.m. to 4 p.m., Monday through Friday.

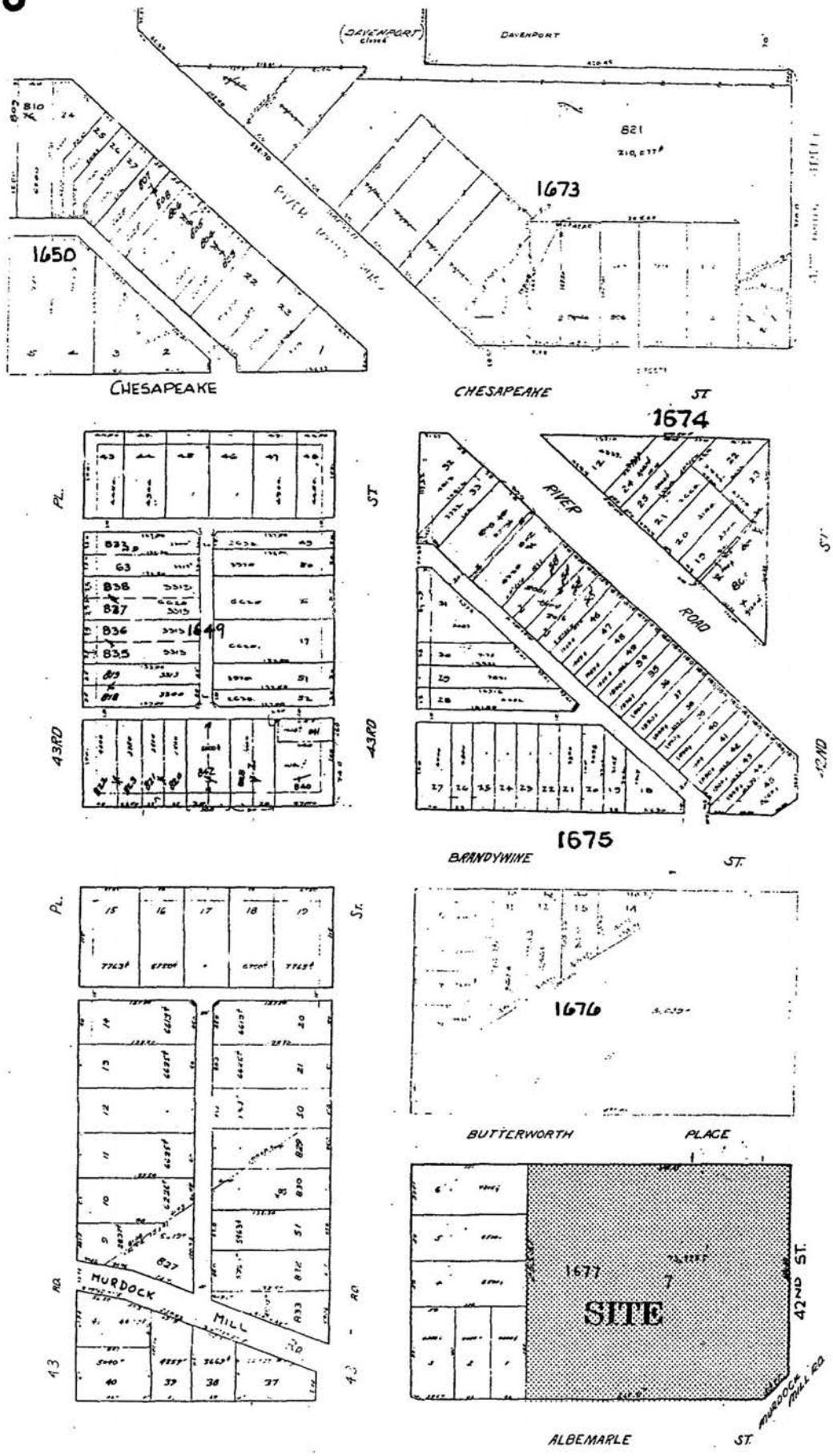
4. At least four parking spaces shall be reserved for the school's use at all times.

