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January 13, 2004

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

Re: Application No. 17105
Jenny Waelder Hall Center for Children

Dear Mr. Griffis:

Submitted herewith are 20 copies of the Applicant's Pre-Hearing Submission in Board of Zoning Adjustment Case No. 17105.

Sincerely,
ARNOLD & PORTER

Cynthia A. Giordano

Nathan W. Gross, AICP

Enclosures

BZA
Case No. 17105
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17105
EXHIBIT NO. 26

PRE-HEARING STATEMENT IN SUPPORT OF
JENNY WAELDER HALL
CENTER FOR CHILDREN, INC.
FOR A CHILD DEVELOPMENT CENTER
AT 3150 CHESAPEAKE STREET, N.W.

Board of Zoning Adjustment Application No. 17105

January 13, 2004

I. Nature of Relief Sought

This is the Pre-Hearing Statement by the Jenny Waelder Hall Center for Children, Inc. (the "Center," the "Applicant") for a special exception to operate a nursery school/child development center for 8 to 16 children at the Capital Memorial Church of Seventh-Day Adventists, 3150 Chesapeake Street, N.W. (Lot 836 in Square 2263, the "Church"). The subject property is zoned R-1-A.

II. Jurisdiction of the Board of Zoning Adjustment

The Board of Zoning Adjustment ("BZA") has jurisdiction to grant the relief requested pursuant to § 3104 of the Zoning Regulations.

III. Description of the Subject Property and Vicinity

The Capital Memorial Church of Seventh-Day Adventists is a medium to large sized church building (approximately 42,338 square feet of gross floor area) of traditional, stone construction, situated on a large lot of 54,000 square feet (1.24 acres), at 3150 Chesapeake Street, N.W. The property is in the Forest Hills neighborhood and is within the boundaries of Advisory Neighborhood Commission ("ANC") 3F. The neighborhood is a quiet, low-density area of predominantly detached single-family homes. A long block to the west of the property is Connecticut Avenue, both frontages

of which are zoned R-5-D and developed with high-rise apartment buildings on large sites.

Immediately to the west of the Church is the Forest Hills Playground, which has a large ball field as well as playground equipment. To the north, south and east are detached houses in the R-1-A District. On the subject square the only improvements other than the Church are two detached houses situated between the Church and 31st Street. See the *Site Location and Context Map* in ***Exhibit A***, the *Existing Zoning Map* in ***Exhibit B*** and the photographs of the Church and its immediate environs in ***Exhibit C***.

IV. The Proposed Use

The Jenny Waelder Hall Center for Children, Inc. is a tax-exempt 501(c)(3) organization, incorporated in Maryland and in good standing in the District of Columbia, and affiliated with the Baltimore-Washington Institute for Psychoanalysis, Inc. The core program of the Center will be a small nursery school, with adjunct programs including parent-toddler groups in the afternoon and very occasional evening or weekend programs for parents, teachers and professionals who work with small children. There may also be an eight-week summer session.

Nursery School

The Center's main mission is to create a small, high-quality nursery school program for children, ages 3 to 5, who face social, emotional, and psychological challenges and whose needs cannot be met in a typical preschool setting. The program provides carefully planned play and learning activities to promote and restore healthy social, emotional and psychological development while supporting physical and cognitive growth. Parental education, guidance and support are an integral part of the program as

well. The aim is for these children to enter a mainstream kindergarten program after participating in the nursery school. This is a program that is truly needed in the Washington, D.C. area.

The nursery school will operate Monday through Friday from approximately 8:00 to 12:30 from September to June, following the public school calendar. Initially there will be one class of 8-12 children, with 3 teachers and a staff-to-child ratio of 1:3 or 1:4.

Referrals will likely come from area preschools, from parents seeking appropriate placement for their young children, and from professionals working with these children and their families. As part of the admissions process, children will be evaluated to ensure that the program will meet their needs. Children from the greater metropolitan area will be eligible.

The Center has agreed, in consultations with neighbors and community groups, that children residing in Forest Hills (defined for this purpose as being the geographic area of ANC 3F) will receive admissions priority. Such children will be required to meet all other criteria for admission, such as an admissions evaluation, evidence of delays or difficulties with social and emotional development, family participation, and compatibility with the other children being admitted or already attending the school in terms of symptoms, gender, age and other factors considered in the admissions process.

The Center will rent classroom space from Capital Memorial Church, consisting of one classroom on the lower level, along with ancillary space (bathrooms, kitchen and parking). As of the date of this submission, the Church and the Center are in the process of negotiating the specific terms of a use agreement, which will be for a three-year lease term. Drop-off, pick-up, and all parking for parents and staff will occur in the Church

parking lot. The burden of additional traffic and parking in the neighborhood will be minimal.

