ARNOLD & PORTER

Pelayo Coll
Pelayo_Coll@aporter.com

202.942.5763
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555 Twelfth Street, NW
Washington, DC 20004-1206

November 20, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 NOV 20 PM 2:48

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

Re: Post-Hearing Submission, Application No. 16955
(Spanish Education Center)

Dear Mr. Griffis and Members of the Board:

Attached is the Applicant's Post-Hearing Submission in the above-referenced case. Thank you for your consideration of this application.

Sincerely,

Pelayo Coll

Cynthia A. Giordano

Nathan W. Gross, AICP

Attachment

BZA
Case No. 16955
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO.16955
EXHIBIT NO.28

RECEIVED
D.C. OFFICE OF ZONING
2002 NOV 20 PM 2:50

PRE-HEARING SUBMISSION
Board of Zoning Adjustment Application No. 16955

SPANISH EDUCATION DEVELOPMENT CENTER, INC.
Special Exceptions for Child Development Center and Adult Education Center and Variance from the Parking Requirements

Public Hearing Date: December 3, 2002

This Pre-Hearing Submission is made pursuant to § 3104.1 of the Zoning Regulations for the District of Columbia ("Zoning Regulations"), for special exceptions under §§ 205 and 206 to allow the Spanish Education Development Center, Inc. ("Applicant") to continue to use the Property as a "school for children" for 100 children ages two to 10 years and to add the function of adult education classes for 75 students. A parking variance is also requested, pursuant to §§ 3103 and 2101.1 of the Zoning Regulations. The enclosed Zoning Administrator's Memorandum identifies the special exception relief. The Application also includes a Self-Certification form as to the need for the requested parking variance. The site is zoned R-5-B and is located at 1840 Kalorama Road, N.W. (Square 2553, Lot 826) (the "Property"). The Applicant is the sole tenant and user of the Property. The Property has continuously been used as a school for children for at least 30 years. The Property is owned by John R. Garrison, who has granted Applicant the authority to file and prosecute this application.

The Subject Property and Surroundings

The subject property fronts on Kalorama Road, N.W, and is located in the middle of the block between 18th Street and Columbia Road, N.W. The Applicant has been the sole tenant at the Property for approximately twenty-five (25) years.

In general, the uses on nearby squares consist of large row houses with scattered apartment houses in the neighborhood areas zoned R-5-B, the development pattern typically found in R-5-B Districts. The nearest arterial streets are 18th Street, one-half block to the east, which is zoned C-2-B along both frontages and which functions as a major retail-restaurant-entertainment corridor. Columbia Road is situated one-half block to the west. It is zoned R-5-D and developed with apartment houses.

The Proposed Use

The existing use of the Property as authorized by the Certificate of Occupancy ("C of O") Number B105567 is for a "school for children," with up to 100 children and 12 teachers and offices for the program. No change or expansion of this use is proposed. The only new use of the Property proposed in this Application is adult education classes for up to 75 individuals in five classrooms seating 15 persons each. This function will occur predominantly but not exclusively in the evening hours. The adult education classes include English as a second language and training in parental skills. The Spanish

Education Development Center, Inc. was established in 1970 and is among the oldest and most prestigious Latino community-based organizations in the District of Columbia. The Applicant has been operating from 1840 Kalorama Road, N.W. for most of those three decades. Even prior to the Applicant's occupancy of the building in the early 1970s, 1840 Kalorama Road had long operated as a school. The Applicant would emphasize that the C of O for "School for 100 Children" has authorized the use for many years. The terminology on the C of O may be imprecise, but it has authorized lower elementary school classroom education and child care functions for many years.

Compliance with Special Exception Criteria

The proposed uses of the Property are consistent with the applicable special exception standards of the Zoning Regulations for a child development center and a private school as set forth in 11 DCMR §§ 205 and 206. These criteria for approval are reviewed and documented below.

Child Development Center – Section 205

The main clause, §205.1, authorizes the Board to approve as a special exception, use as a child development center in an R-1 district in accordance with the conditions specified in §3104 and the conditions specified in §§205.2 through 205.10, as follows:

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

Comment: The Applicant is currently licensed for the child development center function, and will obtain and continue to maintain any necessary licenses and permits required to operate the property in accordance with this Application.

