GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

D.C. OFFICE OF PLANNING
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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: JLS for
Andrew Altman
Director

DATE: July 9, 2002

SUBJECT: BZA Application 16898 - Request filed by Shaw Pittman LLP for a **special exception** for the continued use of a child development center, proposed by Washington Hebrew Congregation, 3935 Macomb Street, N.W.

APPLICATION
Application of Washington Hebrew Congregation for:

1) **Special exception relief pursuant to §205 of Title 11 DCMR** to permit the continued use of an existing child development center

for property located on the north side of Macomb Street and the west side of 39th Street, Square 1798, Lot 28. The property is zoned R-1-B, high-density one-family detached dwellings.

SUMMARY RECOMMENDATION
The Office of Planning recommends approval of the request for special exception relief as submitted by the applicant, subject to the following conditions:

"1. Approval shall be for a period of TEN 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."

BZA
Case No. 16898
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO.16898
EXHIBIT NO.27

PROJECT DESCRIPTION

The applicant proposes to extend the special exception permitting a child development center with a maximum of 95 students and a maximum staff of 24 on the subject property, which has been used as such since 1992. A child development center has been in operation on the property since 1982.

Permission was last granted by the BZA for this use on March 11, 1992, 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."*

A copy of the Summary Order for BZA Application No. 15646 is attached.

Based on the applicant's statement, the subject property appears to be in conformance Condition No. 2 and No. 3 of the previous special exception approval (BZA No. 15646). Condition No. 1 states that the approval is for five years only, and the Certificate of Occupancy expired on April 1, 1997. Condition No. 4 requires the applicant to meet no less than once per year with the ANC, and the applicant has indicated that he has not done so. However, the applicant has stated that there have been no problems and the Office of Planning has not heard from ANC.

This application proposes no changes from the previous one.

SITE AND AREA DESCRIPTION

The property consists of Lot 28 of Square 1798, in the North West quadrant of the District. It is located in the northwest corner of 36th and Macomb Streets, in the 3900 block of Macomb Street. It is improved with a one and two-story synagogue building generally located midpoint in the lot along Macomb Street, and an accessory 62 space parking lot with driveway entrances from 39th Street and Macomb Street on the east side of the property. Northeast of the building is a fenced outdoor play area.

The surrounding area is residential in nature. To the north and west of the subject property is Glover-Archibold Park. To the east, across 39th Street, and to the south, across Macomb Street, are one-family detached dwellings.



Feature Key

- Zoning Boundaries
- Square Index

Board of Zoning Adjustment
Application No. 16898

DC Office of Planning
July 2, 2002

Scale 1:2828

25 0 25 50 75 100 Feet

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Attachment 1

The area has been identified on the Generalized Land Use Map as located within the low density residential land use designation- "Single-family detached and semi-detached housing are the predominant uses."

EXISTING ZONING
The subject property is zoned R-1-B, high-density one-family detached dwellings district.

R-1 Residential District
"The R-1 district is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes." (§200.1)

RELIEF REQUESTED:
Special Exception pursuant to §205– Child/Elderly Development Centers
Section 205 sets forth the specific criteria under which child development centers may be permitted within the R-1-B district. Those criteria are as follows:

205.1 Use as a child/elderly 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 Section 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 or elderly persons.

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/elderly development center in a square or within one thousand feet (1,000 ft.) of another child/elderly 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 and/or elderly day care center, the Board shall submit the application to the D.C. Departments of Public Works and Health, the D.C. Office on Aging 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 advise as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District.

The subject use was found to be in conformance with Section 205 by BZA Application No. 15646, subject to the conditions of approval. A Certificate of Occupancy was issued for the use. All children are either dropped off at the door within the parking lot or are walked inside by the parents after parking within the lot. The lot contains 62 parking spaces and the use requires 6 spaces for a staff of 24 (1 space per 4 employees). The use is located within a building and the on-site outdoor play area borders on parkland only, and not on any private property. There use does not utilize any off-site play areas. The applicant is not aware of any other child development center within 1,000 feet. The use is in conformance with two of two of the conditions of approval: the hours and days of operation and the maximum number of students and staff.

It is the Office of Planning's conclusion that the applicant has satisfactorily met the criteria for special exception relief of Section 205, and that in granting the relief, the intent and purpose of the chapter will be met "so that there will be no objectionable impacts on adjacent or nearby properties due to noise or activity, or visual or other objectionable conditions." (Section 205.5)

COMPREHENSIVE PLAN

This project will be in conformance with the provision of the Comprehensive Plan that states *"(t)here are a large number of institutional uses in Ward 3. These include religious, medical, educational, recreational, or public service uses as well as embassies and chanceries, museums, libraries, and galleries. ...The compatibility of these uses must be maintained, expansion carefully controlled, changes to neighborhood-related uses encouraged, and conversion to other nonconforming uses prevented;"*
(§1409.1(f))

COMMUNITY COMMENTS

The applicant has informed the Office of Planning by telephone that **ANC 3C** considered the application at their meeting of June 11, 2002 and voted to approve the project, subject to the following conditions:

1. Approval shall be for a period of TEN 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."

RECOMMENDATIONS

The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, the character of the neighborhood and the standards for special exception. OP concludes that the special exception meets the required tests and can be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The Office of Planning recommends approval of the following:

Special exception pursuant to §206 of Title 11 DCMR to allow for the continued use of the property as a child development center, subject to the following conditions

1. Approval shall be for a period of TEN 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."

AA/sjm$_{AICP}$

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).

RECEIVED
D.C. OFFICE OF ZONING
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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.

Case No 16898
Exhibit No. 5

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 92 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.
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The Washington Hebrew Congregation
3935 Macomb Street, N.W.
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James Curtin, Chairperson
Advisory Neighborhood Commission 3-E
P.O. Box 9953
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MADELIENE H. ROBINSON
Acting Director

DATE: MAR 25 1992