Children will use the Forest Hills Playground as an outdoor play area. (See § 205.7 below.) There will be no after-care program. All nursery school students will leave at the end of the morning session.

During the summer, the nursery school may operate an 8-week diagnostic session in the morning. The purpose of the program will be to evaluate and assess children with social, emotional and psychological challenges in a nursery school setting. Some of these children will enroll in the nursery school. No more than 12 children will attend the summer session.

Parent-Toddler Groups

In the afternoon there will be parent-toddler groups. These groups will be open to all children, not specifically those with emotional and social difficulties. The purpose of such groups is to promote healthy, pleasurable parent-toddler interactions in the service of supporting optimal emotional and physical development among young children and enhancing parenting skills and knowledge of early child development among parents and other caregivers.

No more than one parent-toddler group will be held per afternoon, Mondays through Thursdays only. Each group will consist of 8 toddlers (12-36 months old), 8 parents or other caregivers and 3 teachers. Groups will meet once per week and will last for 90 minutes, inside the church and without using the adjacent playground. Groups will occur between 1:00 p.m. and 4:00 p.m. and end before the afternoon rush hour to minimize any adverse effect from additional traffic on the neighborhood.

Such parent-child sessions are contemplated in the zoning definition of Child/Elderly Development Center, which states in part, "A child/elderly development center includes the following accessory uses: counseling, education, training, and health and social services for the parents or principal guardians of children attending the center." (11 DCMR § 199)

Special Events

The Center expects to hold 3-4 special events per year. These will be workshops and lectures for parents, teachers and professionals who work with small children. These events will be scheduled only in the evening or on Sunday (Saturday is Capital Memorial Church's sabbath). Attendance is expected to be in the range of 30-50 people, and attendees will be asked to park in the Church parking lot. To minimize any adverse effect from additional traffic, these events will be scheduled to avoid conflict with other events that are expected to bring significant numbers of people to the Church or the adjacent playing field. So that neighbors are aware of upcoming events at the Center, notice of such events will be forwarded to ANC 3F.

V. Compliance with the Special Exception Criteria

The subject property is zoned R-1-A, which is a low-density residential zone that allows single-family detached dwellings on lots having a minimum area of 7,500 square feet and 75 feet of width. Maximum building height is 40 feet, 3 stories. Certain compatible nonresidential uses are allowed as of right, as accessory uses or as special exceptions subject to approval by the BZA according to specified criteria.

A child development center is allowed by § 205.1 if approved by the Board subject to the generic standards of § 3104 and the specific criteria reviewed below.

205.2 *The Center shall be capable of meeting all code and licensing requirements.*

The Program Director of the Center has attended the licensing seminar sponsored by the Department of Health, Health Regulation Administration, Child and Residential Facilities Division and has also filed the application for a license. By memorandum dated November 14, 2003, the Program Manager of the Child and Residential Care Facilities Division, Department of Health, submitted its report to the Board, recommending approval of 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 or elderly persons.*

The Church has vehicular access only from Chesapeake Street, from which there are two curb cuts accessing the Church -- one inbound and one outbound. These serve a single driveway, which goes around the Church in a one-way direction, with several sections of diagonal parking spaces along the drive. The Church entrance that will be used for drop-off and pick-up of the children is the entrance on the west side of the Church. Parents or others who are dropping off or picking up children will enter via the easternmost driveway from Chesapeake Street and continue three-fourths of the way around the Church to this western entrance. As is illustrated in the photographs in Exhibit C, this entrance faces a large park, so there will be no noise or other adverse effects imposed upon neighbors. Parents will then continue out the exit driveway back on to Chesapeake Street.

The western entrance to the Church is situated more than 100 feet from Chesapeake Street. The nearest houses will be those few along the north frontage of

Chesapeake Street to the west of Gates Road. This is a significant amount of space from a quite minor level of activity and a low noise level.

The availability of a pick-up and drop-off area internal to the site means that there will be no problem with automobiles backing up on to Chesapeake Street, and of course, there will be no need for cars to park or double park on Chesapeake Street for drop off and pick-up. The one-way system makes it safe and convenient for parents or other drivers to enter at the easternmost driveway, drive around the Church to the western entrance, drop off the child, and then continue out the exit driveway on to Chesapeake Street. Traffic volume on Chesapeake is generally low, especially at the midday pick-up time.

All in all, the vehicular access and drop-off system is exceptionally favorable in terms of avoiding any adverse traffic effects and in protecting the safety of the children.

