APPLICATION ACCEPTED: May 25, 2010
BOARD OF ZONING APPEALS: August 11, 2010
TIME: 9:00 am

County of Fairfax, Virginia

August 4, 2010

STAFF REPORT

SPECIAL PERMIT AMENDMENT APPLICATION NO. SPA 95-P-066

PROVIDENCE DISTRICT

APPLICANT:	Chabad Lubavitch of Northern Virginia, Inc.
ZONING:	R-1
LOCATION:	9124 Little River Turnpike
ZONING ORDINANCE PROVISIONS:	3-103
TAX MAP:	58-4 ((1)) 50
LOT SIZE:	4.77 acres
FLOOR AREA RATIO (FAR):	0.06
PLAN MAP:	Residential; 1-2 du/ac
SPA REQUEST:	To amend SP 95-P-066 previously approved for a synagogue with a private school of general education to permit the addition of a child care center and nursery school and to permit a change in permittee.

STAFF RECOMMENDATION: Staff recommends approval of SPA 95-P-066 subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

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Deborah Hedrick

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

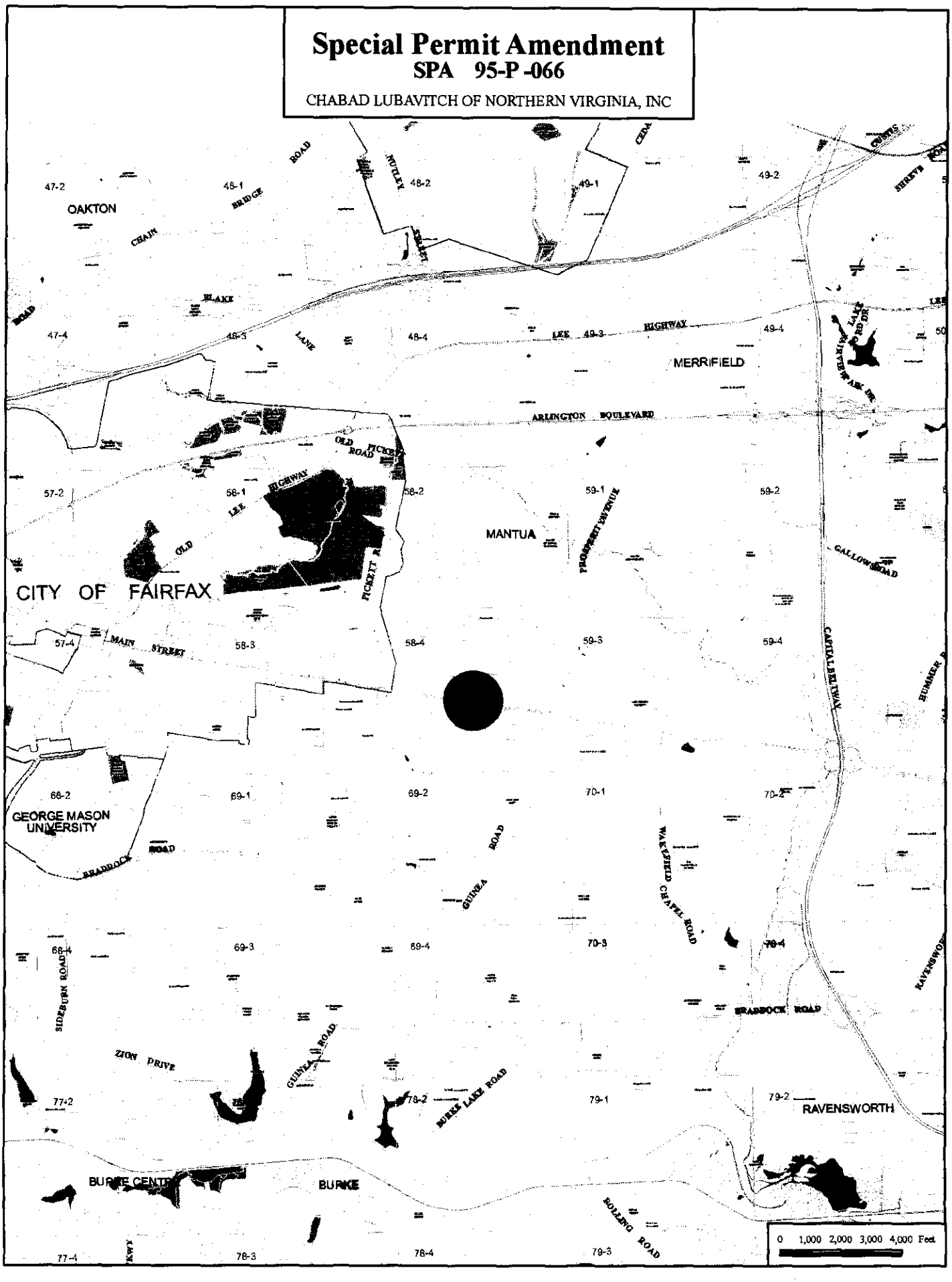
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505**.

Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit Amendment
SPA 95-P -066

CHABAD LUBAVITCH OF NORTHERN VIRGINIA, INC



Special Permit Amendment
SPA 95-P-066

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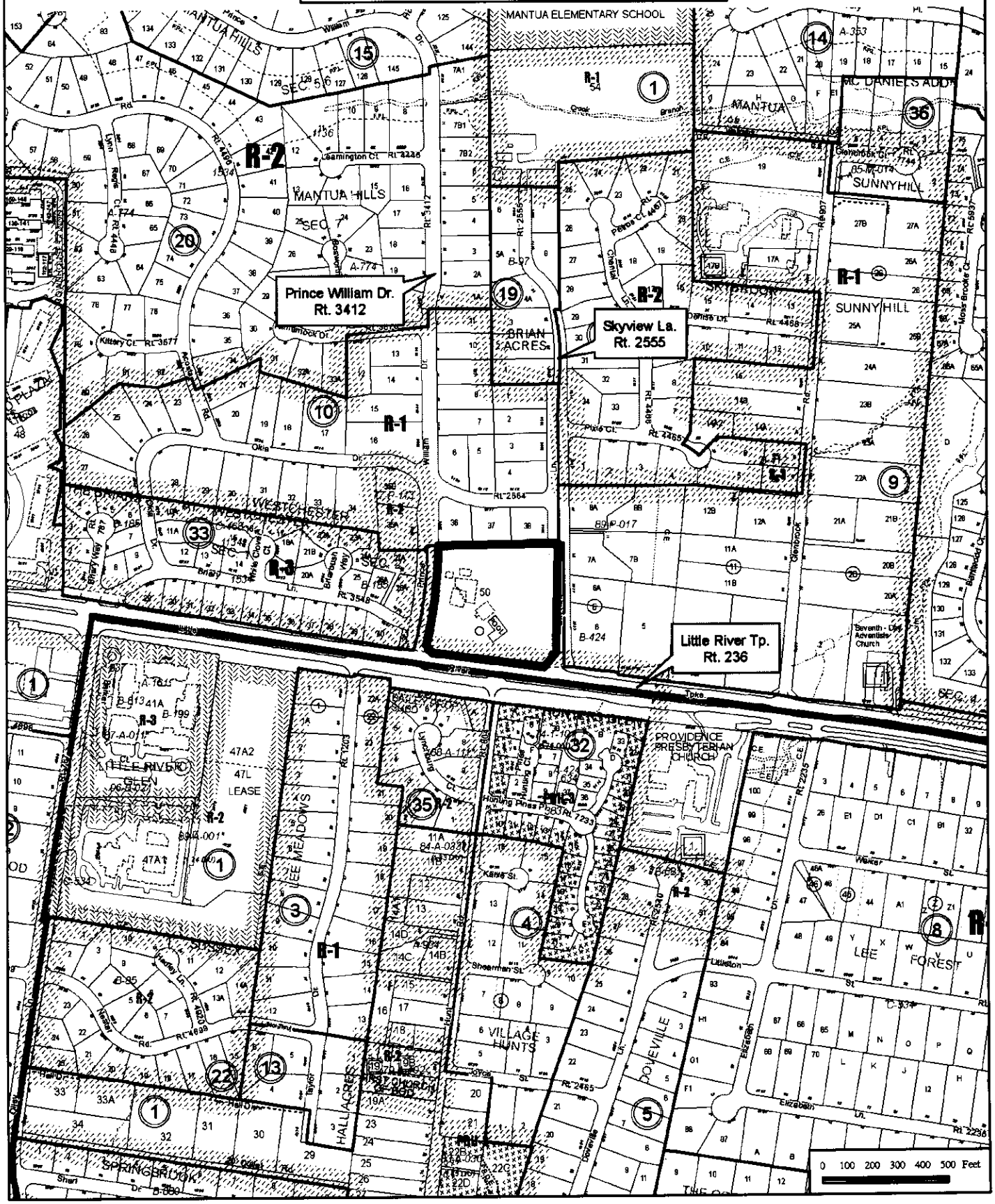