5. The children shall be escorted into the building by a staff member when they are dropped off.

6. All outdoor activities shall take place under staff supervision.

Attachments

820


(DAVENPORT)
DAVENPORT
821
1673
1650
CHESAPEAKE
CHESAPEAKE ST
1674
RIVER ROAD
1649
43RD
42ND
1675
BRANDYWINE ST.
1676
BUTTERWORTH PLACE
MURDOCK MILL RD
1677
SITE
42ND ST.
ALBEMARLE ST.

No. B 157599

BLRA-17
(Rev. 6/86)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

CERTIFICATE OF OCCUPANCY

September 15, 1989
(date)

Permission is hereby granted to SAINT COLUMBA'S EPISCOPAL CHURCH
to use suite(s) _____ on the FIRST floor(s)
of the building located on lot(s) 800 square 1677
known as premises 4201 Albemarle Street, N.W. for the following
purpose(s) Child Development Center: 90 children ages 3 & 4 yrs. & 14 staff
Not sexually oriented [su]

BZA #: _____ EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE R-1-B FEE $ 30.67

Donald G. Murray, Director
By _____
Designee

86—P-3601 wd112

OFFICE COPY

No. B 158059

BLRA-17
(Rev. 6/86)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

CERTIFICATE OF OCCUPANCY

January 4, 1990
(date)

Permission is hereby granted to SAINT COLUMBA'S EPISOOPAL CHURCH
to use suite(s) _____ on the second & third floor(s)
of the building located on lot(s) 800 square 1677
known as premises 4201 Albemarle Street, N.W. for the following
purpose(s) Church - Accessory Uses (Meeting Rooms)
Not sexually oriented. [su]

BZA #: 14941 EXPIRATION DATE: 8/1/94

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE R-1-B FEE $ 66.72

Donald G. Murray, Director
By _____
Designee

86—P-3601 wd112

OFFICE COPY

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14941 of St. Columba's Episcopal Church, pursuant to 11 DCMR 3108.1 for a special exception under Section 205 to expand an existing child development center from 60 to 90 children of pre-school age and a staff of 4 in an R-1-B District at premises 4201 Albemarle Street, N.W., (Square 1677, Lot 800).

HEARING DATE: February 15, 1989
DECISION DATE: March 1, 1989

FINDINGS OF FACT:

1. The subject property is located on the north side of Albemarle Street, N.W. and is known as premises 4201 Albemarle Street, N.W. It is located in an R-1-B District. The property is bounded by Butterworth Place to the north, 43rd Street to the west and 42nd Street to the east.

2. The lot area is 73,928 square feet. The average lot width is 278.18 feet. The lot is improved with a large church structure which was built in 1928. The church creates a lot occupancy of only 28 percent of the 60 percent allowed. There is a rear yard of 102 feet and the side yards measure 47.67 feet and 36.5 feet.

3. The R-1-B District in which the subject site is located extends south and west of the site. The R-1-B District also extends to the north of the site one block, to Brandywine Street, N.W. Farther north are R-2 and R-4 Districts. To the east of the site, there is an R-5-A District, as well as a C-3-A District which runs along Wisconsin Avenue and extends westward along the north side of Albemarle Street to 42nd Street. There is a small C-1 District just northeast of the site.

4. Large, detached single-family homes make up the predominant land use characteristic in this area. Other uses in close proximity to the subject area include the Friendship Terrace Apartments for Senior Citizens and the Iona House Senior Service Center. Restricted residential parking is in effect in the area.

5. The structure on the site, St. Columba's Episcopal Church, is a community church serving the surrounding neighborhood, which includes both the District of Columbia and Maryland. St. Columba's provides a variety of services

to the community including making its building available to community groups for a wide variety of activities, special fellowship programs for the elderly, and various outreach programs for the disadvantaged.