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

The Church has 56 parking spaces, which are little used during the week, so that parking will be ample for the 3 teachers, or 5-6 teachers if the program expands in the future. There will be occasional visitors, part-time volunteers and special events, but the number of attendees will easily be accommodated by the existing parking spaces. The Church itself is primarily a place of worship with only very limited activities during the week, so that the nursery school teachers will not have problems competing for parking spaces with other users or events. Church officials confirm that there are no scheduled daytime activities during the Monday-Friday week, so that the only other activity in the daytime will be the presence of four Church employees on the premises.

The parking requirement for Child/Elderly Development Center in 11 DCMR § 2101.1 is one parking space for every 4 teachers or other employees. In the initial period there will be 3 teachers, resulting in a requirement for one parking space. If the nursery school expands to its maximum requested size of 16 children, 6 teachers and 2 staff, the parking requirement will be two spaces. In either case, the availability of 56 little-used spaces available during the week ensures that sufficient parking is available 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, activity, visual or other objectionable impacts.*

The indoor program will take place within an established church, so that any noise from activities will be completely or virtually completely contained within the building. There are few nearby houses, and they have reasonable separation from the Church property. Because of the park to the west of the Church, there is only one abutting house on the south side of Chesapeake Street. The *Site Location and Context Map* in Exhibit A depicts the few houses nearby on the north frontage of Chesapeake Street and the substantial degree of separation that exists between them and the Church property. A trustee of the Center has discussed the program with the immediate neighbors, and the neighbors support the proposed nursery school so long as its size does not exceed 16 children and certain other conditions apply, as set forth under "Conclusion."

The program will take place in space formerly used by a child development center that operated in the Church for 10-15 years in the 1960s and 1970s, with an enrollment of approximately 50 children. Clearly the proposed program is much smaller and much less

likely to create noise or other disturbance of neighbors than the previous child development center.

In this application the Center requests approval to enroll up to 16 children in the nursery school and to have a maximum of 6 teachers and two other staff members. The Center has made this commitment to the neighbors of the Church, and the cap of 16 children, 6 teachers and 2 staff is acceptable to the Applicant as a condition of approval in this case.

The initial size of the morning nursery school will be one class of 8-12 children and 3 teachers. There are no expansion plans at this time, but the Applicant would like to be able to enroll up to 16 children in the morning nursery school without further public hearing and Board approval. (The Church has currently agreed to a maximum of 12 children in the morning nursery school and rental of only one classroom. Any potential future expansion to 16 children would require approval from the Church's board and rental of a second classroom.) If the nursery school ever desires to expand beyond 16 children, it will relocate to another site altogether.

The size of the afternoon parent-toddler groups will be 8 children, 8 parents and 3 teachers. The Center has agreed with neighbors not to run more than one such group per afternoon, and therefore the number of people involved in the parent-toddler groups will not increase in the future.

The Center has agreed with neighbors that it will operate only in the existing Church building; that is, it will not operate or seek to operate in any other residentially zoned property adjacent to or across the street from the Church.

The Center will provide parents and staff with written traffic and parking instructions, including instructions to enter the Church property via the easternmost driveway from Chesapeake Street, to drop off and pick up children at the western entrance, and to park only in the church parking lot. In consultations with neighbors and community groups, the Center has also agreed that it will encourage parents to avoid driving on the portion of Gates Road, N.W., between 30th and 31st Streets, N.W., since this is a private road. It is understood, however, that the Center can only encourage, not enforce this practice.

The Center will designate a neighborhood liaison for neighbors to contact to discuss any concerns about the Center's operations. In addition, after six months of operation, the Center will offer to meet with ANC 3F every six months or as necessary, as determined by the participants. The Center will also send an annual statement of compliance to ANC 3F providing information about the total number of enrollees, teachers and staff and the Center's compliance with all conditions set forth under "Conclusion" below.

The favorable vehicular access and child drop-off system with minimal likely effects on neighbors was described above, under § 205.3. The direct access to a public playground without crossing a street or passing near the homes of residential neighbors is described in the § 205.7. In summary, it is highly unlikely that there will be any "objectionable impacts on adjacent or nearby properties due to noise, activity, visual or other objectionable impacts."