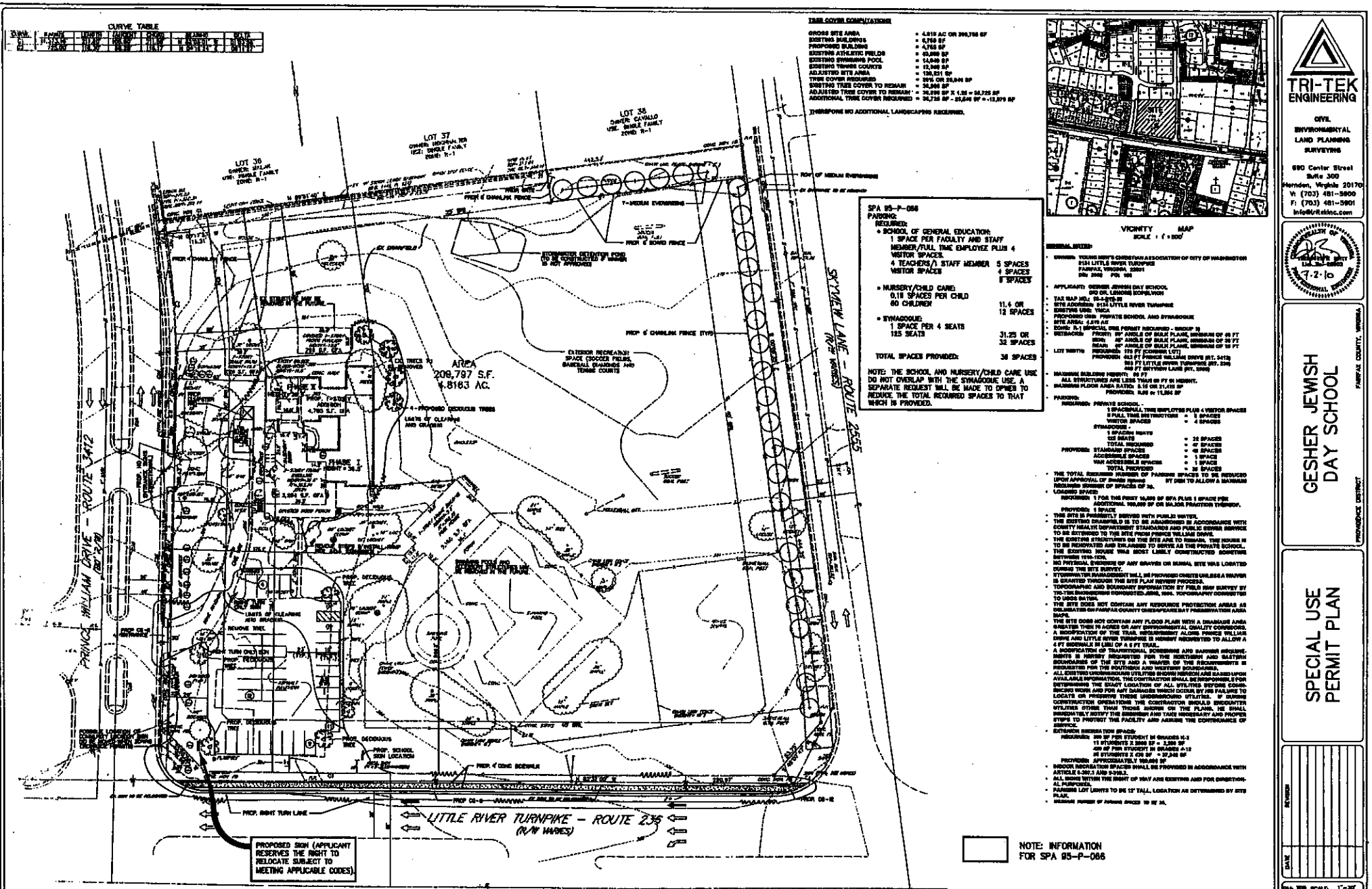

APPROVED SPECIAL PERMIT PLAN (SP 95-P-066)

GENERAL NOTES:

- OWNER: YOUNG MEN'S CHRISTIAN ASSOCIATION OF CITY OF WASHINGTON
9134 LITTLE RIVER TURNPIKE
FAIRFAX, VIRGINIA, 22031
DB# 3948 PG# 105
- APPLICANT: GESHER JEWISH DAY SCHOOL
C/O DR. LENORE KOPELMAN
- TAX MAP NO.: 58-4-((1))-39
- SITE ADDRESS: 9134 LITTLE RIVER TURNPIKE
- EXISTING USE: YMCA
- PROPOSED USE: PRIVATE SCHOOL AND SYNAGOGUE
- SITE AREA: 4.816 AC
- ZONE: R-1 (SPECIAL USE PERMIT REQUIRED - GROUP 3)
- SETBACKS: FRONT: 35' ANGLE OF BULK PLANE, MINIMUM OF 40 FT
SIDE: 20' ANGLE OF BULK PLANE, MINIMUM OF 35 FT
REAR: 25' ANGLE OF BULK PLANE, MINIMUM OF 50 FT
- LOT WIDTH: REQUIRED: 175 FT (CONFORMING LOT)
PROVIDED: 443 FT (PRINCE WILLIAM DRIVE (RT. 3412))
391 FT (LITTLE RIVER TURNPIKE (RT. 236))
498 FT (SKYVIEW LANE (RT. 2555))
- MAXIMUM BUILDING HEIGHT: 35 FT
ALL STRUCTURES ARE LESS THAN 35 FT IN HEIGHT.
- MAXIMUM FLOOR AREA RATIO: 0.10 OR 21,420 SF
PROVIDED: 0.05 or 11,554 SF
- PARKING:
REQUIRED: PRIVATE SCHOOL -
1 SPACE/FULL TIME EMPLOYEE PLUS 4 VISITOR SPACES
5 FULL TIME INSTRUCTORS = 5 SPACES
VISITOR SPACES = 4 SPACES
SYNAGOGUE -
1 SPACE/4 SEATS
123 SEATS = 32 SPACES
TOTAL REQUIRED = 41 SPACES
PROVIDED: STANDARD SPACES = 48 SPACES
ACCESSIBLE SPACES = 1 SPACE
VAN ACCESSIBLE SPACES = 1 SPACE
TOTAL PROVIDED = 50 SPACES
- THE TOTAL REQUIRED NUMBER OF PARKING SPACES TO BE REDUCED UPON APPROVAL OF [illegible] BY DEM TO ALLOW A MAXIMUM REQUIRED NUMBER OF SPACES OF 38.
- LOADING SPACE:
REQUIRED: 1 FOR THE FIRST 10,000 SF OF GFA PLUS 1 SPACE FOR ADDITIONAL 100,000 SF OR SM FRACTION THEREOF.
PROVIDED: 1 SPACE
- THIS SITE IS PRESENTLY SERVED WITH PUBLIC WATER.
- THE EXISTING DRAINFIELD IS TO BE ABANDONED IN ACCORDANCE WITH COUNTY HEALTH DEPARTMENT STANDARDS AND PUBLIC SEWER SERVICE TO BE EXTENDED TO THE SITE FROM PRINCE WILLIAM DRIVE.
- THE EXISTING STRUCTURES ON THE SITE ARE TO REMAIN. THE HOUSE IS TO BE RENOVATED AND ENLARGED TO SERVE AS THE PRIVATE SCHOOL.
- THE EXISTING HOUSE WAS MOST LIKELY CONSTRUCTED SOMETIME BETWEEN 1870-1930.
- NO PHYSICAL EVIDENCE OF ANY GRAVES OR BURIAL SITE WAS LOCATED DURING THE SITE SURVEY.
- STORMWATER MANAGEMENT WILL BE PROVIDED ONSITE UNLESS A WAIVER IS GRANTED THROUGH THE SITE PLAN REVIEW PROCESS.
- TOPOGRAPHIC AND BOUNDARY INFORMATION BY FIELD RUN SURVEY BY TRI-TEK ENGINEERING CONDUCTED JUNE, 1994. TOPOGRAPHY CONNECTED TO USGS DATUM.
- THE SITE DOES NOT CONTAIN ANY RESOURCE PROTECTION AREAS AS DELINEATED ON FAIRFAX COUNTY CHESAPEAKE BAY PRESERVATION AREA MAPS.
- THE SITE DOES NOT CONTAIN ANY FLOOD PLAIN WITH A DRAINAGE AREA GREATER THEN 70 ACRES OR ANY ENVIRONMENTAL QUALITY CORRIDORS.
- A MODIFICATION OF THE TRAIL REQUIREMENT ALONG PRINCE WILLIAM DRIVE AND LITTLE RIVER TURNPIKE IS HEREBY REQUESTED TO ALLOW A 4 FT SIDEWALK IN LIEU OF A 8 FT TRAIL.
- A MODIFICATION OF TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS IS HEREBY REQUESTED FOR THE NORTHERN AND EASTERN BOUNDARIES OF THE SITE AND A WAIVER OF THE REQUIREMENTS IS REQUESTED FOR THE SOUTHERN AND WESTERN BOUNDARIES.
- ALL EXISTING UNDERGROUND UTILITIES SHOWN HEREON ARE BASED UPON AVAILABLE INFORMATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING THE EXACT LOCATION OF ALL UTILITIES BEFORE COMMENCING WORK AND FOR ANY DAMAGES WHICH OCCUR BY HIS FAILURE TO LOCATE OR PRESERVE THESE UNDERGROUND UTILITIES. IF DURING CONSTRUCTION OPERATIONS THE CONTRACTOR SHOULD ENCOUNTER UTILITIES OTHER THAN THOSE SHOWN ON THE PLANS, HE SHALL IMMEDIATELY NOTIFY THE ENGINEER AND TAKE NECESSARY AND PROPER STEPS TO PROTECT THE FACILITY AND ASSURE THE CONTINUANCE OF SERVICE.
- EXTERIOR RECREATION SPACE:
REQUIRED: 300 SF PER STUDENT IN GRADES K-3
115 STUDENTS X 300 SF = 3,500 SF
425 SF PER STUDENT IN GRADES 4-12
82 STUDENTS X 425 SF = 37,946 SF
PROVIDED: APPROXIMATELY 100,000 SF
- INDOOR RECREATION SPACES SHALL BE PROVIDED IN ACCORDANCE WITH ARTICLE 6-307-3 AND 2-513-3.
- ALL SIGNS WITHIN THE RIGHT OF WAY ARE EXISTING AND FOR DIRECTIONAL PURPOSES.
- PARKING LOT LIGHTS TO BE 12' TALL, LOCATION AS DETERMINED BY SITE PLAN.
- MINIMUM NUMBER OF PARKING SPACES TO BE 38.

