

## BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

**Burden of Proof Statement**  
**Application of The Church of Pilgrims**  
**Special Exception Modification**  
**2201 P. Street, NW and 1524 22<sup>nd</sup> Street, NW**  
**Parcel 2510/0827**

On behalf of The Church of the Pilgrims (the "Applicant"), the owner of the property located at 2201 P Street, N.W. (the "Property"),<sup>1</sup> we are submitting this application for consideration by the Board of Zoning Adjustment (the "BZA" or "Board") to renew the existing Special Exception (Case Nos. 18079 and 18079-B) for a daytime care use<sup>2</sup> located in the R-3 Zone District (the "Application").

### I. Prior Approvals

The most recent Special Exception (Case No. 18079-B) was approved by the BZA on March 3, 2015 and allows the Applicant's tenant, the School for Friends (the "School"), to operate a child development center with up to 74 students and 18 faculty members at any given time (the "Current Special Exception"). The Current Special Exception has a term limit of ten years and, thus, is scheduled to expire on March 3, 2025.

There is a long history of early childhood educational services on the Property, dating back to 1964 when a "pre-school group" was first approved. As discussed below, the early childhood educational use of the Property (e.g. originally a pre-school group and subsequently approved as a child development center) has been approved at least seven (7) times:

- BZA Order No. 8017 (December 16, 1964) approved a "pre-school group" for 50 children (for a one-year term);
- BZA Order No. 10060 (June 25, 1969) re-approved the pre-school group for a term of five (5) years;
- BZA Order No. 14172 (October 3, 1984) approved a child development center for the School for Friends with up to 24 children (for a term of two years);

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<sup>1</sup> The Property's tax account address is 1524 22<sup>nd</sup> Street, NW, although the mailing address for the school is 2201 P. Street NW.

<sup>2</sup> The prior approvals are for a Child Development Center, which now falls under the use classification of "Daytime Care." Specifically, Daytime Care use is defined to include child development centers. See Subtitle B Section 200.2(h) which defines Daytime Care use to include but not limited to "... an adult day treatment facility, child development center, pre-schools, nursery schools, before-and-after school programs, child development homes, an expanded child development home, and elder care centers and programs."

- BZA Order 14518 (December 17, 1986) re-approved the child development center for a five (5) year term;
- BZA Order 15534 (July 24, 1991) expanded the child development center to 37 children and 10 staff members, subject to certain conditions. Per the conditions of approval, the School was required to provide five (5) parking spaces on-site. The Board subsequently modified the condition, pursuant to BZA Case No. 15534-B (November 22, 1991), to reduce the number of on-site parking spaces to four (4);
- BZA Order No. 18079 (July 13, 2010) approved the expansion of the child development center to 50 children and 12 staff, for a term of 10 years, subject to certain other enumerated conditions. The Board modified Condition No. 7, to only required a school employee to be an on-site traffic-monitoring coordinator by BZA Order No. 18079-A (March 1, 2011); and
- BZA Order 18079-B (February 24, 2015) to allow for the expansion of the school to 74 students and 18 staff, for a 10-year term. (Collectively, the “Prior Approvals”).

## **II. Board's Jurisdiction**

The current Special Exception imposes a term limit of ten (10) years from the date upon which the order became final (*see Condition of Approval No. 1*). The current term limit is scheduled to expire on March 3, 2025. As such, the Applicant is seeking to amend the existing Special Exception to allow for the continuation of the existing use on the Property. The Board has jurisdiction to grant the requested relief under Subtitle U § 203.1 (h), in accordance with the provisions of 11 DCMR Subtitle X § 901.2.

## **III. Site Location and Characteristics**

The Property is located along 22<sup>nd</sup> Street in the southwest quadrant of its intersection with Q Street and is zoned R-3. The Property is irregularly shaped and is comprised of approximately 34,850 square feet of land. The Property is improved with a church, and an adjoining two-story building (with basement) that houses the School. Vehicular parking is provided at the rear of the building, and contains surface parking for 24 vehicles (per the Board’s prior approval, a minimum of four (4) spaces are dedicated to the School’s use). The Property also has an approximately 2,000 square foot fenced playground area located behind the School (to the east).