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 deems necessary to protect adjacent and nearby properties.*

Given the favorable situation of the premises and small size of the program, the Applicant is of the opinion that no additional screening or other measures are needed. The Applicant will, of course, consider any suggestions from 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 travelling between the play area and the center itself*

The Forest Hills Playground, a public playground that abuts the Church to the west, will be used as the outdoor play area for children in the nursery school, including the summer session, if there is one. The children and staff will thus not need to cross a street to reach the playground. Use of the playground will occur mid-morning, always under close supervision from staff. The nursery school teachers will work cooperatively with the city and the Friends of Forest Hills Playground to help keep the park clean and well maintained. The Program Director of the Center communicated with the Department of Parks and Recreation and received confirmation that the Center is free to use the playground and that no permission from the Department is needed. In addition, a trustee of the Center consulted with the Friends of Forest Hills Playground regarding park usage. The trustee also visited the playground at numerous mid-morning times to observe usage. Usage at that time of day tends to be light (approximately 20 children), and there is ample room for additional children to play there. Because the nursery school is so small and operates only in the mornings, conflicts should be extremely few.

In consultation with community groups, the Center has agreed to take no more than 12 children to the playground at any one time. If any child demonstrates behavior on the playground that is deemed inappropriate by the staff, that child will be removed from the playground.

In addition to being safe for the children walking to it, the park is also well separated across Chesapeake Street from only four detached houses. The buildings to the west and south of the park are large, high-density apartment buildings, the occupants of which will not be disturbed by minor noise created by the few children of the nursery school in play periods.

205.8 *The Board may approve more than one (1) child/elderly development center in a square or within 1,000 feet 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.*

The District's licensing records indicate that there is no other child/elderly development center within Square 2263 or within 1,000 feet of the subject property.

205.9, 205.10 These provisions require a referral to various departments, including Human Services. The Applicant will work closely with the latter agency after the referral is made to ensure that licensing compliance is indicated.

VI. Compliance with § 3104

Section 3104 authorizes the Board of Zoning Adjustment to grant special exceptions subject to the specific criteria for the individual use, reviewed above, and subject to a finding that the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property.

The facts and analysis in this Statement document that the proposed nursery school will be compatible with the purpose of the R-1 Districts to provide for quiet residential areas, where "only a few additional and compatible uses shall be permitted." (11 DMCR 200.2) The Center will be an entirely compatible use with the surrounding

residential neighborhood and is consistent with the intent of the R-1 District purpose statement.

VII. Community Comment

During the open forum at a meeting of Advisory Neighborhood Commission 3F on September 29, 2003, the Center's Program Director and a trustee described the Center's proposed operations to commissioners and neighbors. A trustee also contacted the President of Friends of the Forest Hills Playground. In addition, she contacted the Forest Hills Neighborhood Alliance, but was informed that this organization is focussed on historic preservation and therefore does not have a point of view regarding the Center's operations. On December 3, 2003, the Center's Program Director and a trustee met with the Executive Board of the Forest Hills Citizens Association. They also met on December 8, 2003 with several neighbors of the Church at a Single Member District meeting for residents in ANC 3F04, in which the Church is located. Immediate neighbors of the Church who live in ANC 3F03 were also invited to attend this meeting.

On January 12, 2004, this Application was presented to a meeting of Advisory Neighborhood Commission 3F, which voted not to object to the special exception application by a vote of 5 in favor and 1 opposed, with one absent Commissioner not voting.

The Applicant's proposed conditions as set forth under "Conclusion" derive from these consultations as well as the Center's own program needs and limits. Community comments have been accepting and generally supportive of the proposed use, provided the Center does not expand above 16 children and complies with the other conditions that have been agreed to. The Center has reached a written agreement with one of the

neighbors that it will not seek to locate in any residential property adjacent to or across the street from the Church. That neighbor intends to testify and submit the agreement to the record of this case.

VIII. Conclusion

The proposed nursery school/child development center use satisfies all of the requirements for the requested special exception as set forth in Sections 3104 and 205 of the Zoning Regulations. The Applicant requests that the Board approve the application for a child development center. As part of this Application, the Applicant agrees to the following conditions:

1. The nursery school will operate Monday to Friday mornings from approximately 8:00 a.m. to 12:30 p.m., with a maximum enrollment of 16 children, 6 teachers, and 2 staff.

2. The parent-toddler groups will occur on Monday to Thursday afternoons and will have a maximum of 8 toddlers, 8 parents or caregivers, and 3 teachers. These groups will last for 90 minutes each and will occur between 1:00 p.m. and 4:00 p.m. There will be only one parent-toddler group per afternoon.

3. The Center will give admissions priority to children residing in the Forest Hills neighborhood, assuming such children meet all other criteria for admission. For this purpose, the neighborhood is defined as being the boundaries of Advisory Neighborhood Commission 3F.

4. A summer session of the nursery school, if offered, will be limited to an eight-week duration and will enroll no more than 12 children.

5. The Center will take no more than 12 children to the playground at any one time. Use of the playground will occur mid-morning, always under close supervision of staff. If any child demonstrates behavior on the playground that is deemed inappropriate by teachers, that child will be removed from the playground.