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.

Comment: The Property has been used as a child development center for many years under its existing C of O. The majority of the children are from low- and moderate-income families living in the neighborhood. Those children are brought to the Center on foot by parents, thereby alleviating any adverse traffic effects from pickup and drop-off of children. Some parents also pick up and drop off the children on Kalorama Road, but little congestion occurs and neighbors have not complained of backup problems.

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

Comment: A request for a parking variance is included in this application, including a response to this criterion.

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.

Comment: The center has its own outdoor and indoor play areas, so that the children do not have to walk past other homes to reach a park or other open space. The outdoor play space is located in the back of the Property and is reasonably buffered from adjacent properties to minimize affects from noise. Also, the outdoor play times occur only during parts of each day, and the facility has been operating for many years.

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.

Comment: The Applicant believes that the existing building and yard are situated so as not to impose any adverse effects on neighbors. The building's façade is traditional (in keeping with this block of Kalorama Road), quite handsome and well-maintained. However, the Applicant will comply with additional screening or similar requirements if these are required by the Board.

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 play area and the center itself.

Comment: Complies. The Property has its own play area, so that the children do not need to travel to a park or play area.

205.8 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.

Comment: The Applicant has determined that there is a child development center at 14th and Columbia Road, N.W., and another at 16th and Columbia Road, N.W. Neither location is

within 1,000 feet of the Spanish Education Center. Neither of these is within 1,000 feet of the Spanish Education Center.

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.

Private School and Staff Residences – Section 206

The main clause, §206.1, authorizes the Board to approve as a special exception, use as a private school in an R-1 district in accordance with the conditions specified in §3108 of chapter 31 of this title, as well as the conditions specified in §§206.2 and 206.3, as follows:

206.2 The private school shall be located so that it is not likely to be come objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

Comment: The Property is currently used as a "school for children"[1] in accordance with the existing C of O. Although one complaint has been lodged against the Property, the Applicant's general impression is that residents of the neighborhood appreciate the educational and child care services provided by the Applicant. The addition of the adult education function is not expected to cause an increase in traffic in the neighborhood because all or nearly all of the participants live in the neighborhood and will primarily walk to the site. The number of teachers and staff will not change, but will continue to be eight teachers and four staff members. As to potential noise affecting neighbors, the adult education classes will occur only indoors and will not create any noise or other adverse effects on neighbors.

206.3 Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers and visitors likely to come to the site by automobile.

---

[1] The existing use under this broad C of O actually includes traditional child development center functions, as well as classroom teaching for Kindergarten through Second Grade.

Comment: See the discussion of the requested parking variance below.

Requested Parking Variance

The parking requirement for the child development program is one space for every four teachers or other employees. For private school use, the requirement is two spaces for each three teachers, plus one space for each 10 classroom seats. Because the child development center is already in existence with a valid C of O, and because the adult education (private school) is the new use, the Applicant bases the variance request on the private school parking requirement. Thus, the eight teachers require 6 parking spaces, and the 75 classroom seats requires an additional 8 spaces, for a total of 14 spaces.

Comment: The number of teachers and other employees will continue to be 12, as it has been under the existing school for children. The teachers and staff are responsible for either arriving at the Center by public transit, on foot, or finding their own parking off-site. This arrangement has proved workable for many years and has not imposed any adverse effects on neighboring properties. The adults who attend classes are predominantly from the neighborhood and will walk to the classes. In terms of the need for parking on the Property, the majority of the adult education occurs in the evening hours and the child care function is primarily a daytime function, although there is some overlap in the early evening. The main point is that activity patterns are spread out during the day rather than being concentrated.

The practical difficulty in providing the 14 spaces is that the Property consists of a side-by-side pair of large, townhouse structures in the middle of a block lined primarily with large townhouses and apartment conversions. The ample rear yard is needed for the play area for the children in the child development program. Placing even one or two parking spaces next to the play area would be incompatible visually and potentially in terms of safety. On-site parking would also unduly reduce the size of the play area. The Applicant believes the present system of day and night and staggered arrivals and departures can continue to work effectively without the normally-required parking spaces.

