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July 2, 2002

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D.C. BOARD OF ZONING
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BY HAND DELIVERY

D.C. Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

Re: BZA Application No. 16898 – Washington Hebrew Congregation

Dear Members of the Board:

Enclosed please find the Statement of the Applicant, which we have prepared on behalf of Washington Hebrew Congregation. Please feel free to contact me at (202) 663-9062 with any questions.

Sincerely,

Martin P. Sullivan

Martin P. Sullivan

Enclosures

Document #: 1254938 v.1

BZA
Case No. 16898
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16898
EXHIBIT NO.25

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Washington Hebrew Congregation

BZA Application No. 16898
Public Hearing: July 16, 2002
ANC 3C

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

The Washington Hebrew Congregation ("**WHC**") seeks special exception approval for the continued operation of a child development center at a building located at 3935 Macomb Street, N.W. (Square 1798, Lot 28) ("**Subject Property**"). There has been a child development center for children of ages two to five years on the Subject Property for many years. Since 1992, WHC has operated a child development center ("**Center**") with a maximum daily population of 95 children. This Special Exception Application merely requests approval to continue to operate the Center at its current maximum daily population of 95 children and 24 staff. The Board of Zoning Adjustment ("BZA") granted a five-year approval for the operation of the Center in BZA Order No. 15646, dated March 25, 1992 (a copy of the Order is attached as Exhibit E). Due to extenuating circumstances, the administration of WHC accidentally allowed the Board's Order from 1992 to lapse. The current WHC Executive Director discovered this lapse in the early part of 2002, triggering the instant application. In 1992, the Board limited its approval to five years based on a request from ANC 3C. On June 24, 2002, ANC 3C voted to recommend approval of this Application for a period of ten years.

II.
THE WHC CHILD DEVELOPMENT CENTER

The Washington Hebrew Congregation is one of the oldest Jewish organizations in the District of Columbia, dating back to 1852. The WHC has housed a child development center at this location since 1982, and the center has operated at its current capacity of 95 children since 1992. The Center provides early childhood education services for children ages two through five years, the majority of whom come from the District of Columbia. The children attend the Center five days a week or less, and the number of children attending the Center will never exceed ninety-five per day. Classes will begin at 9:00 A.M. and will end at Noon, 1:00 P.M. and 3:00 P.M. Parents will drop off their children between 8:15 A.M. and 9:00 A.M. Most of the staff will arrive before 8:00 A.M. and depart after 3:30 P.M.

III.
DESCRIPTION OF PROPERTY AND PROPOSED USE

A. Subject Property and Environs

The Subject Property is located in the R-1-B Zone District, at 3935 Macomb Street, N.W., at the intersection of Macomb and 39th Streets, just east of Massachusetts Avenue. The Subject Property is bounded by Macomb Street to the south, 39th Street to the east, and Glover-Archbold Park to the north and west.

B. Population Limit

This Application requests only to continue the Center at its current, previously approved levels. WHC seeks permission to continue operating the Center with the same

population limit. The Center will have a maximum daily total of 95 children and 24 staff. Currently, the program operates slightly under this number, and has no plans to expand.

IV.
THE APPLICANT IS ENTITLED TO SPECIAL EXCEPTION RELIEF UNDER THE ZONING REGULATIONS

As the Board is aware, uses that are allowed by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. Also, in reviewing applications for a special exception under the Zoning Regulations, the Board's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites of the requirements are satisfied, the Board ordinarily must grant the application. See, e.g., Nat'l Cathedral Neighborhood Ass'n v. D.C. Board of Zoning Adjustment, 753 A.2d 984, 986 n.1 (D.C. 2000). Granting special exception relief in this case is in harmony with the general purpose and intent of the Zoning Regulations and map, and will not adversely affect the use of neighboring properties.

V.
THE APPLICANT MEETS THE STANDARDS FOR THE USE OF THE PROPERTY AS A CHILD DEVELOPMENT CENTER

Section 205 of the Zoning Regulations provides that a child development center shall be permitted in the R-1-B Zone District if the Board of Zoning Adjustment finds that the following requirements are met.

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

The Center has been in operation and in continually in compliance with all licensing requirements since its last Board approval in 1992. As this Application contemplates no change in the number of children served or the type of service provided, there will be no change in the Center's license. The current license from the D.C. Department of Human Services will continue to authorize the Center's operation.

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

In 1992, the Board found no objectionable or unsafe traffic conditions. Since that time, the Center has operated at the same level and to the best of our knowledge there have been no complaints from neighbors regarding objectionable traffic conditions resulting from the operation of the Center. All parking for WHC is off street parking located within the Subject Property boundaries. The drop-off and pick-up areas for the children is located within the Subject Property. The wholly internal parking and drop-off not only provides safety for the children, it eliminates traffic congestion on the public streets around the Center. In the ten years of operation at its current level, traffic and parking circulation have worked smoothly, evidenced by the lack of complaints and by the ANC 3C approval.