6. No more than four special events will take place in any year. Such events will only occur in the evening or on Sunday and will be scheduled to avoid coinciding with other events at the Church that are expected to attract significant numbers of visitors. Notice of special events will ask attendees to park in the Church parking lot and will be forwarded to ANC 3F.

7. The Center will provide written traffic and parking instructions to parents, teachers, and staff, including instructions to enter the Church parking lot via the easternmost driveway from Chesapeake Street, to use the western entrance for drop-off and pick-up of children, and to park only in the Church parking lot. It will also encourage parents to avoid driving on the portion of Gates Road, N.W., between 30th and 31st Streets, N.W.

8. The Center will designate a neighborhood liaison for neighbors to contact to discuss any concerns about the Center's operations.

9. After six months of operation, the Center will offer to meet with ANC 3F or its designees and will offer to meet with this group every six months or as necessary, as determined by the participants. The Center will send an annual written statement of compliance with these conditions to ANC 3F, including information about the total number of enrollees, teachers and staff.

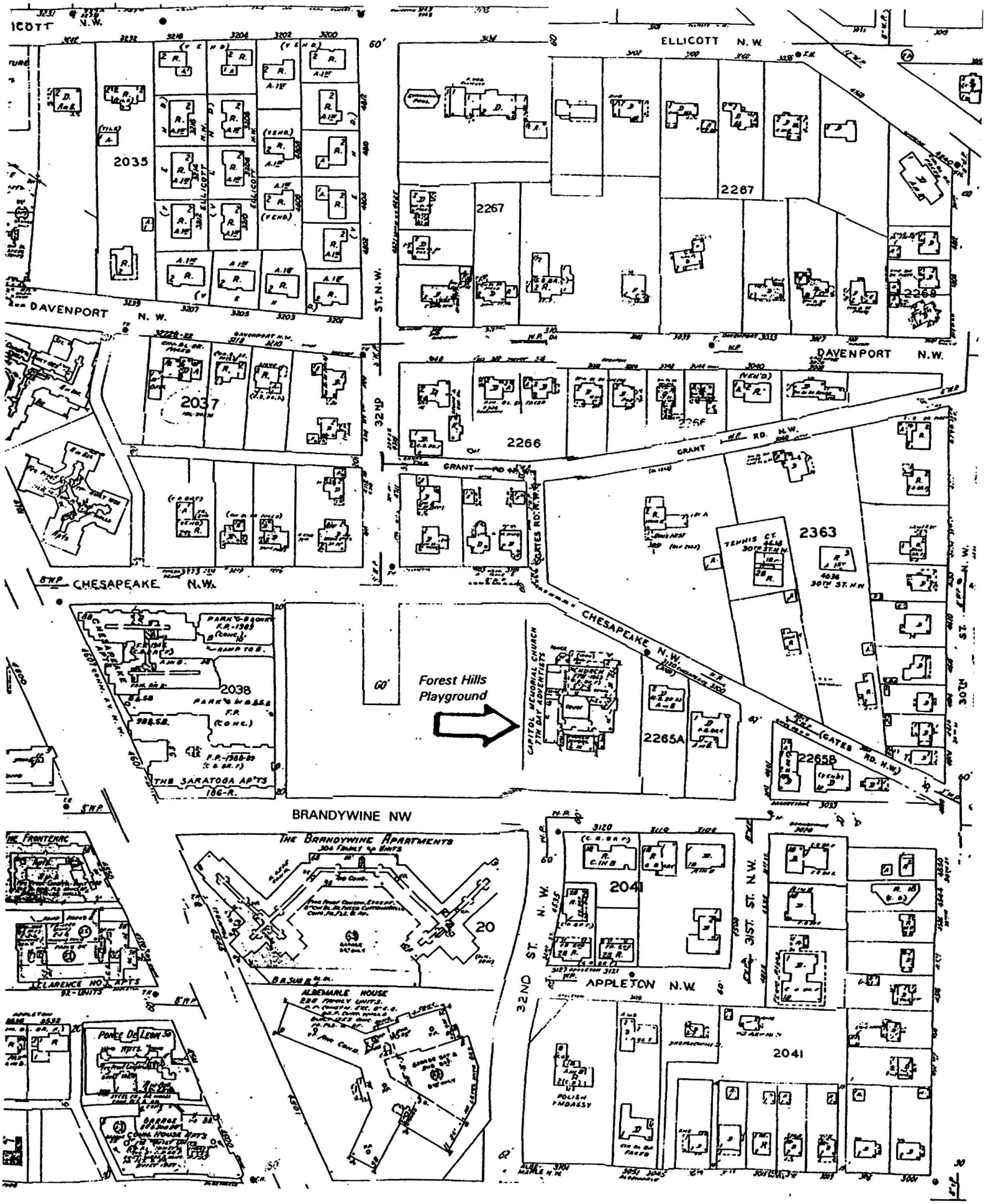
Respectfully submitted,
ARNOLD & PORTER

Nathan W. Gross, AICP

Cynthia A. Giordano

Attachments

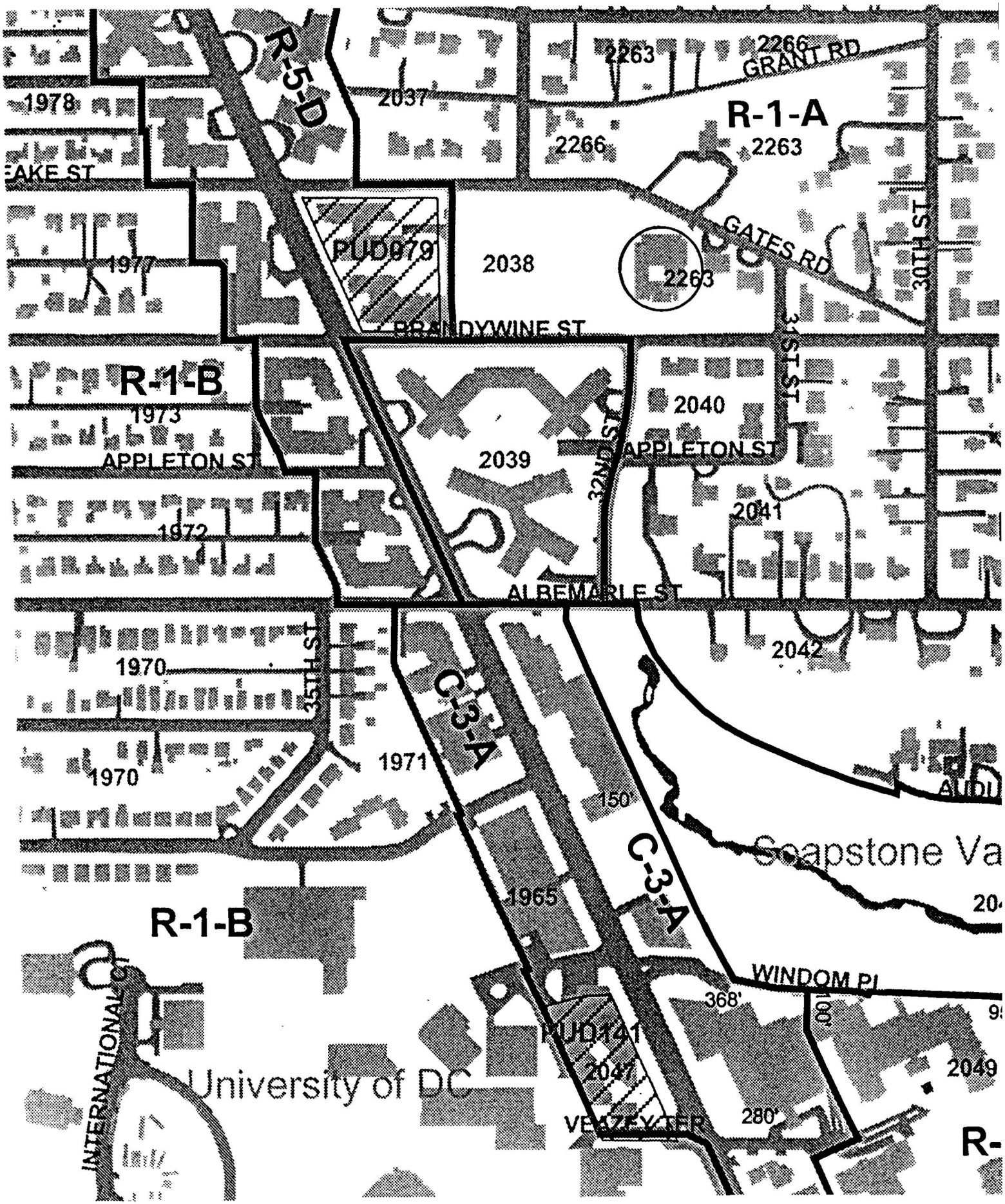
Exhibit A: Site Location and Neighborhood Context Map