Conclusion

Based on the facts and analysis presented in this memorandum, the Applicant has demonstrated that the proposed use of the Property complies with the standards for approval of special exceptions pursuant to § 3104.1 and §§ 205 and 206 of the Zoning Regulations, as well as the standards for approval of a parking variance. The proposed uses are "in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely effect the use of neighboring property" . . . In addition, the requested uses for the Property will allow the Applicant to expand its services to the Adams Morgan and Mount Pleasant neighborhoods and the minority community of the District of Columbia. We respectfully request approval of this application.

Respectfully submitted,
ARNOLD & PORTER

CAG

Cynthia A. Giordano

Pelayo Coll

Nathan W. Gross, AICP

Attachments

EXHIBITS

The following Exhibits are attached as evidence in support of this application:

EXHIBIT A: Zoning Map

EXHIBIT B: Surveyor's Plat

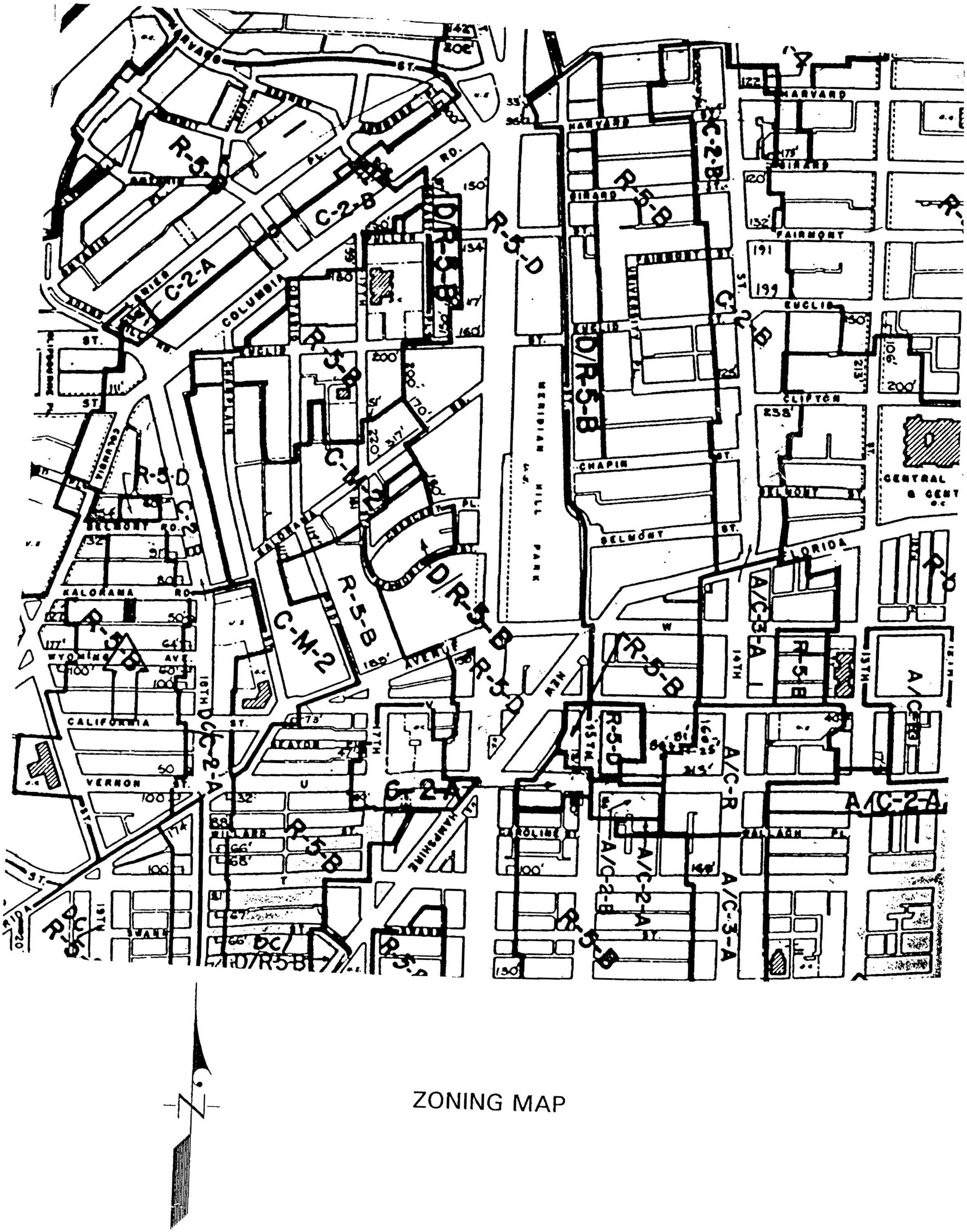
EXHIBIT C: Photographs of the Property

EXHIBIT D: Letters of Authorization

EXHIBIT E: Current Certificate of Occupancy

EXHIBIT F: Zoning Administrator's Memorandum and Applicant's Self-Certification Form

EXHIBIT A: Zoning Map


HARVARD
GIRARD
FAIRMONT
EUCLID
CLIFTON
CHAPIN
BELMONT
FLORIDA
CENTRAL
COLUMBIA
KALORAMA RD.
WYOMING AVE.
CALIFORNIA
VERNON
WILLARD
CAROLINE
HAMPSHIRE
MERIDIAN HILL PARK
C-2-B
C-2-A
R-5-D
R-5-B
D/R-5-B
C-M-2
A/C-3-A
A/C-2-A
A/C-R
16TH
15TH
14TH
13TH
17TH
U
T
W

ZONING MAP

EXHIBIT B: **Surveyor's Plat**

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., October 1, 2002

Plat for Building Permit of SQUARE 2553 LOT 826

Scale: 1 inch = 20 feet Recorded in A & T Book Page 3209

Receipt No. 01038

Furnished to: ARNOLD

For Surveyor, D.C.