6. St. Columba's operates a nursery school designed to serve the surrounding neighborhood and parish, pursuant to BZA Order No. 5557. The nursery school currently has 30 children who are three years of age and 30 children who are four years of age, for a total of 60 children. It operates according to the requirements of the District of Columbia Department of Consumer and Regulatory Affairs. The nursery school has been serving neighborhood children for 30 years, in part because of its development theory, which is to provide a positive attitude for the growth of each individual child at his or her own pace. The emphasis is on the whole child, including physical, social, emotional, cognitive and linguistic development. The nursery school also reserves space for children with special needs, such as children who are physically or mentally handicapped. These children are "mainstreamed" in a setting in which they can learn and grow at their normal pace in the presence of their peer group.

7. St. Columba's Nursery School has experienced an exceptionally high demand for the available spaces over the last several years. This indicates that there is substantial need for additional space, especially in this neighborhood. Many of the children are from families where both parents work, which requires that the children be cared for in this type of center. To accommodate this demand, St. Columba's proposes to expand its nursery school enrollment from 60 to 90 students, and to increase the number of staff from 10 to 14. The proposed increase in staff (which includes two administrators) makes 12 staff members available for 90 children, creating a ratio of two staff members per 15 children. This expansion will allow a new class of 15 children aged three years old and new class of 15 children aged four years old.

8. St. Columba's Episcopal Church started construction several months ago on a matter-of-right expansion of the existing church structure. This expansion was designed to provide more Sunday school classroom space and other needed facilities for the church. During week days, however, this newly constructed area can contain facilities for the expanded nursery school. The expansion will contain two new classrooms, each designed for 15 children, a creative activity room, and office facilities for administration, including a separate sickroom. The facilities in the existing building will remain in use for the other 60 children.

9. By letter dated January 18, 1989, the Department of Consumer and Regulatory Affairs indicated that the

architectural plans had been reviewed and that they meet the requirements of the applicable District of Columbia regulations. Therefore, the Board finds that, pursuant to Sub-section 205.2 the child development center is capable of meeting all code and licensing requirements.

10. The applicant's architect testified that the area under construction in which the nursery school will be located has been designed to blend with the existing architecture of the church building. It was indicated that the center will be designed so that there will be no objectionable impact upon adjacent or nearby properties.

11. The nursery school operates, and will continue to operate, from 9:00 A.M. until 12:00 noon. The children are presently dropped off and picked up on Albemarle Street in front of the church. This area is a no parking zone during school hours to facilitate the safe transfer of children. The drop-off area will be maintained under the proposed expansion, and the applicant will request that the no parking zone be extended to 42nd Street so as to provide an even safer drop-off site. Also, pursuant to the neighbors' request, the applicant will implement a "split" drop-off, so that half of the children will be dropped off on Albemarle Street and the other half will be dropped off at the parking lot under construction just south of Butterworth Place, N.W.

12. The applicant's traffic consultant testified that the design and location of the nursery school and the drop-off sites will create no objectionable traffic conditions and no unsafe conditions for picking up and dropping off children. He indicated that cars which are stopped to handle the children are actually in what would otherwise be a parking lane, making this a safe area. Also, the proposed split drop-off system will help to minimize any traffic impact.

13. The applicant's architect testified that a parking lot is being constructed which will provide 24 parking spaces. The parking lot will have a privacy fence on the south and west sides. Evergreens will be planted at the north side of the lot and along the fence. Curbing will be installed at the western and southern portions of the lot. Pursuant to the neighbors' request, the parking lot will not have separate lighting facilities, but will be lit by the existing street lights and small fixtures on the walls of the existing building.

14. The traffic consultant testified that the applicant will provide sufficient off-street parking spaces to meet the reasonable needs of the teachers, other employees and visitors. The 24 parking spaces that will be provided far exceed the four spaces required by the Zoning Regulations.