The Property’s location is uniquely situated for this use, as it is on the edge of the Dupont Circle neighborhood, bordered by Rock Creek Park to the west. At the same time, the Property’s proximity to nearby residential areas allows the School to effectively serve families in the District.

#### **IV. Existing Use**

The School was founded in 1981 and has operated an early child development center on the Property since 1984. The School operates in accordance with the approved Special Exception, which permits a maximum enrollment of 74 students, ages twelve months to 6 years old, and a total of approximately 18 staff members on-site at any given time. The hours of operation are from 8:00 AM until 6:00 PM, including before and after school care. Students generally arrive between 8:00 and 9:00 AM, and School programs are designed to accommodate multiple departures throughout the day, reducing the number of departures from the Property in the evening peak period. The typical school day runs from 8:30 AM until 3:00 PM. As mentioned above, there is an outdoor play area on-site, enclosed by a fence, to facilitate outdoor classroom activities.

Student loading procedures are included in the parent's handbook, which direct parents not to park on the western side of 22<sup>nd</sup> Street or block vehicles during drop-off/pick-up. Rather, parents are directed to use the on-site parking lot during pick-up and drop-off.

The School is not aware of any adverse impacts on the surrounding neighborhood as a result of its use of the Property. The School has successfully operated on this Property for decades and has worked diligently to be a good neighbor and to ensure compliance with all conditions of approval.

#### **V. Proposed Modification**

As discussed above, a pre-school or child development center has existed on the Property since 1964, and has been operated by the School for Friends since 1984. Per the most recent approval in 2015, the School is approved to operate with up to 74 children (ages 12 months to six years) and up to 18 staff members on-site at any given time, subject to certain conditions. The School is currently in compliance with the operational conditions of the Current Special Exception. The School is not requesting any changes to the approved building area, operations, enrollment capacity or maximum number of employees. Rather, the School is simply seeking to allow for the continuation of the long-standing, existing use. Given the School's history on the Property and demonstration of successful operation, the School is now seeking re-approval of the Daytime Care Use, without a term limit. As such, the School is requesting to eliminate Condition No. 1, to allow for the permanent operation of this neighborhood serving, early childhood educational use on the Property.

#### **VI. Special Exception Criteria**

Pursuant to Subtitle X § 901.2, the Applicant is seeking Special Exception approval to allow for the continuation of the existing, long-standing child development center on the Property (Subtitle U § 203.1(h)). Pursuant to Subtitle X § 901.2, a daytime care use (which is defined to

include child development centers) is permitted by Special Exception in the R-3 District where the Board finds that the Special Exception:

- (1) *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*
- (2) *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*
- (3) *Will meet such special conditions as may be specified in the Zoning Regulations.*

Subtitle U § 203.1(h) sets forth additional criteria for Special Exception relief for daytime care uses. Specifically, Subtitle U § 203.1(h) requires that:

- (1) *The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance;*
- (2) *Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility;*
- (3) *The Board of Zoning Adjustment 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; and*
- (4) *More than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility may be approved only when the Board of Zoning Adjustment 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.*

Uses that are allowed by special exception are deemed compatible with other uses permitted in the applicable zoning district provided certain requirements are met. In reviewing an application for a Special Exception under the Zoning Regulations, the discretion of the Board is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites of the Zoning Regulations are satisfied, the BZA ordinarily must grant the application. See, e.g., Baker's Local Union No. 118 v. District of Columbia Board of Zoning Adjustment, 437 A.2d 176, 178 (D.C. 1981). As discussed in detail in Section VII below, the proposed application satisfies these requirements for Special Exception approval.