By: L.E.S.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: 10/1/02

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

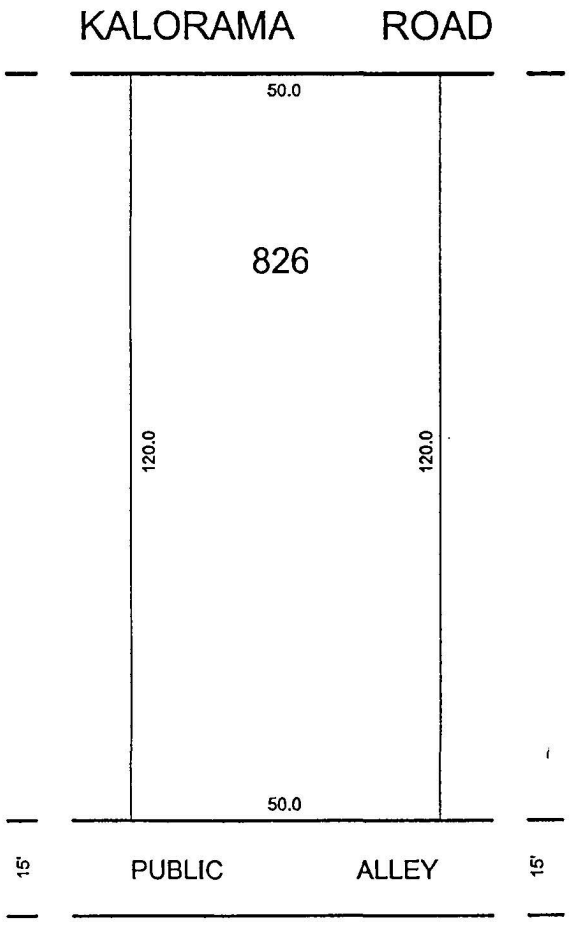


EXHIBIT C: Photographs of the Property


D CENTER

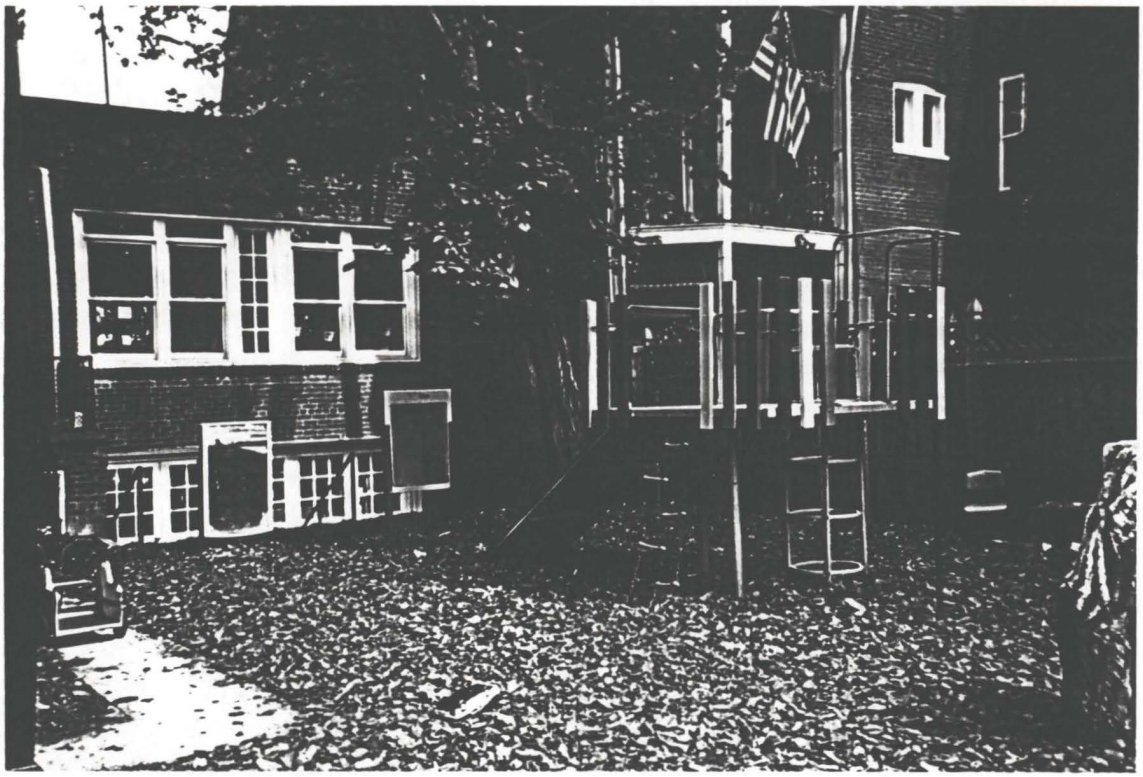




EXHIBIT D: **Letters of Authorization**

September 23, 2002

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

Dear Sir/Madame:

The undersigned is the owner of the property located at 1836-1840 Kalorama Road, NW, Washington, D.C. (Square 2553, Lot 69-808). The property is currently leased in its entirety by the Spanish Education Development Center, Inc. ("SED"). SED is applying for a special exception for use of the entire building located at 1836-1840 Kalorama Road NW as a "School for children ages 2 to 10 years (100 children), child development center, before and after school care, adult classes and administrative offices" (the "Application").

In compliance with 11 DCMR §3106.1 and §3113.4, the undersigned hereby authorizes SED to submit and prosecute the Application, and take all actions in all matters or proceedings, including public hearings. The undersigned believes that authorization for SED to prosecute this Application should in no way affect any rights that SED has maintained to the present time and that SED should therefore retain such rights.

Sincerely,

John R. Garrison

John R. Garrison

Centro Hispano de Desarrollo Educativo

Spanish Education Development Center

CENTER

202-462-8848
Fax 202-462-6886
sedcen@erols.com

1840 Kalorama Rd. NW
Washington, D.C. 20009

November 20, 2002

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

Dear Sir/Madame:

The undersigned is the Applicant in connection with the case number 16955 affecting the property located at 1836-1840 Kalorama Road, NW, Washington, D.C. (Square 2553, Lot 69-808). In compliance with 11 DCMR §3106.1 and §3113.4, the Applicant hereby appoints and authorizes Nathan W. Gross, Cynthia Giordano and Pelayo Coll of the law firm of Arnold & Porter to be our agents and representatives, as individuals or collectively, for all purposes of said Application and in all matters or proceedings, including public hearings. The Applicant ratifies and confirms that Messrs. Gross and Coll and Ms Giordano, either as individuals or collectively, shall have the legal power and authority to bind the Applicant regarding any decisions, proceedings or other matters related to the instant case before the Zoning Commission.