TRI-TEK ENGINEERING
CIVIL
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LAND PLANNING
SURVEYING
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Herndon, Virginia 20170
Ph: (703) 481-5600
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info@tritekinc.com

COMMONWEALTH OF VIRGINIA
[illegible]
LICENSE
4-2-16
PROFESSIONAL ENGINEER

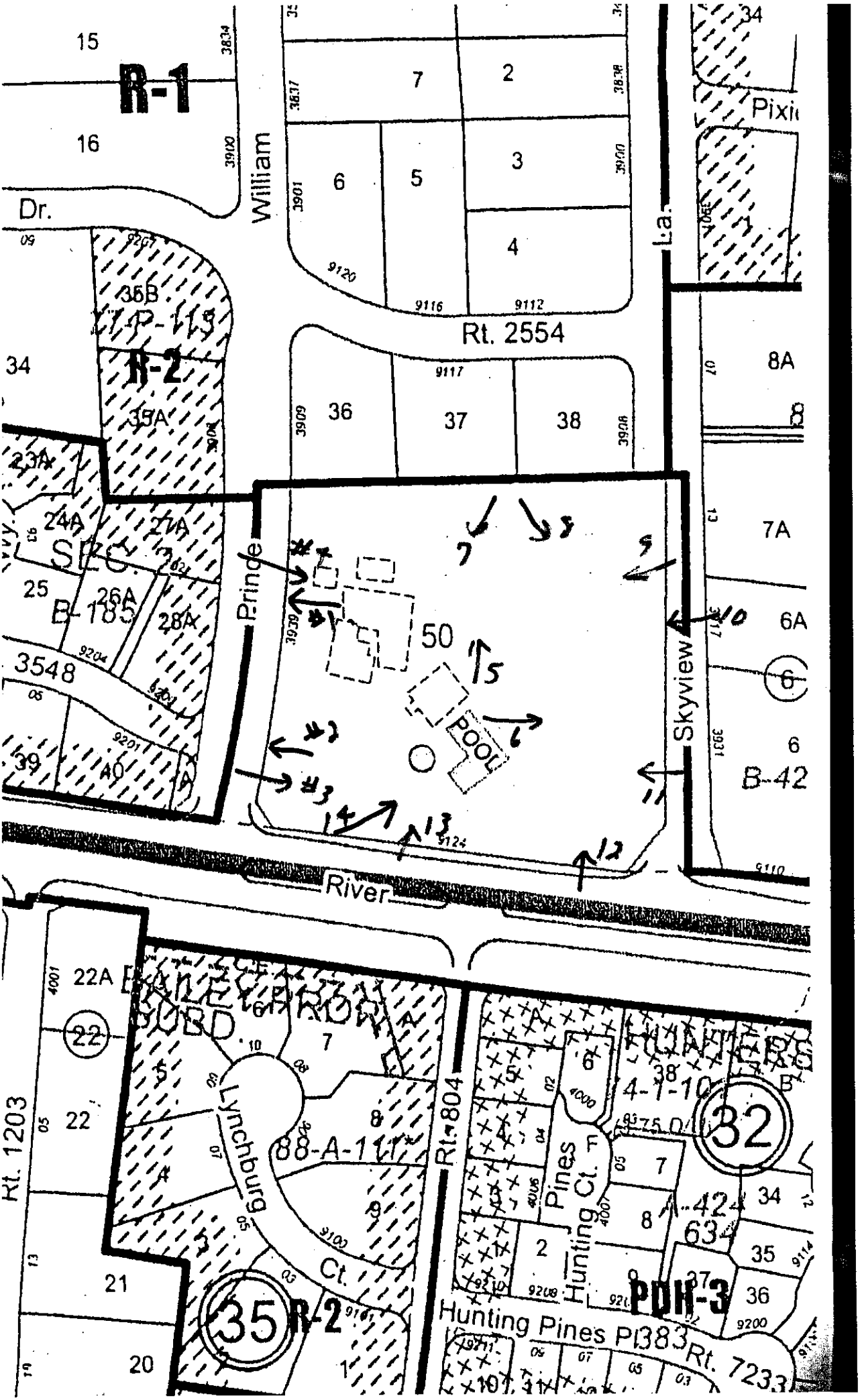
GESHER JEWISH DAY SCHOOL
PROVIDENCE DISTRICT
FAIRFAX COUNTY, VIRGINIA

SPECIAL USE PERMIT PLAN

REVISION
DATE

Pln. No. SCALE: 1"=80'
Prj. No. DATE: 7/2015
Co. Rec. SHEET 1 OF 1

F-1049



R-1
R-2
William
Dr.
Rt. 2554
La.
Pixi
Prinde
Skyview
River
POOL
50
B-185
B-42
Lynchburg
Ct.
Rt. 804
Rt. 1203
Hunting Pines Pl
Hunting Pines Ct.
Rt. 7233
PDH-3
32
35

DESCRIPTION OF THE APPLICATION

Special Permit Request: To amend SP 95-P-066 previously approved for a synagogue and a private school of general education, which includes a summer camp, with a maximum daily enrollment of 99 students, to add a child care center / nursery school component to the previously approved private school of general education. The overall maximum number of students previously approved is not proposed to increase. The applicant proposes to reduce the previously approved maximum number of students from 99 students to a maximum of 39 students daily in the private school of general education. Additionally, the applicant proposes to add a child care center / nursery school use with a maximum of 60 students daily. The previous permittee was the Gesher Jewish Day School of Northern Virginia. The new permittee is Chabad Lubavitch of Northern Virginia, Inc. The previously approved synagogue with 125 seats is not proposed to expand. There are no site modifications proposed with this request.

Size: 4.77 acres

Parking: Synagogue = 32 spaces
Child Care Center / Nursery School = 12 spaces
Private School of General Education = 9 spaces
Total Number of Spaces Required = 53
Total Number of Spaces Provided = 36 spaces – a parking reduction will be required for all uses on site

FAR: 0.06

Number of Seats: 125 seats existing

Maximum Daily Enrollment: Existing – 99 students in the private school of general education

Proposed – 60 students in the child care center / nursery school and 39 students in the private school of general education

Hours of Operation: Existing and Proposed:

Monday through Friday – 8:30 a.m. to 3:30 p.m.

The applicant proposes to maintain the previously approved hours of operation for the private school of general education and summer camp and add a child care center/ nursery school use within the previously approved hours of operation. The applicant anticipates the private school of general education hours of operation to be from 8:30 a.m. to 3:00 p.m. daily and the child care center / nursery school hours of operation to be from 9:00 a.m. to 1:00 p.m.

In general, the synagogue is open Monday through Friday, 7:00 a.m. to 6:00 p.m.; Saturday, 8:30 a.m. to 2:00 p.m.; and Sunday, 9:00 a.m. to 1:00 p.m. with worship on Saturdays and Jewish Holidays, 8:30 a.m. to 2:00 p.m.

Employees: Existing and Proposed:

Synagogue – one (1)
Private School of General Education, Summer Camp, Child Care Center / Nursery School – eight (8) teachers and three (3) associated staff for a total of eleven (11) employees.

LOCATION AND CHARACTER

Existing Site Description:

The subject property is located on the north side of Little River Turnpike (Route 236) between Prince William Drive and Skyview Lane. Access to the site is from a one way entrance into the site and a separate one way exit out of the site off of Prince William Drive. A former dwelling, 3,284 square feet in size and a one-story addition, 4,752 square feet in size, accommodate the synagogue and the private school of general education and summer camp classrooms, and is located on the western portion of the site. Parking is located in the southwest corner of the property adjacent to Little River Turnpike. A detached one-story frame building depicted on the special permit plat as a pool house is also utilized as classroom space. A swimming pool is located to the south of the synagogue building. There is an area with outdoor play equipment located to the rear of the synagogue as is a barn and picnic pavilion. Existing mature vegetation is scattered throughout the site and includes a row of evergreen trees along the northeastern and eastern lot lines. A large open space area including a soccer field and tennis courts lies east of the existing buildings. A combination of chain link and board fencing surrounds a majority of the site.