15. Because of the large lot and low lot occupancy on the subject site, St. Columba's Nursery School has a large play area, with playground equipment, located on church property to the south and west of the existing church. This play area will be retained. A fence will be erected near the south and west property line. Plantings will also be added if the adjoining neighbors desire. This will adequately protect those neighbors from any adverse impact of the nursery school play area due to noise, activity, visual or other objectionable conditions.

16. The Board finds that the applicant has submitted substantial evidence to meet the requirements of Sub-section 205.2 through 205.5.

17. The Board finds that, pursuant to Sub-section 205.6, no special treatment in the way of design, screening of buildings, plantings and parking areas, signs or other requirements, aside from those already proposed by the applicant, will be necessary to protect adjacent and nearby property. The Board finds that the plantings surrounding the parking lot, as well as the offered plantings on the western property line, are sufficient to protect the adjacent neighbors from adverse impact.

18. The Board finds that the provisions of Sub-section 205.7 relating to the safety of off-site play areas is inapplicable as the applicant has a large play area located on the property.

19. The Board finds that there is no other child development center within 1000 feet of the applicant's facility. Therefore, the provisions of Sub-section 205.8 are inapplicable.

20. Pursuant to Sub-section 205.9, the application was submitted to the District of Columbia Department of Public Works, the Department of Human Services and the Office Planning for review and written report. Only the Office of Planning submitted a report. The Office of Planning (OP), by memorandum dated February 8, 1989 and through testimony at the hearing, recommended approval of the application. The OP report noted that the outside play area has not generated any complaints from the neighborhood regarding children's activities and it concluded that an additional 30 children would not create any additional adverse noise impact on the immediate community. OP further concluded that there will be adequate parking to meet zoning regulations and that the proposed expansion will not have an additional adverse impact on traffic conditions. The Board agrees with the recommednation of the Office of Planning.

21. Advisory Neighborhood Commission (ANC) 3E by letter dated February 6, 1989, as well as by testimony at

the hearing, stated that it had taken extensive testimony from citizens who were generally supportive of the requested expansion. Concern was expressed, however, relating to traffic, safety, parking and visual and noise impacts on the surrounding residential neighborhood. Following negotiations between the ANC, the applicant and the affected neighbors, the ANC became satisfied that the issues and concerns had been resolved. As a result of written promises made by the applicant to the ANC and neighbors, as set forth in a letter from the applicant to the ANC dated January 18, 1989, the ANC voted to support the proposed expansion provided that the Board conditions its approval upon the promises made by the applicant. The Board concurs with the recommendation of the ANC.

22. The issue of neighborhood enrollment at the nursery school was also raised by the ANC. The Board will not require the applicant to have 75 percent of the children come from a 10 block radius, as this requirement has been eliminated from the Zoning Regulations.

23. A neighbor in support testified that the residents in the area need more nursery facilities of the quality offered by the applicant. For the Board to approve the proposed expansion would serve the needs of the community.

24. Citizens for the Preservation of Residential Neighborhoods submitted a statement and testified at the hearing in support of the proposal to expand the nursery. The organization stated that the nursery school expansion is part of a larger development project being conducted by the applicant, and asked the Board to consider the application as such. In the alternative it was asked that the Board incorporate into its Final Order the agreement reached between the ANC, the neighbors and the applicant. The Board noted that the organization was concerned about the impact that the entire project would have on the neighborhood. The Board finds, however, that its decision is limited to the proposal as it is submitted by the applicant.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and evidence of record, the Board concludes that the applicant is seeking a special exception to expand an existing child development center by increasing the number of children and staff. The granting of such a special exception requires a showing through substantial evidence that the proposed use is in harmony with the general purpose and will not tend to affect adversely the use of neighboring property. The applicant must also meet the requirements of Section 205 regulating child development centers.