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

The WHC property contains approximately 62 parking spaces. The Zoning Regulations require, for child development centers, 1 parking space for every four teachers or other staff. The total staff for the Center is 24, therefore requiring 6 parking spaces. The Center has always had ample parking, and therefore staff and/or parents do not park on the public streets around the Center.

D. 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 (205.5).

The Center includes only a very small outside play area, which is completely fenced in, and is not near any other properties, therefore there is no objectionable impact from the outdoor play space.

E. 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 (205.6).

The Subject Property is bordered by open park space on two sides, and has adequate screening and space on the two remaining sides, therefore there is no need for the Board to require special treatment to protect adjacent or nearby properties.

F. 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 (205.7).

The Center does not use an off-site play area.

G. The Board may approve more than one (1) child development center in a square or within one thousand feet (1,000 ft.) 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.

To WHC's knowledge there are no other child development centers within one thousand feet (1,000 ft.) of the Center. Regardless, there is no evidence of the Center having any adverse impact on the neighborhood due to traffic, noise, operations, or other similar factors.

VI.
COMMUNITY

WHC's sensitivity to the community is evidenced by the lack of complaints about the Center since 1992. The majority of the children served in the Center come from the District of Columbia. On Monday, June 24, 2002, the Applicant presented its proposal to ANC 3C at its regularly scheduled meeting. At this meeting ANC 3C voted to support the Application subject to certain conditions. These conditions that were identical to those in Order No. 15646 except for the condition regarding the time period of the approval. Rather than a five year approval, *the ANC voted to recommend approval for a period of ten years*.

VII.
WITNESSES

M. Bruce Lustig, Senior Rabbi, Washington Hebrew Congregation

Susan Hanenbaum, Executive Director, Washington Hebrew Congregation

VIII.
EXHIBITS IN SUPPORT OF THE APPLICATION

The applicant submits the following exhibits in support of the application;

Exhibit A	Portions of the Sanborn Atlas showing the Subject Property outlined in red, as well as the context of the Subject Property
Exhibit B	Portion of the D.C. Zoning Map showing the Subject Property outlined in red and the surrounding area
Exhibit C	Photographs of the Subject Property
Exhibit D	Aerial Map of the Subject Property
Exhibit E	BZA Order No. 15646, dated March 25, 1992
Exhibit F	Outlines of Witness Testimony

IX.
CONCLUSION

As demonstrated above, the application meets the criteria set forth in Section 205 for special exception approval and is, therefore, in harmony with the general purpose and intent of the Zoning Regulations. In compliance with Section 3104.1 of the Zoning Regulations, the school has demonstrated that the relief sought is in harmony with the general purpose and intent of the Zoning Regulations and will not adversely affect neighboring properties. The Washington Hebrew Congregation respectfully requests that the Board of Zoning Adjustment approve this Application.

Respectfully submitted,

Shaw Pittman LLP

By: Allison C. Prince/MS 7/2/02
Allison C. Prince

By: Martin P. Sullivan 7/2/02
Martin P. Sullivan

July 2, 2002

Document #: 1253892 v.2

CERTIFICATE OF SERVICE

I hereby certify that on July 2, a copy of Statement of the Applicant was served by first class mail to:

Andrew Altman
Office of Planning
801 N. Capitol Street, NE
Suite 400
Washington, DC 20002