Surrounding Area Description

SURROUNDING AREA DESCRIPTION			
Direction	**Use**	**Zoning**	**Plan**
North	Single Family Detached	R-1	Residential; 1-2 du/ac
South	Single Family Detached	R-2 and PDH-3	Residential; 1-2 du/ac and 2-3 du/ac
East	Single Family Detached	R-1	Residential; 1-2 du/ac
West	Single Family Detached	R-3	Residential; 2-3 du/ac

BACKGROUND

Site History

The original special permit approved on the subject property was granted in 1956 for the use as a swim club, which continued as a recreational community use (YMCA) until approximately 1996. On February 7, 1996, the BZA approved SP 95-P-066 to permit a synagogue and related facilities and a private school of general education, with an associated summer camp, for a maximum of 99 students daily. This special permit was granted to the Gesher Jewish Day School of Northern Virginia. Approved under this special permit was a 4,752 square foot, one-story addition, which has been constructed. A copy of the minutes and approved plat for SP 95-P-066 is attached as Appendix 4.

COMPREHENSIVE PLAN PROVISIONS

Plan Area: Area II – Fairfax Planning District

Planning Sector: Mantua Community Planning Sector (F2)

Plan Map: Residential; 1-2 du/ac

ANALYSIS

Special Permit Amendment Plat (Copy at front of staff report)

Title of Plat: Special Use Permit Plan, Gesher Jewish Day School
Prepared By: Tri-Tec Engineering dated July 2, 2010 (to include a parking tabulation)

Proposed Use

The applicant proposes modifications to the previously approved special permit to include a change in permittee, from the Gesher Jewish Day School of Northern Virginia to Chabad Lubavitch of Northern Virginia, Inc., to permit the continued use as a synagogue with a private school of general education, to include a summer camp, and the addition of a child care center / nursery school. The previously approved private school of general education was approved for a maximum daily enrollment of 99 students. The applicant does not propose to increase the overall maximum daily enrollment limitations. The applicant wishes to add the child care center / nursery school use with a maximum daily enrollment of 60 students and reduce the maximum daily enrollment to 39 students for the private school of general education, which will continue to include a summer camp. The private school of general education and the child care center / nursery school uses will not overlap with the synagogue use.

The hours of operation for the synagogue are Saturdays and Jewish Holidays, 8:30 a.m. to 2:00 p.m. The hours of operation for the private school of general education, summer camp, child care center / nursery school are proposed Monday through Friday, 8:30 a.m. to 3:30 p.m. As noted previously, the applicant proposes to maintain the existing previously approved hours of operation for the private school of general education and summer camp and operate the new uses within the existing previously approved hours of operation. The applicant has indicated to staff that the existing private school of general education has never operated with as many as 99 students on site, nor do they anticipate that there would ever be 99 children on site at any one given time. However, they wish to retain the flexibility to operate all three uses simultaneously, yet not exceed a maximum daily enrollment of 99 students. No new construction or site modifications are proposed with this application.

Land Use Analysis

The Comprehensive Plan recommends residential development at 1-2 dwelling unit per acre (du/ac) on the subject site.

Plan Language: On Page 37 of the 2007 Edition of the Area II Plan for this Planning Sector, the plan reads:

> "6. There are several special exception and special permit uses in this sector. When those uses are terminated, the underlying parcels should return to residential use at the densities for which the surrounding parcels are planned. The former "YMCA facility" ((Tax Map 58-4((1)) 50) should not be expanded or intensified, since any expansion or intensification of this use would adversely effect the adjacent stable residential neighborhood."

The proposed changes do not represent an intensification of the existing use on site. There are no additional seats in the synagogue proposed and there is no increase in parking or new construction proposed. The previous approval was for a maximum daily enrollment of 99 students in the private school of general education and the current proposal to add a child care center / nursery school use with a maximum of 60 students, and to reduce the private school of general education for a maximum daily enrollment of 39 students. These changes do not increase the overall intensity on site and therefore the proposal is in conformance with the Comprehensive Plan.

Transportation Analysis (Appendix 5)

As noted in a memorandum from the Fairfax County Department of Transportation (FCDOT), attached as Appendix 5, staff indicated that the Department would not object to approval of the proposed application, as long as the stipulation remained that the number of students would be for a maximum daily enrollment of 99 children.

Urban Forest Conservation Analysis (Appendix 6)

Issue

As noted in a memorandum from the Forest Conservation Branch, attached as Appendix 6, Transitional Screening 1, and barrier D, E or F are required along all lot lines. The application does not show the required transitional screening and barrier.

Staff from the Urban Forest Management Division (UFMD) recommended that the applicant provide the required transitional screening and barrier along all lot lines and provide supplemental landscaping and associated barriers in these areas to meet the intent of the transitional screening and barrier requirements.

Resolution

The previously approved development conditions permitted a modification of the transitional screening and barrier requirements along all lot lines to allow existing vegetation and fencing to satisfy the requirements. The applicant has planted a row of evergreen trees along the northeastern and eastern property boundaries to provide screening to residential properties. Additionally, there is an existing 10 foot storm sewer easement along a majority of the northern lot line and plantings are not permitted within this easement. The applicant continues to request a modification of the transitional screening and barrier requirements along all lot lines to allow existing vegetation and fencing to satisfy the requirements. Since the use of a child care center / nursery school with a maximum daily enrollment of 60 students and the private school of general education with a maximum daily enrollment of 39 students does not exceed the number of students previously approved, staff supports the continuation of the modification of screening and barrier requirements.

ZONING ORDINANCE PROVISIONS

Residential (R-1)		
Standard	**Required**	**Existing**
Lot Size	36,000 square feet (minimum)	4.77 acres
Lot Width	175 feet (minimum) (corner lot)	Little River Turnpike: 502 feet Prince William Drive: 423 feet Skyview Lane: 488 feet
Building Height	60 feet (maximum)	36.5 feet
Front Yard	40 feet (minimum) with a minimum 50 degree ABP	Little River Turnpike: 158 feet Prince William Drive: 67 feet Skyview Lane: 225 feet
Side Yard	20 feet (minimum) with a minimum 45 degree ABP	Not Applicable
Rear Yard	25 feet (minimum) with a minimum 45 degree ABP	95.0 feet
FAR	0.15	0.06
Parking Spaces	32 spaces for the synagogue 12 spaces for the child care center & nursery school 9 spaces for the private school 53 Total Spaces Required	36 spaces*

* The Zoning Ordinance requires child care center/nursery schools to provide 0.19 of a parking space per child (12 spaces required for the proposed child care center/nursery school).

The Zoning Ordinance requires private schools of general education to provide one (1) space per faculty and staff members and other full-time employees, plus four (4) spaces for visitors (9 spaces required for the private school of general education).

The Zoning Ordinance requires places of worship to provide one (1) parking space for every four (4) seats in the principal place of worship (32 parking spaces required for a synagogue with 125 seats).

The existing parking lot provides 36 spaces. The applicant will be required to submit a Parking Code Reduction request to the Department of Public Works and Environmental Services (DPWES), which will include calculations for all uses proposed on site. The previously approved special permit included a development condition which required the applicant obtain a shared parking agreement for the synagogue and private school of general education which required a total of 47 spaces; however, they did not submit the reduction request. The applicant has indicated that many of the worshipers that will

attend the synagogue are Orthodox Jews and Orthodox Judaism does not permit the use of motor vehicles on the Sabbath or on other holidays. Given that the site now requires a total of 53 spaces, staff has incorporated a development condition which requires the applicant to obtain this approval prior to the issuance of a new Non-Residential Use Permit (Non-RUP) for any of the uses on site to ensure the Zoning Ordinance requirements are satisfied.

Transitional Screening		
Standard	**Required**	**Existing**
North	TS 1 – 25 feet	Existing vegetation consisting of a row of evergreen trees – 25 feet wide along a portion of the lot line
East	TS 1 – 25 feet	Existing vegetation consisting of a row of evergreen trees – 25 feet wide
South	TS 1 – 25 feet	Existing vegetation – supplemental plantings
West	TS 1 – 25 feet	Existing vegetation – supplemental plantings
Barrier		
North	D, E or F	6 foot high board fence
East	D, E or F	6 foot high chain link fence
South	D, E or F	None
West	D, E or F	None

WAIVERS/MODIFICATIONS REQUESTED

Waiver/Modification: Modifications of the transitional screening and barrier requirements were previously approved along all lot lines to allow existing vegetation and fencing to satisfy the requirements. The applicant continues to request these modifications with this application.

Basis: Par. 3, Sect. 13-304 which states that transitional screening may be modified where the building, a barrier and/or the land between that building and the property line has been specifically designed to minimize adverse impact through a combination of architectural and landscaping techniques. The application was previously approved for a private school of general education, and a summer camp, with a maximum daily enrollment of 99 students and the proposed request would be reducing the previously approved students on-site from 99 students to a maximum of 39 students and adding a child care center / nursery school use with a maximum daily enrollment of 60 students. Staff does not believe this application is an intensification of use. Additionally, the previously approved special permit imposed additional screening requirements along all lot lines; however, modified full transitional screening and barrier requirements. Therefore, staff believes that since the applicant was required to plant vegetation with the previous approval, and the existing vegetation appears to be maintained in good condition, no additional screening should be required at this time.