## **VII. Justification**

In connection with the Prior Approvals, the Board found that the daytime care use (previously referred to as a “pre-school group” and “child development center”) proposed at this location was in compliance with the general and specific findings of the Zoning Regulations. As previously mentioned, the Applicant is not seeking any changes to the approved operations, enrollment capacity, or maximum number of employees. As such, the previous findings made by the Board remain unchanged. However, these findings are addressed and re-confirmed below.

The School has worked diligently over the past 40 years to be a good neighbor and to ensure compliance with all conditions of approval. And as a result, the School has become an integral part of the community. The School is not proposing any changes to the existing use that would impact or affect its existing relationship with the surrounding community. In fact, the proposed modification will simply allow the School to continue serving existing families and the surrounding neighborhood.

Given the School’s long-standing, successful operation on the Property, this Special Exception application seeks to eliminate the term limit and allow for a permanent Special Exception. This will eliminate the financial burden placed on the Applicant, a religious institution, and School, a non-profit organization, of future applications for renewal. Additionally, a permanent special exception would reduce the burden on the Board’s resources of processing additional applications. The Applicant proposes to continue to comply with all prior conditions of approval, with the exception of Condition No. 1 related to the term limit, which have ensured the successful operation of the use at this location to-date.

### **A. THE SPECIAL EXCEPTION REQUEST MEETS THE GENERAL SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE X § 901.2.**

#### *1. The Relief is Harmonious with the General Purpose and Intent of the Zoning Regulations and Maps.*

The requested special exception relief for a daytime care use can be granted by the Board without impairing the general purpose and intent of the Zoning Regulations. The School has successfully operated on the Property for over 40 years. No changes are proposed to the existing buildings on the Property or approved operations of the School. As such, the School will continue to be compatible with the surrounding neighborhood and in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map.

#### *2. The Relief will not tend to Adversely Affect the Use of Neighboring Property. S*

No changes to the existing operations or physical improvements on the Property are proposed. Rather, the Applicant is merely seeking to allow for the continuation of this long-standing, community serving use. The School will continue to comply with all operational

conditions of approval an as such, this Application will not change the nature or character of the existing use.

As discussed above, the School is located on the periphery of the Dupont Circle neighborhood, abutting Rock Creek Park. As such, the School is largely buffered from the surrounding neighborhood. The Property accommodates all necessary circulation, parking and pick-up/drop-off operations on-site, which ensures that no traffic congestion occurs on the surrounding public streets. As demonstrated through their decades of operation, the School does not have any adverse impacts on the surrounding neighborhood due to traffic, noise, operations or other similar factors.

*3. The Relief will meet the specific conditions of Subtitle U § 203.1(h).*

In addition to the general Special Exception standards, a daytime care use must meet the special conditions set forth under Subtitle U § 203.1(h). These requirements are addressed in Section VII.B below.

**B. THE APPLICANT MEETS THE SPECIAL EXCEPTION STANDARDS FOR A DAYTIME CARE USE, WITH THE PROPOSED ADDITION AND RELATED CHANGES**

Pursuant to Subtitle U § 203.1(h) the Board may grant Special Exception relief for a daytime care use if the Board finds that:

- 1. The facility shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off persons in attendance;*

The Applicant seeks to continue the existing daytime care use on the Property. The proposed modification will not become objectionable to adjoining and nearby property because it will not result in any new, adverse impacts in terms of noise, traffic, or other objectionable conditions. As discussed in this Statement, the School is not proposing any new construction or changes to the existing, approved operations. Furthermore, the School will continue to comply with Conditions of Approval Nos. 4 and 7, related to traffic. The Applicant has provided a "right-turn-only" sign on Florida Avenue per Condition No. 4, and per Condition No. 7, the Applicant has designated a school employee to be an on-site traffic monitoring coordinator to ensure the safe pick-up and drop-off of children and to resolve any traffic flow issues and concerns, as may be appropriate.