ANC 3C
2737 Devonshire Place, NW
Washington, DC 20008

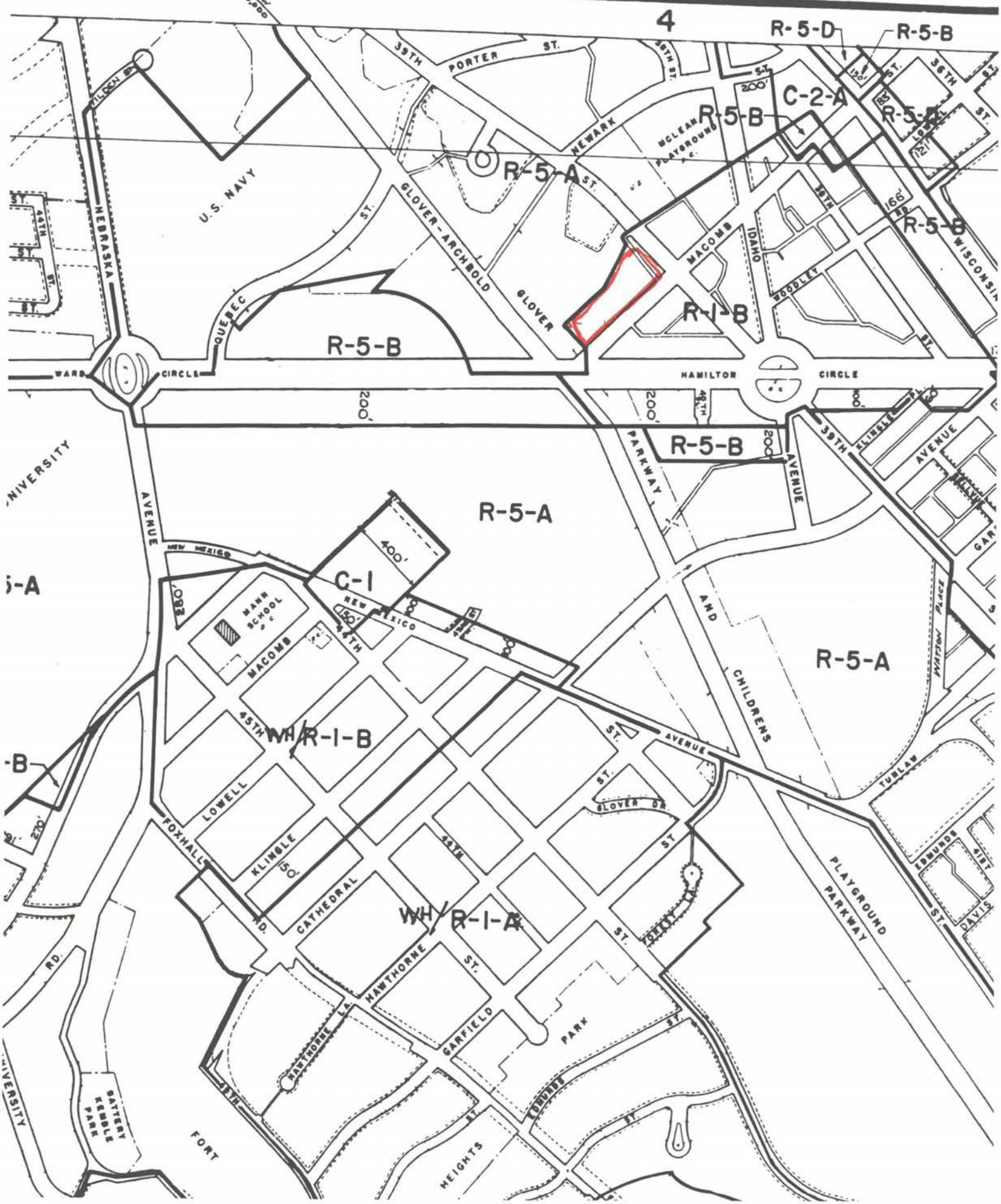
Martin P. Sullivan, Esq.
Shaw Pittman, LLP
2300 N Street, N.W.
Washington, D.C. 20037

Document #: 1254941 v.1

A


GLOVER-ARCHBOLD PWY. N.W.
(ARIZONA AV. N.W.)
PORTER N.W.
39TH ST. N.W.
LANGLEY CT. (CIR.) N.W.
NEWARK N.W.
MACOMB N.W.
PARK
PLATTSBURG CT. N.W.
THE VILLA AT McLEAN GARDENS
1822
1821
1798
1818
R20
WASHINGTON HEBREW CONGREGATION
SYNAGOGUE
SCHOOL
SCHOOL OFFS
HALL
PARK'G
POOL
MASSACHUSETTS AV. N.W.
SEE VOLUME FIVE




4
R-5-D
R-5-B
C-2-A
R-5-A
R-1-B
R-5-B
U.S. NAVY
NEBRASKA
QUEBEC
GLOVER-ARCHBOLD
GLOVER
MACOMB
IDAHO
WOODLEY
WISCONSIN
WARD CIRCLE
HAMILTON CIRCLE
PARKWAY
AVENUE
R-5-A
C-1
MANN SCHOOL
NEW MEXICO
CHILDRENS
PLAYGROUND
WATSON PLACE
TUBLAW
EDMUNDS
DAVIS
LOWELL
KLINGLE
FOXHALL
CATHEDRAL
HAWTHORNE
GARFIELD
PARK
GLOVER DR.
WH/R-1-B
WH/R-1-A
BATTERY KEMBLE PARK
FORT
HEIGHTS
UNIVERSITY

C


WASHINGTON HEBREW CONGREGATION
MAXIMUM HEIGHT 9'6"
PLEASE DRIVE CAREFULLY
We Love Our Children
AUTHORIZED PARKING ONLY LOT CLOSED