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 7)

- General Special Permit Standards (Sect. 8-006)
- Group 3 Standards (Sect. 8-303)
- Group 8 Additional Standards for Churches, Chapels, Temples, Synagogues or Other Such Places of Worship with a Child Care Center, Nursery School or Private School (8-308)

Summary of Zoning Ordinance Provisions

This special permit is subject to Sects. 8-006, 8-303 and 8-308 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 7. Subject to development conditions, the special permit must meet these standards.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for a synagogue with a private school of general education and a child care center / nursery school as outlined in Sects. 8-006, 8-303 and 8-308 will be satisfied with adoption of the proposed development conditions. Therefore staff recommends approval of SPA 95-P-066 subject to the Proposed Development Conditions contained in Appendix 1 of this staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Approved Minutes with Resolution for SP 95-P-066
5. Memorandum dated June 29, 2010, Department of Transportation
6. Memorandum dated July 12, 2010, Forest Conservation Branch
7. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SPA 95-P-066

August 4, 2010

If it is the intent of the Board of Zoning Appeals to approve SPA 95-P-066 located at Tax Map 58-4 ((1)) 50 previously approved for a synagogue with a private school of general education to permit a change in permittee and addition of child care center / nursery school pursuant to Section 3-103 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions. Those conditions carried forward from the previous special permit are marked with an asterisk (*). Minor edits have been made to these conditions to conform to current terminology and have been underlined.

1. This approval is granted to the applicant only, Chabad Lubavitch of Northern Virginia, Inc., and is not transferable without further action of this Board, and is for the location indicated on the application, 9124 Little River Turnpike (4.77 acres), and is not transferable to other land.*

2. This special permit is granted only for the purposes, structures and/or uses indicated on the special permit plat prepared by Tri-Tek Engineering dated July 2, 2010, and approved with this application, as qualified by these development conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance. Other by-right, special permit uses may be permitted on the lot without a special permit amendment, if such uses do not affect this special permit use.*

3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.*

4. This special permit is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special permit shall be in substantial conformance with these conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.*

5. Upon issuance of a new Non-RUP for the private school of general education and summer camp, the maximum daily enrollment shall not exceed a total of thirty-nine (39) students. The private school of general education may include grades kindergarten through eighth grade. The operation of the private school of general education and the summer camp shall not overlap. There shall be a maximum of eight (8) teachers and three (3) staff associated with such uses.*

6. Upon issuance of a Non-RUP for the child care center/nursery school, the maximum daily enrollment shall be limited to sixty (60) children.

7. The maximum hours of operation for the private school of general education, summer camp, and child care center/nursery school shall be from 8:30 a.m. to 3:30 p.m., Monday through Friday. Use of the facility for aftercare shall be limited to the summer camp and may extend until 4:30 p.m. Weekend and evening use of the facilities for extracurricular activities shall be permitted on a limited basis provided there is no adverse impact on the surrounding community.*

8. The number of students using the outdoor recreation area at anyone time shall not exceed the square foot requirements for the recreation areas stipulated by Zoning Ordinance, Sect. 8-307, which require 200 square feet per child in grades kindergarten through 3 and 430 square feet per student in grades 4 through 12.*

9. Indoor recreation space shall be provided in accordance with the provisions of Chapter 30 of the Code. 9.*

10. The maximum number of seats in the main area of worship for the synagogue shall be 125. There may be one (1) employee or rabbi associated with the use of the synagogue. Except for the use of an office by the rabbi, the use of the facility as a synagogue shall not overlap or conflict with the use of the property as a private school of general education, summer camp or child care center / nursery school including the parking requirements of the school.*

11. All parking for the uses shall be on-site as shown on the special permit plat. The applicant shall obtain approval of a parking reduction through DPWES as required by Sect. 11-106.3 of the Zoning Ordinance prior to the issuance of a Non-Residential Use Permit (Non-RUP) for the private school of general education and child care center/nursery school uses to permit the shared uses of the parking lot for all uses on site. If approval of a parking reduction is not obtained, the number of seats in the worship area and/or the number of children in the private school of general education, or child care center/ nursery school shall be reduced to meet the parking requirements as determined by DPWES.

12. All access to the subject property shall be from Prince William Drive. The entrance shall be designated "Entrance Only" and the exit shall be designated "Exit Only" and appropriate signage shall be installed accordingly. The entrance and exit shall be provided in accordance with the Virginia Department of

Transportation (VDOT) standards. The existing curb cut located on Skyview Lane shall remain closed.*

13. Transitional Screening and Barriers shall be modified and shall be provided as follows:

    - Northern lot line: the existing vegetation as shown on the special permit plat shall be maintained and shall satisfy the transitional screening requirement. A row of evergreen trees shall be provided as shown on the special permit plat in order to supplement the existing vegetation. A six-foot high board-on-board fence shall be provided and maintained along the edge of the transitional screening yard adjacent to Lot 38 as depicted on the special permit plat.

    - Eastern lot line: a six foot high chain link fence shall be provided and maintained along the eastern property line as shown on the special permit plat. A row of evergreen trees shall be provided and maintained between the chain link fence and the lot line.

    - Western lot line adjacent to Prince William Drive: the existing vegetation as shown on the special permit plat shall be maintained and shall satisfy the transitional screening requirement. The barrier requirement shall be waived.

    - Southern lot line: the existing vegetation shall be maintained and supplemental evergreen plantings shall be provided and maintained which will screen the parking, pool and tennis court area. The barrier shall be modified to allow the existing fences to remain.

    - All plantings shall be of a size, type and species as determined by the Urban Forest Management Division, (UFMD), DPWES.*

    - All plant material shall be maintained in a healthy condition and any dead, dying or hazardous material shall be replaced as needed.

14. Interior and peripheral parking lot landscaping shall be provided and maintained in accordance with the provisions of Sect. 13-201 and 13-202 of the Zoning Ordinance.*

15. Best Management Practices shall be provided to the satisfaction of the Director, DPWES. If on-site stormwater management facilities are required, such facilities shall be located in the northeast corner of the site, and shall not encroach into the required transitional screening yards.*

16. Any proposed lighting of the parking areas shall be in accordance with the following:

- The combined height of the light standards and fixtures shall not exceed twelve (12) feet.

- The lights shall focus directly onto the subject property.

- Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.*

17. The maximum Floor Area Ratio (FAR) for the structure shall not exceed 0.06. The maximum building height shall not exceed 36.5 feet.*

18. There shall be no pole-mounted signs associated with this use. Building mounted and freestanding signs shall be permitted in accordance with Article 12, Signs.*

19. Any trash dumpster located on the property shall be screened by a board-on-board fence; or, with plantings which shall completely screen the view of the dumpsters, subject to the approval of DPWES.*

20. The pool, tennis courts and ballfields shall be used by the private school of general education, child care center/nursery school and synagogue and shall not be open for organized community use without amendment of this special permit.*

21. There shall be no overlap of activities between the private school of general education, summer camp, or child care center/nursery school and the scheduled religious services of the synagogue.*

These development conditions supersede all previous development conditions.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established by the issuance of new Non-Residential Use Permit(s) (Non-RUP). The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/24/10
(enter date affidavit is notarized)

I, Benjamin T. Danforth, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) [ ] applicant
[✓] applicant's authorized agent listed in Par. 1(a) below 107079a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS,** and **LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS,** and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE**: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner,** etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	**ADDRESS** (enter number, street, city, state, and zip code)	**RELATIONSHIP(S)** (enter applicable relationships listed in **BOLD** above)
Chabad Lubavitch of Northern Virginia, Inc.	3939 Prince William Drive Fairfax, Virginia 22031	Title Owner/Applicant
Rabbi Sholom Dov Deitsch	3939 Prince William Drive Fairfax, Virginia 22031	Agent
Lawson, Tarter & Charvet, P.C.	6045 Wilson Blvd., Suite 100 Arlington, Virginia 22205	Attorney/Agent
William B. Lawson, Jr.	6045 Wilson Blvd., Suite 100 Arlington, Virginia 22205	Attorney/Agent
P. David Tarter	6045 Wilson Blvd., Suite 100 Arlington, Virginia 22205	Attorney/Agent
Benjamin T. Danforth	6045 Wilson Blvd., Suite 100 Arlington, Virginia 22205	Attorney/Agent

(check if applicable) [ ] There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/24/10 _____ 107079 a

(enter date affidavit is notarized)

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Chabad Lubavitch of Northern Virginia, Inc.
3939 Prince William Drive
Fairfax, Virginia 22031

DESCRIPTION OF CORPORATION: (check one statement)

[✓] There are 10 or less shareholders, and all of the shareholders are listed below.

[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.

[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

This is a not for profit corporation and there are no shareholders.

(check if applicable) [✓] There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

Special Permit/Variance Attachment to Par. 1(b)

DATE: 2/24/10 _____ 107079a

(enter date affidavit is notarized)

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

Lawson, Tarter & Charvet, P.C.
6045 Wilson Boulevard, Suite 100
Arlington, Virginia 22205

DESCRIPTION OF CORPORATION: (check one statement)

- [✓] There are 10 or less shareholders, and all of the shareholders are listed below.
- [ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- [ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

William B. Lawson, Jr.
P. David Tarter
Ina C. Charvet

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

DESCRIPTION OF CORPORATION: (check one statement)

- [ ] There are 10 or less shareholders, and all of the shareholders are listed below.
- [ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- [ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF THE SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) [ ] There is more corporation information and Par. 1(b) is continued further on a "Special Permit/Variance Attachment to Par. 1(b)" form.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/24/10 (enter date affidavit is notarized)

107079a

1(c). The following constitutes a listing** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) [ ] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner)**

(check if applicable) [ ] There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/24/10 _____ 107079a

(enter date affidavit is notarized)

1(d). One of the following boxes **must** be checked:

[ ] In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land:

[✓] Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE**: If answer is none, enter "**NONE**" on the line below.)