The Board concludes that the applicant has met the standards for granting the requested special exception. The child development center will be capable of meeting all code and licensing requirements. No objectionable or unsafe traffic conditions will result from picking-up or dropping-off children. The drop-off points, as proposed by the applicant, will provide the safest and least objectionable method of handling the children.

The Board concludes that the site is located so that the nursery school, including the outdoor play area, will have no objectionable impact on adjacent or nearby property due to noise, activity, visual or other objectionable conditions. The site is surrounded on three sides by public streets, and at its west side, where it abuts neighboring property, there will be sufficient screening to protect nearby properties.

The Board concludes that the 24-space parking lot provides sufficient off-street parking to meet the needs of the nursery school employees and visitors.

The Board further concludes that expanding the nursery school is in harmony with the general purpose and intent of the Zoning Regulations and Maps and that the expansion does not tend to adversely affect the neighboring property. The Board concludes that it has afforded the ANC the great weight to which it is entitled. Accordingly it is ORDERED that the application is hereby GRANTED SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS from the date of this Order.

2. The number of children shall not exceed ninety. The number of staff shall not exceed fourteen.

3. The hours of operation shall not exceed from 9:00 A.M. to 12:00 Noon.

4. On-site parking and landscaping shall be in accordance with the revised plans marked as Exhibit No. 33 of the record.

5. The applicant shall comply with all the provisions of its agreement with the ANC and Citizens for the Preservation of Residential Neighborhoods as listed in the letter dated January 18, 1989 and marked as Exhibit No. 28A of the record.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant; Elliott Carroll to grant by proxy).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: AUG 7 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "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 BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14941order/BHS7

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 14941

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated AUG 7 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Rev. William Tully
3947 Harrison St., N.W.
D.C. 20015

Karen Strimple
121 Primrose Street
Chevy Chase, MD

Paul Strauss, Chairperson
Advisory Neighborhood Commission 3-E
P.O. Box 9953, Friendship Station
Washington, D. C. 20016

Paul Strauss
4201 Mass. Ave., N.W.
D.C. 20016

Scott E. Munzell, Esq.
Wilkes, Artis, Hedrick & Lane
D.C. 20006

Gerald J. Tritschler
10809 Kenilworth Avenue
Garrett Park, MD. 20896

Betty Ellen Shave
4532 43rd Street, N.W.
D.C. 20016

Katherine Wisk
3810 Albemarle St., N.W.
D.C.

James Curtin
4405 Garrison St, N.W.
D.C. 20016

EDWARD L. CURRY
Executive Director

DATE: AUG 7 1989

205 CHILD DEVELOPMENT CENTERS (R-1)

205.1 Use as a child development center shall be permitted in an R-1 district if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of chapter 31 of this title, subject to the provisions of this section.

205.2 The center shall be capable of meeting all applicable code and licensing requirements.

205.3 The center shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off children.

205.4 The center shall provide sufficient off-street parking spaces to meet the reasonable needs of teachers, other employees, and visitors.

205.5 The center, including any outdoor play space provided, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise or activity, or visual or other objectionable conditions.

205.6 The Board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements as it shall deem necessary to protect adjacent and nearby properties.

205.7 Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between the play area and the center itself.

205.8 The Board may approve more than one (1) child development center in a square or within one thousand feet (1,000') of another child development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise operations, or other similar factors.

205.9 Before taking final action on an application for use as a child development center, the Board shall submit the application to the D.C. Departments of Public Works and Human Services, and the D.C. Office of Planning for review and written reports.

205.10 The referral to the D.C. Department of Human Services shall request advice as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District.

SOURCE: Final Rulemaking published at 29 DCR 4913, 4917 (November 5, 1982).

COMPLIANCE WITH THE ZONING REGULATIONS

The granting of a special exception is predicated on the following findings as specified in Section 3108.1 of the Zoning Regulations:

> Pursuant to authority contained in the Zoning Act of June 20, 1938 (52 Stat. 797), as amended, the Board is authorized to grant special exceptions, as provided in this title where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified in this title.