SITE LOCATION AND NEIGHBORHOOD CONTEXT

Map Source: Sanborn Building and Property Atlas

Exhibit B: Existing Zoning Map

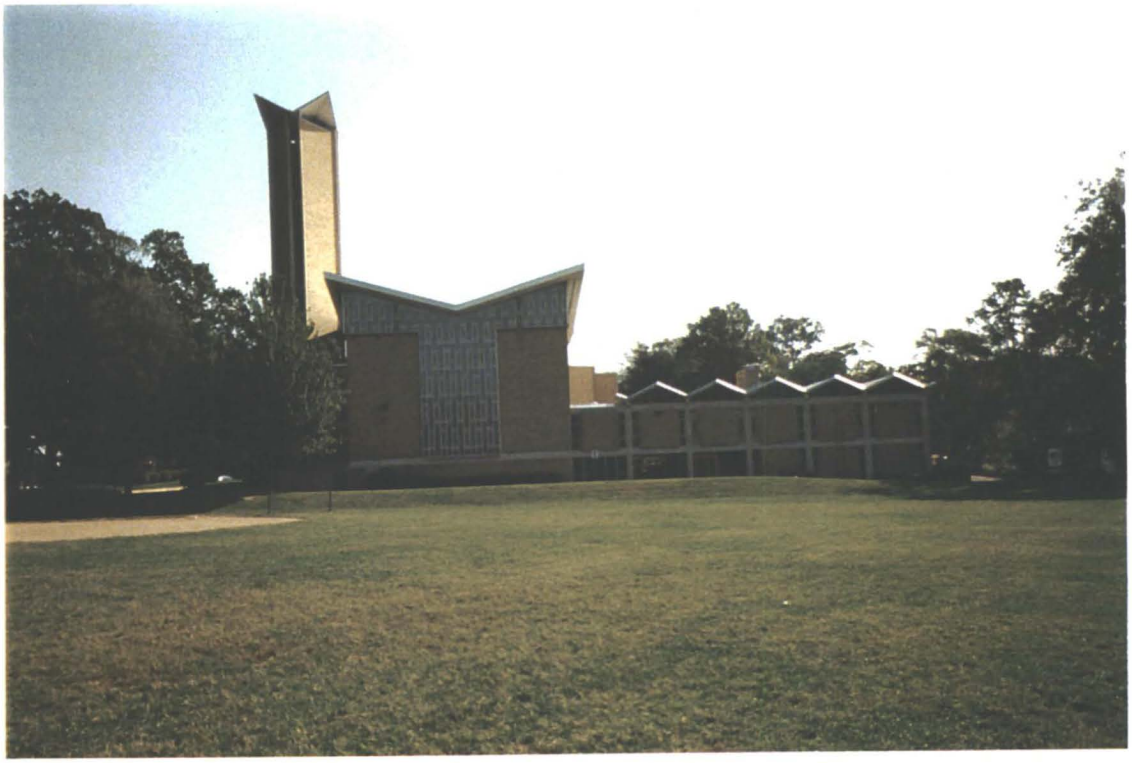


EXISTING ZONING

Exhibit C: Photographs of the Church and the Immediate Vicinity

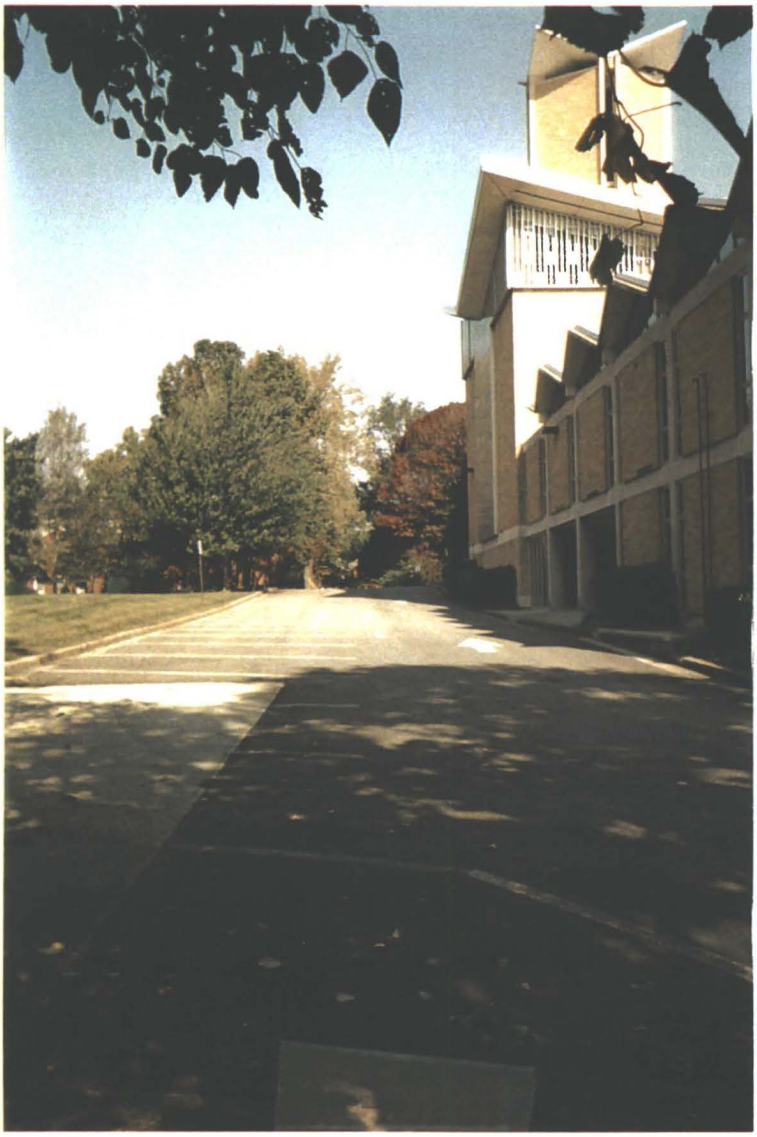


Capitol Memorial Church viewed from Chesapeake Street – "In" Driveway in Foreground

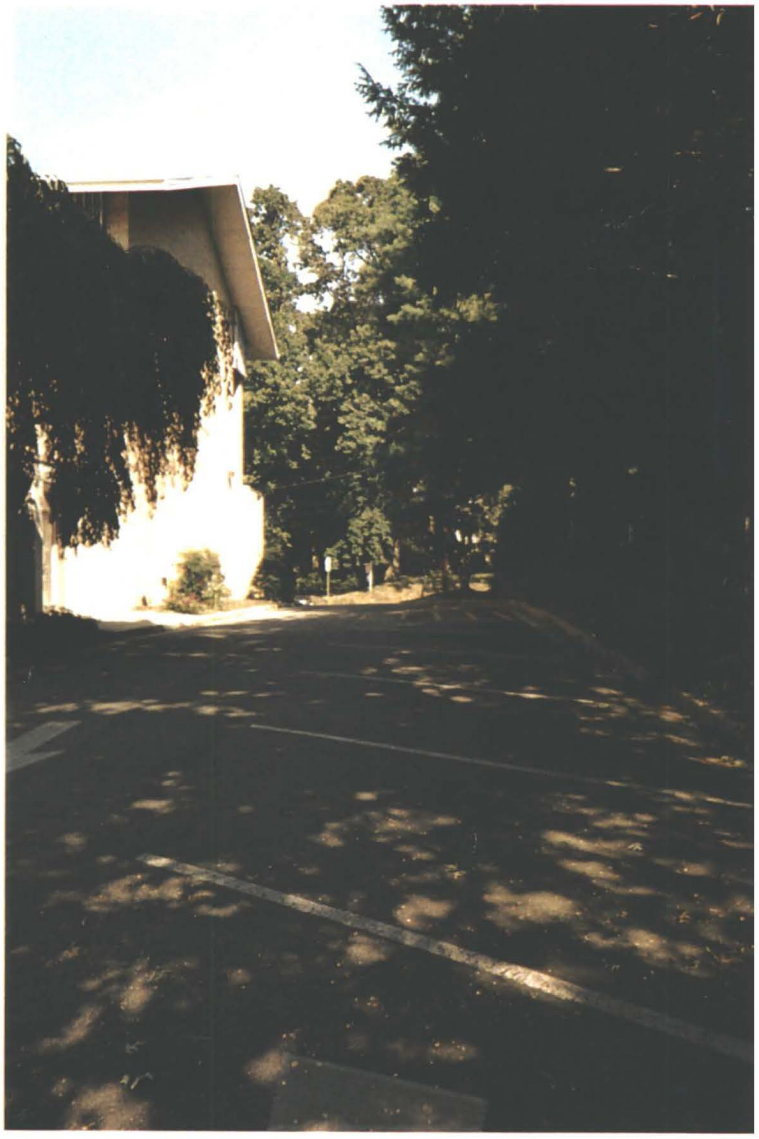


The Church viewed from the west across part of Forest Hills Playground

PHOTOGRAPHS OF CAPITOL MEMORIAL CHURCH



West side of Church looking north towards Chesapeake Street, with driveway, parking and west entrance to be used for drop-off and pickup of children



East side of Church looking towards Chesapeake Street, with driveway and parking in foreground, detached house across street

PHOTOGRAPHS OF CAPITOL MEMORIAL CHURCH