None

(check if applicable) [ ] There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): _____

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 2/24/10 (enter date affidavit is notarized)

10707 9 a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than $100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

None

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature:

BM

(check one) [ ] Applicant [✓] Applicant's Authorized Agent

Benjamin T. Manforth, Esq. Attorney/Agent

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 24th day of February 2010, in the State/Comm. of Virginia, County/City of Arlington.

Delores E. Payne

Notary Public

My commission expires: 2-28-11

Delores E. Payne
Commonwealth of Virginia
Notary Public
My Commission No. 104869
My Commission Expires 2/28/2011

Hedrick, Debbie

From: Ben Danforth [bdanforth@lawsontarter.com]
Sent: Tuesday, June 22, 2010 12:07 PM
To: Hedrick, Debbie
Cc: rabbideitsch@aol.com; tbritt@tritekinc.com; William Barnes Lawson
Subject: Chabad Lubavitch SPA 95-P-066

Debbie,

In following up on yesterday's meeting, Chabad Lubavitch wishes place the following limits on its proposed uses.

The nursery/child care will be limited to 60 students, requiring 11.4 parking spaces (.19 spaces per student).

The school of general education will be limited to 4 teachers and 1 staff person, requiring 9 parking spaces (including 4 visitor spaces).

The synagogue will be limited to 125 seats, requiring 32 parking spaces.

Since the school and nursery/child care uses do not overlap with the synagogue use, we intend to request a reduction in the total number of parking spaces from DPWES, which we understand will be required by our development conditions. Given that the applicant's property currently has 36 parking spaces, our expectation is that no additional spaces will need to be added provided that the parking reduction request is granted, since neither the school and nursery/child care uses nor the synagogue use require more than 36 spaces.

Please let us know if any of our understandings are incorrect, and please let me know if you need further information about the proposed uses.

Benjamin T. Danforth, Esquire
Lawson, Tarter & Charvet, P.C.
6045 Wilson Boulevard, Suite 100
Arlington, Virginia 22205
(T) 703-534-4800
(F) 703-534-8225
bdanforth@lawsontarter.com
www.lawsontarter.com

CONFIDENTIALITY NOTICE FROM LAWSON, TARTER & CHARVET, P.C.

The foregoing electronic mail transmission contains information protected by the attorney client privilege and is intended solely for the addressee. If you are not the intended recipient or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this message is strictly prohibited. If you have received this electronic mail transmission in error, please forward it back to us and delete it from your system.

SPECIAL PERMIT AMENDMENT APPLICATION
CHABAD LUBAVITCH OF NORTHERN VIRGINIA, INC.

RECEIVED
Department of Planning & Zoning
FEB 25 2010
Zoning Evaluation Division

Written Statement Describing Proposed Use

A. Type of Operation

Private school of general education; Summer camp; Synagogue; Childcare Center; and Nursery School

B. Hours of Operation

The hours of operation for the private school, summer camp, childcare center, and nursery school are:

Mon - Fri 8:30 a.m. to 3:30 p.m. (the facility will be open Mon - Fri from 7:00 a.m. to 6:00 p.m.; Saturday 8:30 a.m. to 2:00 p.m.; and Sunday from 9:00 a.m. to 1:00 p.m.)

The hours of operation for the synagogue are:

Saturdays and Jewish Holidays 8:30 a.m. to 2:00 p.m.

C. Estimated number of patrons

Private school, summer camp, childcare center, and nursery school = 99 total

Synagogue = 125 seats

D. Estimated number of employees

Private school, summer camp, childcare center, and nursery school = 8 teachers and 3 staff

Synagogue = 1

E. Estimated traffic impact

The proposed amendment will not affect the number of vehicular trips to and from the site.

F. Vicinity or general area to be served by the use

Northern Virginia

LAWSON & TARTER & CHARVET, P.C.

William B. Lawson, Jr., Esquire
blawson@lawsontarter.com

December 17, 2009

RECEIVED
Department of Planning & Zoning
DEC 29 2009
Zoning Evaluation Division

Fairfax County Board of Zoning Appeals
12055 Government Center Parkway
Suite 801
Fairfax, Virginia 22035

Re: Amendment to Special Permit 95-P-066
Chabad Lubavitch of Northern Virginia, Inc. (The "Synagogue")
9124 Little River Turnpike (the "Property")
Tax Map # 0584 01 0050

Dear Board of Zoning Appeals:

This firm represents Chabad Lubavitch of Northern Virginia, Inc. with respect to the above referenced amendment. The Synagogue seeks to amend their special permit to add childcare and nursery school uses to the approved private school of general education associated with a synagogue.

The Synagogue has been operating a private school of general education since approval of its original special permit without incident. The Synagogue now desires to expand its offerings for religious education while continuing to adhere to its previously approved maximum total enrollment of 99 students.

The hours of operation will continue to be Monday through Friday, 8:30 a.m. to 3:30 p.m. The facility will be open Monday through Friday, 7:00 a.m. until 6:00 p.m.; Saturday, 8:30 a.m. until 2:00 p.m., and Sunday 9:00 a.m. until 1:00 p.m. Saturdays and Jewish Holidays, 8:30 a.m. to 2:00 p.m.

No new construction or other physical improvements are proposed.

Since no improvements are being made and no changes are proposed to the previously approved structures, the applicant hereby requests a waiver for the requirement to submit a plat with this application.

The Property is zoned R-1 and houses a synagogue complying with the standards for a Category 3 special permit as set forth in the Zoning Ordinance.

GENERAL STANDARDS FOR A SPECIAL PERMIT

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

   The proposed use is in harmony with the adopted comprehensive plan and is a minor amendment to our already approved and existing use.

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

   The proposed use is in harmony with the general purpose and intent of the applicable zoning district regulations.

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

   The proposed application proposes no physical changes to the property. The proposed use is consistent with its current use and is harmonious with and will not adversely affect the use or development of neighboring properties.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

   The proposed use will not expand the existing use and thus will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

5. In addition to the standards which may be set forth in this Article for a particular group or use, the Board of Zoning Appeals shall require landscaping and screening in accordance with the provisions of Article 13, Landscaping and Screening, in the Zoning Ordinance.

   Any applicable landscaping and screening requirements have been met.

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

Any applicable open space requirement has been met.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

All necessary facilities and parking and loading requirements have been met.

8. Signs shall be regulated by the provisions of Article 12, Signs, in the Zoning Ordinance; however, the Board of Zoning Appeals may impose more strict requirements for a given use than those set forth in this Ordinance.

No additional signage is proposed.

SPECIFIC STANDARDS FOR ALL GROUP 3 USES

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.

This application is for an amendment to Special Permit 95-P-066 and requests no changes to lot size or bulk regulations of the R-1 Category.

2. All uses shall comply with the performance standards specified for the zoning district in which located.

This application is for an amendment to Special Permit 95-P-066 and requests no changes with the performance standards for the R-1 Category.

3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

This application is for an amendment to Special Permit 95-P-066 and met all provisions applicable at the time of prior approval. This amendment is for adding the number of children allowed in specific programs, but not an increase in the total number of children. No

other modifications or alterations are requested. Based upon this information, a site plan should not be required.

ADDITIONAL STANDARDS FOR CHURCHES, CHAPELS, TEMPLES, SYNAGOGUES OR OTHER SUCH PLACES OF WORSHIP WITH A CHILD CARE CENTER, NURSERY SCHOOL OR PRIVATE SCHOOLS

Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school or general or special education may be approved as a special permit use in accordance with the provisions of this Part or as a special exception use in accordance with the provisions of Part 3 of Article 9. The choice of whether to file an application for a special permit or special exception shall be at the applicant's discretion. In either event, such use shall be subject to the additional standards set forth in Sections 9-309 and 9-310.

The proposed application is for an amendment to Special Permit 95-P-066 which met all previous criteria for a special permit.

ADDITIONAL STANDARDS FOR CHILD CARE CENTERS AND NURSERY SCHOOLS

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area shall be of such size that 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed. For the purpose of this provisions, usable outdoor recreation area shall be limited to:

   A. That area not covered by buildings or required off-street parking spaces.

   No changes are being requested or made to the existing building or parking spaces.

   B. That area outside the limits of the minimum required front yard, unless specifically approved by the Board in commercial and industrial districts only.

No changes are being requested or made with respect to the minimum required front yard area.

C. Only that area which is developable for active outdoor recreation purposes.

No changes are being requested or made for the existing active outdoor recreation area.

D. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.

No changes are being requested or made regarding the areas of the required rear and side yards.

2. All such uses shall be located so as to have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the use as determined by the Director. To assist in making this determination, each applicant, at the time of application, shall provide an estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the facility. As a general guideline, the size of the use in relation to the appropriate street type should be as follows, subject to whatever modification and conditions the Board deems to be necessary or advisable:

Number of Persons	Street Type
1-75	Local
76-660	Collector
660 or more	Arterial

The age range for which education services are being offered is being expanded, however, the total number of students will remain at 99.

3. All uses shall be located as to permit the pick-up and delivery of all persons on the site.

No changes are being requested or made as to general use of the pick-up and delivery of persons on the site.