- 2. Any off-site play area shall be located so as not to endanger individuals traveling between the play area and the center or facility;*

The Property also has an approximately 2,000 square foot fenced playground area located behind the School. The playground is located immediately adjacent to the School building which ensures the safety of children traveling between the school building and playground. As discussed herein, no changes are proposed to the existing operations or physical improvements on-site.

3. *The Board of Zoning Adjustment 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; and*

As discussed above, the School has successfully operated on the Property for over 40 years. As demonstrated through the School's successful operation, the existing improvements, which are proposed to remain unchanged, have no adverse impacts on the surrounding neighborhood. As such, no additional special treatment is necessary to protect the adjacent and nearby residential properties.

4. *More than one (1) child/elderly development center or adult day treatment facility in a square or within one thousand feet (1,000 ft.) of another child/elderly development center or adult day treatment facility may be approved only when the Board of Zoning Adjustment 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.*

At the time of the original approval, there were no other child development centers located within the same square or one thousand feet of the proposed use. This Application does not seek to establish a new daytime care use, but rather to allow for the continuation of the long-standing, existing use of the Property. As demonstrated over 40 years, the daytime care use does not have any adverse impacts on the surrounding neighborhood due to traffic, noise, operations or other similar factors.

## **VIII. Compliance with Current Conditions and Proposed Modifications**

The Applicant is in compliance with all applicable Conditions of approval but requests to eliminate Condition No. 1 to allow for the permanent operation of the long-standing daytime care use on this Property.

The Applicant is and will remain in compliance with the following conditions of approval:

- Condition No. 2: The Applicant's enrollment shall be limited to 74 children (ages 12 months to six years) and its staff shall be limited to a maximum of 18 persons.

No changes are proposed to the approved enrollment. The School will continue to operate with a maximum of 74 children (ages 12 months to six years) and up to 18 staff on-site at any given time.

- Condition No. 3: The Applicant's days and hours of operation shall be Monday through Friday, 8:00 a.m. to 6:00 p.m.

The proposed Application conforms with this condition. The subject Special Exception modification will not alter the hours of operation for the School.

- Condition No. 4: The Applicant shall provide a "right-turn-only" sign on Florida Avenue.

As discussed above, the Applicant has provided a right-turn only sign on Florida Avenue.

- Condition No. 5: The Applicant shall maintain in good condition the fence around the property and do all that is possible to limit any infringement on neighboring properties.

The fence on the Property has been maintained in good condition.

- Condition No. 6: The Applicant shall provide commercial trash and garbage collection.

Trash is routinely picked-up from the Property by a commercial provider.

- Condition No. 7: The Applicant shall designate a school employee to be an on-site traffic monitoring coordinator to ensure the safe pick-up and drop-off of children and to resolve any traffic flow issues and concerns, as may be appropriate.

The Applicant has designated a school employee as its on-site traffic monitoring coordinator and will continue to do so. The traffic monitoring coordinator has ensured the safe pick-up and drop-off of children, ensuring no impacts on the surrounding roadway network.

The Applicant requests that Condition No. 1 be eliminated:

- Condition No. 1: ~~This approval shall be for a term of TEN (10) YEARS, beginning on the date upon which the order became final.~~

## IX. Conclusion

The proposed Application will allow the School to continue to serve existing students and families, many of which live in the surrounding community. The School has worked diligently to ensure compliance with all terms and conditions of the Prior Approvals, and will continue to operate in accordance with the Current Special Exception. The Applicant is merely requesting Special Exception approval to allow for the permanent operation of the School at this location. The requested Special Exception is in harmony with the general purpose and intent of the Zoning Regulations and will not adversely affect neighboring properties. As such, for the reasons set forth above, we respectfully request the Board of Zoning Adjustment's approval of this Application. The School looks forward to continuing to be a part of and to serve the neighborhood in the coming years, and appreciates your consideration of this matter.

Respectfully submitted,

Lerch, Early & Brewer, Chtd.

By:   
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