Sincerely,

Spanish Education Development
Center, Inc.

By: Martha Egas
Martha Egas, Executive Director

EXHIBIT E: Current Certificate of Occupancy

Form CO-P-001 **CERTIFICATE OF OCCUPANCY** No. B105567

Washington, D.C., February 21, 19 78

Permission is hereby granted to Spanish Education Development Center, Inc.

to use the Rear, 1st & 2nd floor(s) of the building located on Lot 68-808 Square 2553

known as premises 1840 Kalorama Rd. N.W. for the following

purpose(s) School for children 2 thru 8 100 students
12 Teachers

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.

DEPT. OF ECONOMIC DEVELOPMENT, GOVT. OF DIST. OF COL.

OFFICE COPY

ZONE FEE $ 20.00

R-5-B

Chief, Permit Branch

Zoning Officer

EXHIBIT F: Zoning Administrator's Memorandum and Applicant's Self-Certification Form

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

August 21, 2002

Martha C. Egas
1840 Kalorama Road, N.W.
Washington, D.C. 20009

Re: 1840 Kalorama Road, N.W.
Square: 2553 Lot(s): 69-808
(Bsmt., 1st, 2nd and 3rd Floors)
Zoned: R-5-B

Dear Ms. Egas:

Your certificate of occupancy application #38731 filed to use the subject premises as a "School for Children ages 2 to 10 years (100 Children) and Child Development Center, Before and After School, Adult Classes and Administrative Office" is disapproved due to the need for Board of Zoning Adjustment approval.

You will be required to obtain a special exception under the provisions of DCMR Title 11, Sections 205 and 206 to establish your use in the R-5-B Zone.

The Board of Zoning Adjustment has authority to grant special exception under provisions of DCMR Title 11, Section 3104.1.

This letter must be presented to the Office of the Board of Zoning Adjustment, Room 210, 441 4th Street, N.W., when filing for the hearing. If your request is granted, a new certificate of occupancy application must be filed.

Sincerely,

Robert Kelly
Zoning Administrator

RK/GH/ee

Form 135 - Side 1
(Revised 03/15/02)

Case No.

ZONING SELF-CERTIFICATION FORM

Project Address(es)	Square	Lot(s)	Zone District(s)	ANC(s)/Single Member District(s)
1840 Kalorama Rd, NW	2553	826	R-5-B	1C07

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

Relief Sought	☐ §3103.2 - Use Variance	☒ §3103.2 - Area Variance	☐ §3104.1 Special Exception
Pursuant to Subsections		3103, 2101.1	See Zoning Administrator's Memorandum

Pursuant to 11 DCMR §3113.2, the undersigned agent certifies that:

(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia; and
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print)
Agent's Signature: Cynthia Giordano	Agent's Name (Please Print): Cynthia A. Giordano

Date | D.C. Bar No. | or | Architect Registration No.

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 §3113.2)

Based upon review of the application and self-certification, this application is:

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ DCMR Title 11 §3113.2; or ☐ DCMR Title 11 Zoning Regulations. Explanation _____

Signature | Date

Jerrily R. Kress, FAIA – Director
District of Columbia Office of Zoning

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001
(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov

Side 2

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on Form 135. All certification forms must be completely filled out (front **and** back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of paper to complete this form.

2. Complete one self-certification form for each application filed. Present this form with the Form 120 Application to the Office of Zoning, 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)					
Lot Width (ft. to the tenth)					
Lot Occupancy (building area/lot area)					
Floor Area Ratio (FAR) (floor area/lot area)					
Parking Spaces (number)	0	14		0	100 %
Loading Berths (number and size in ft.)					
Front Yard (ft. to the tenth)					
Rear Yard (ft. to the tenth)					
Side Yard (ft. to the tenth)					
Court, Open (width by depth in ft.)					
Court, Closed (width by depth in ft.)					
Height (ft. to the tenth)					