4. Such use shall be subject to the regulations of Chapter 30 of The Code or Title 63.1, Chapter 10 of the Code of Virginia.

The proposed application is in conformance with the regulations of Chapter 30 and Chapter 10 of the Code.

ADDITIONAL STANDARDS FOR PRIVATE SCHOOLS OF GENERAL EDUCATION AND PRIVATE SCHOOLS OF SPECIAL EDUCATION

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area for a private school of general education shall be of such size that:

   A. 200 square feet of usable outdoor recreation area shall be provided for each child in grades K-3 that may use the space at any one time, and

   No changes being requested or made to the amount of outdoor recreation area for children in grades K-3 and the increased number of children utilizing the space remains within the required space requirement.

   B. 430 square feet of usable outdoor recreation area shall be provided for each child in grades 4-12 that may use the space at any one time.

   No changes are being requested or made for the amount of outdoor recreation area for children in grades 4-12 and the increased number of children utilizing the space is still within the required space requirement.

   Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed.

   For the purposes of this provision, usable outdoor recreation area shall be limited to:

   A. That area not covered by buildings or required off-street parking spaces.

   No changes are being requested or made to any buildings or parking areas.

   B. That area outside the limits of the required front yard.

   No changes are being requested or made to the front yard area.

C. Only that area which is developable for active outdoor recreation purposes.

No changes are being requested or made to the outdoor recreation area.

D. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.

No changes are being requested or made to the rear or side yard areas.

2. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area of a private school of special education shall be based upon a determination made by the Board; provided, however, that the proposed use conforms with the provisions set forth in Sect. 304 above.

The proposed application is in conformance with Sect. 304.

3. All private schools shall be subject to the provisions set forth in Par. 2 and 3 of Sect. 309 above. If applicable, such uses shall also be subject to the regulations of Chapter 30 of The Code or Title 63.1, Chapter 10 of the Code of Virginia.

The proposed application is in conformance with the regulations of Chapter 30 and Chapter 10 of the Code.

CONCLUSION

For the reasons set forth above, the requested amendment to the special permit should be granted. Thank you for your consideration of this matter. Please contact me with any questions regarding the Application.

Sincerely,

William B. Lawson, Jr.

LAWSON & TARTER & CHARVET, P.C.

Benjamin T. Danforth, Esquire
bdanforth@lawsontarter.com

RECEIVED
Department of Planning & Zoning
MAR 08 2010
Zoning Evaluation Division

March 5, 2010

VIA U.S. MAIL

Ms. Virginia H. Ruffner
County of Fairfax
Applications Acceptance Section
Zoning Evaluation Division, DPZ
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035

RE: Special Permit Amendment Application (the "Application")
SPA 2009-0300
9124 Little River Turnpike

Dear Ms. Ruffner:

In connection with SPA 2009-0300, enclosed is an email from Michelle Dearing indicating that the applicant is not required to submit a TIA as part of the application. Please contact me with any questions about this matter.

Sincerely,

Benjamin T. Danforth, Esquire

Enclosures as stated

cc: Chabad Lubavitch of Northern Virginia, Inc.

BTD\L0499.5955

William Barnes Lawson

From: Dearing, Michelle D. [Michelle.Dearing@fairfaxcounty.gov]
Sent: Wednesday, March 03, 2010 10:54 AM
To: William Barnes Lawson
Subject: RE: SP 95-P-066

Good morning Mr. Lawson,

We have reviewed your TIA Determination request for TIA determination for the Chabad Lubavitch of Northern Virginia and sent the results to Virginia Ruffner at the Zoning Evaluation Department.

We have determined that your request will not generate sufficient trips to meet 527 thresholds and a **TIA will not be required**. This determination was based on the following information you provided to our office:

- Proposing an additional use of Nursery School/Infant Care to the existing Private School use,
- Maintaining the approved 99 student enrollment and configuring enrollment so that this current number does not increase.

You may use this email notification for your informational package submittal. Should you require further information, you may reach me at the contact information below.

Thank you,

Michelle Dearing
Planning Tech II
Fairfax County Department of Transportation
Michelle.Dearing@fairfaxcounty.gov
(703) 877-5711

From: William Barnes Lawson [mailto:blawson@lawsontarter.com]
Sent: Monday, March 01, 2010 4:08 PM
To: Dearing, Michelle D.
Subject: SP 95-P-066

William Barnes Lawson, Jr.
Lawson, Tarter & Charvet, P.C.
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9:30 A.M. GESHER JEWISH DAY SCHOOL OF NORTHERN VIRGINIA, SP 95-P-066 Appl. under Sect(s). 3-104 of the Zoning Ordinance to permit a synagogue and related facilities and a private school of general education. Located at 9124 Little River Tnpk. on approx. 4.82 ac. of land zoned R-1. Providence District. Tax Map 58-4 ((1)) 50.

Mr. Hammack informed the Board and the audience that the applicant and the citizens had agreed to defer the application to January 23, 1996, at 8:00 p.m. to allow the Planning Commission an opportunity to review the application. Mr. Pammel seconded the motion which carried by a vote of
6-0. Mr. Ribble was absent from the meeting.

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8:00 P.M. GESHER JEWISH DAY SCHOOL OF NORTHERN VIRGINIA, SP 95-P-066 Appl. under Sect(s). 3-104 of the Zoning Ordinance to permit a synagogue and related facilities and a private school of general education. Located at 9124 Little River Tnpk. on approx. 4.82 ac. of land zoned R-1. Providence District. Tax Map 58-4 ((1)) 50. (def. from 1/2/96 so P.C. can review)

Chairman DiGiulian called the applicant to the podium to reaffirm the affidavit and the applicant's agent, Richard Stahl, Esquire, complied.

David Hunter, Staff Coordinator, presented the staff report dated December 19,1995, outlining staff's position and stating that staff recommended denial of the application. He called the Board's attention to the revised Proposed Development Conditions dated January 23, 1996, submitted to the Board that evening, including 6, 7, 10 and 18 and new Conditions 24, 25 and 26. He said language had been added to Condition 6 regarding the grades of the school which were K through 6; he asked that they delete "at any one time" regarding the number of children in the school. Mr. Hunter went on to explain the various changes which had been made in the revised Proposed Development Conditions.

Mr. Hunter stated that Robin Antonucci of the Office of Transportation was present to address transportation issues and that Steve McGregor from the Planning Division was also present to address land use issues.

Mr. Kelley directed a question to Mr. Hunter and Barbara A. Byron, Director, Zoning Evaluation Division, about a memo dated January 18, 1996, from the Chairman of the Board of Supervisors to James P. Zook, Director, Office of Comprehensive Planning, questioning whether or not the Board of Zoning Appeals (BZA) was the proper forum to hear the application, rather than the Board of Supervisors. He said he had not seen a response to the memo and he asked for comments. Ms. Byron said she was aware of the memo but did not have a copy in frond of her. She recalled that a constituent had written to Supervisor Hanley, asking the question of her. Ms. Byron said that the answer was that, because of the fact that one application was for a place of worship and the other was a school for 99 children, they required special permits and were required to be heard by the BZA. She said there is no other forum for those types of applications to be heard in the County.

Mr. Dively asked if staff's recommendation would be different if not for the language in the Comprehensive Plan, Par. 5. Ms. Byron said that language had the greatest influence on staff's opinion. She said that when the Comprehensive Plan said that, when uses such as the YMCA in this planning sector cease to operate, the special permit uses and special exception uses should no longer be approved on the properties and they should become residential uses. Ms. Byron said there are some other minor issues but those were dealt with in the Proposed Development Conditions. She said it was staff's view that, in order for the application to be in conformance with the general standards, particularly the first one that requires harmony with the Comprehensive Plan, a plan amendment would be required, which would go through the Planning Commission. Ms. Byron noted that staff's position had been relayed to the applicant approximately one year previously when staff first met with the applicant.

Mr. Stahl presented the applicant's request and statement of justification, previously submitted in writing and incorporated into the record. He said they would comply with the Proposed Development Conditions and be good neighbors. He invited the Mantua neighbors who were in opposition to the application to look at their track record in complying with conditions originally imposed at their present location.

Alan Brick-Turin, President of the Board of Directors of the Gesher School located at 8900 Little River Turnpike in Fairfax, spoke in support of the application. He also spoke as a professional traffic engineer with more than twenty years of experience in evaluating the impacts of land use decisions upon traffic operations. He addressed the transportation issues and described the proposed use of car pools, buses, etc.

The following people also spoke in support of the application: Mary Mallack, one of the three homeowners whose property borders directly onto the subject property; Ken Hockholder, who resides in the middle lot of the three lots that abut the subject property; Alan Frank, Camelot resident, not too far from the subject property and a member of the applicant's synagogue; Sam Kleinman, Mantua resident and a member of the applicant's synagogue; Brian Fiekma, Lido Place, owner of one house and in the process of purchasing a second house in Mantua; Scott Simpson, Mantua resident; and Bruce Levine, Mantua resident.

Comments in favor were: The proposed use is more favorable than more houses; it would be similar to the previous use and would engender more privacy, open space, the enjoyment of hearing children playing; parking problems would be no worse than usual and preferable to more dwellings; major sites in the area have been converted to institutional use over

the years to the betterment of the community; traffic count on Lido Place during rush hour already is 500 cars per hour and the addition of, for instance, a public school would generate more traffic than the proposed use; the nature of the proposed use would enhance the integrity of the community.