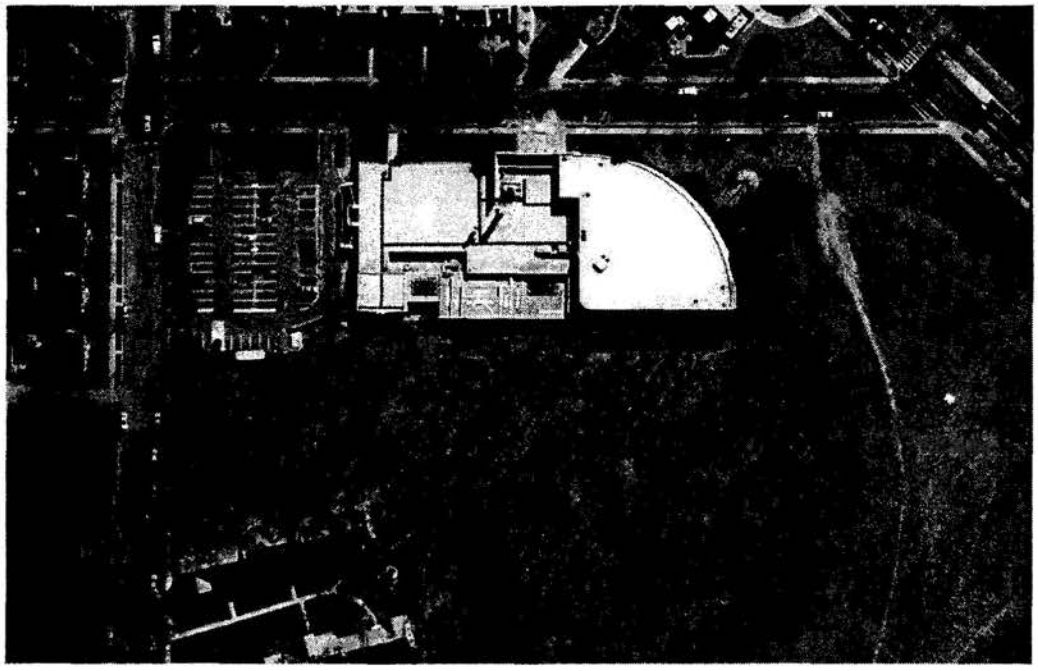



EBREW CONGREGATION
3033 Macomb Street


BH 7019


ONE
WAY





E

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15646 of the Washington Hebrew Congregation, pursuant to 11 DCMR 3108.1, for a special exception under Section 206 to expand an existing child development center from 33 to 95 children, ages 2 to 5 years, and a staff from 9 to 24 on the first and second floors in an R-1-B District at premises 3935 Macomb Street, N.W., (Square 1798, Lot 28).

HEARING DATE: **March 11, 1992**
DECISION DATE: **March 11, 1992 (Bench Decision)**

SUMMARY ORDER

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

The site of the application is located within the jurisdiction of ANC 3C. ANC 3C, which is automatically a party to this application, submitted issues and concerns by letter dated March 10, 1992 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 206. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to 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 in harmony with the general purpose and intent of the Zoning Regulations and Map and 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 FIVE YEARS.

2. The number of students shall not exceed 95, aged two to five years, with a maximum staff of 24.

3. The hours of operation shall be between 7:30 a.m. and 6:30 p.m., Monday through Friday.

4. A representative of the applicant shall meet with the Advisory Neighborhood Commission (ANC) 3C no less than once per year in order to assess any problems or concerns of area residents which may arise as a result of the operations of the child development center.

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 not prohibited by law.

VOTE: 5-0 (Paula L. Jewell, Angel F. Clarens, Sheri M. Pruitt, Maybelle Taylor Bennett and Carrie L. Thornhill to grant).

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

ATTESTED BY: Madeliene H. Robinson
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: MAR 25 1992

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.

ord15646/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15646

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 25 1992 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:

Angela Vallot, Esquire
Arent, Fox, Kintner, Plotkin & Kahn
1050 Conn., Avenue, N.W.
Wash, D.C. 20036

Patricia Wamsley, Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008

The Washington Hebrew Congregation
3935 Macomb Street, N.W.
Wash, D.C. 20016

James Curtin, Chairperson
Advisory Neighborhood Commission 3-E
P.O. Box 9953
Washington, D.C. 20016

Madeliene H. Robinson

MADELIENE H. ROBINSON
Acting Director

DATE: MAR 25 1992

F

OUTLINE OF TESTIMONY OF WASHINGTON HEBREW CONGREGATION

I. M. Bruce Lustig, Senior Rabbi, Washington Hebrew Congregation

- A. Introduction
- B. Brief History of Washington Hebrew Congregation
- C. Involvement in the Community
- D. Closing – Questions?

II. Susan Hanenbaum, Executive Director, Washington Hebrew Congregation

- A. Introduction
- B. WHC Child Development Center - Description
- C. Community Relations – ANC 3C Meetings June 11 and 24.
- D. Parking - Drop-off and pick-up
- E. No adverse impact on neighbors from operation of the Child Dev. Center
- F. Closing – Questions?

Document #: 1254842 v.1