Dr. Lenore Kopelovich, Headmaster of Gesher Jewish Day School of Northern Virginia, spoke in support of the application, referencing the First Lady's book entitled, "It Takes a Village to Raise a Child." She went on to describe the benefits to children of the proposed application and said they wanted to be good neighbors.

Mr. Dively questioned whether Floor Area Ratio (FAR) was the same as density. Mr. Hunter said the FAR was the formula used by staff to determine the intensity of a non-residential use. He said density was dwelling units per acre.

The following people spoke in opposition to the application: Sally Ormsby, President of the Mantua Citizens Association (MCA), 9114 Coronado Terrace; Charlotte Hossmaster, 3812 Skyview Lane; Stanley Leroy, 3826 Skyview Lane; Faye Wagoner, 9121 Horner Court; Midge Sharky, 9035 Pixey Court; Hollie Cake, 3805 Skyview Lane; Neil Wagoner, 9121 Horner Court; Lawrence Cavallo, 3908 Skyview Lane; David Foote, 3606 Prince William Drive; Ardith Cavallo, 3908 Skyview Drive; Cindy Bibbs, 9303 Christopher Street; Mary J. Lee, 9207 Briary Lane; L. Clay Beall, III, 3990 Briarbush Way; Carol Cole; William Johnston, 3822 Skyview Lane; Donald Cake, 3805 Skyview Lane; Mary Dick, 383 Skyview Lane; Caroline Leroy, 3826 Skyview Lane; Fran Wallingford; and Vic Lyton, 3906 Lynnbrooke Road.

Among the comments and concerns were: After the contract/purchaser had appeared before the MCA a year ago, the MCA watched the Planning Commission hearing and received a briefing by David Hunter, resulting in a vote of opposition of 69-49; the Comprehensive Plan text states that the subject property should revert to residential use if the present use is discontinued; research and on-site studies by an MCA committee revealed that the proposed use would cause in increase of approximately 50% in the number of vehicles entering Prince William Drive between 8:00 and 8:30 a.m.; most of Mantua has no sidewalks and the already increased traffic volumes already have created a safety problem as has the speed of the vehicles; mitigation measures have been installed and are being reviewed by VDOT; the mitigation measures have produced an actual reduction of about 20%; the property is too small for the proposed use; petitions in opposition were presented and expanded upon; potential organized sports; parking in the neighborhood is already difficult; car pools are not a reality for most churches; the driveways cannot accommodate buses; previous use did not generate traffic during the rush hour; a stormwater pond is located in a soccer field; setting a precedent; the applicant did not respond to questions put to them about parking, installation of signals, etc.; one of the speakers asked those who were opposed to stand and a group of people stood.

Mr. Stahl came forward for rebuttal stating, with respect to the concerns of the neighbors, he believed they had indicated in the application exactly what the use will be. He said they agreed to Condition 23, which explicitly states that the property would not be available for organized soccer leagues, T-ball, etc. Only school-organized activities would take place. He went on to clarify the use as dictated by the Proposed Development Conditions. Mr. Stahl said the School's use of buses and car pools was historical and there was no reason to assume that would not continue..

Mr. Hammack stated that the Board members had that evening received a great deal of material to review, which they could not review while listening to the speakers who had made some good points. He moved to defer decision on the application until the following Tuesday's meeting which is a morning meeting.

Mr. Dively seconded the motion which carried by a vote of 7-0.

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9:00 A.M. GESHER JEWISH DAY SCHOOL OF NORTHERN VIRGINIA, SP 95-P-066 Appl. under Sect(s). 3-104 of the Zoning Ordinance to permit a synagogue and related facilities and a private school of general education. Located at 9124 Little River Tnpk. on approx. 4.82 ac. of land zoned R-1. Providence District. Tax Map 58-4 ((1)) 50. (DEF. FROM 1/2/96 SO PLANNING COMMISSION COULD REVIEW. DEF. FROM 1/23/96 FOR DECISION ONLY. NO ADDITIONAL TESTIMONY)

Chairman DiGiulian noted that this application had been deferred from the January 23rd public hearing for decision only.

Mr. Hammack made a motion to grant SP 95-P-066 for the reasons noted in the Resolution and subject to the Revised Proposed Development Conditions dated January 23, 1996.

Mr. Kelley questioned the feasibility of adding a condition requiring that the application be reviewed by the Board of Zoning Appeals after two years. Mr. Hammack said he had considered that option but that he did not believe it would be feasible considering the amount of money the applicant will have to invest in the site. Mr. Kelley said although the applicant had indicated that the use was temporary on the site, he was hesitate to accept that statement. Mr. Hammack said he would not oppose adding a condition requiring that the traffic and parking be reviewed after a period of time. Mr. Ribble said he believed that if there is a traffic problem over the next two years the Board would be made aware of it and that he did not believe such a condition was necessary.

Mr. Pammel believed the use was appropriate and concurred with almost every point that the maker made in his motion as well as the neighbor's comments regarding the open space; however, he believed this request dealt with a policy decision that has to be made the Board of Supervisors. He pointed out that it is the Board of Supervisors who voted to include the language in the Comprehensive Plan that exists today stating that upon the termination of the Y.M.C.A. that the use revert to single-family uses. When considering all the facts, Mr. Pammel believed that the BZA was bound by policy established by the Board of Supervisors and this issue and final outcome is under the jurisdiction of that body.

NOTE: Mr. Hammack revised the Resolution at the Board of Zoning Appeals meeting on January 30th to include additional findings of facts. These are incorporated into the Resolution.

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COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

In Special Permit Application SP 95-P-066 by GESHER JEWISH DAY SCHOOL OF NORTHERN VIRGINIA, under Section 3-104 of the Zoning Ordinance to permit a synagogue and related facilities and a private school of general education, on property located at 9124 Little River Turnpike, Tax Map Reference 58-4((1))50, Mr. Hammack moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on January 23, 1996; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the owner of the land.
2. The present zoning is R-1.
3. The area of the lot is 4.82 acres.
4. This application gave the BZA trouble because of the unusual language in the Comprehensive Plan which was a threshold issue that had to be surmounted before you could get to the merits. After reading many provisions of the State Code and the Zoning Ordinance and it appears that the Comprehensive Plan is general in nature to give guidance, but the Code and the Ordinance clearly vests the BZA with the authority to grant special permit uses in any given zoning district. To the extent that the County Board of Supervisors has delegated the authority to the BZA to act on those applications, the BZA has a responsibility to act in accordance with the application that is presented and look at each application on the facts. In this particular application, the staff report found that the applicant met every required standard but the one dealing with the conformance of the Master Plan. After

reviewing the application, it appears that staff's interpretation is too narrow a construction of the Plan. A school of general education is permitted under the Ordinance in a R-1 District. The Comprehensive Plan cannot really override the Zoning Ordinance in what is permitted in a zoning district. There is a lot of opposition to the school and there is also some support for the school. The BZA chose not to speculate as to what the Planning Commission was thinking in 1991 when it changed the Plan and what might have been behind the change. Staff was requested to make a list of the special permit uses the Planning Commission said should be terminated or returned to residential use in the event the present use ceased to operate. The list included the Mantua Swim and Tennis Club, the Strathmeade Square Swim and Tennis Club, all the churches, the Fairfax County Pumping Station, the Fire Department facility, everything in the F-2 Planning Sector. The BZA does not know why the Planning Commission believed these uses were not appropriate in residential neighborhoods since they have been there and support the residential neighborhood. One area that the community testified to that the BZA is concerned with, is traffic. Mantua does have a traffic problem, especially at the entrance that will be used by the proposed use which is a main entrance into the community. The hours of operation of the proposed use will be outside the peak hours of traffic as has been determined by the community. That is one reason that the use should be granted. There was concern with the synagogue part of the application. The applicant testified that there might be some religious services that would meet prior to school starting and there was concern that there might be conflicting traffic movements associated with the use of the synagogue and the use of the school to the extent that car pools or individuals bringing their children to school might be faced with conflicting movements by people leaving a 8:00 a.m. service. It does not seem feasible that there could be an 8:00 a.m. service and everyone could get in and out before 8:30 a.m. in order to open up the parking lot for the school use; therefore, the development conditions were tightened up to address this problem. In staff's opinion, the use associated with the school and synagogue is less intense than the use associated with the Y.M.C.A., and the maker of the motion agreed with staff on that point. Schools are an important part of the community. They are the focus around which a community is often times built. Mantua has fought to keep its elementary school and to have it improved to attract new families. A school of this type would also be an attraction to new families and is entirely consistent with a residential neighborhood. There has been some criticism to the size of the site compared to an elementary school. That may be true, but most elementary schools have considerably more than 99 students associated with the use. The site is well sited to accommodate a school, being on Route 236, which is going to be widened to six lanes. It has frontage on two streets, one is Prince William which is two lanes and can accommodate traffic into and out of the parking lot. The Skyview Lane side of the school will have a fence around it. There will no organized soccer league play allowed on the site as stipulated in the development conditions. The BZA gets a lot of opposition to schools in neighborhoods, or any use in neighborhoods, but particularly to uses that are internal to the neighborhood. If this school was being proposed on a site such as that occupied by the Mantua Swim and Tennis Club, it might be a different result. But it is on the very edge of the community, and it will not be attracting any traffic or what traffic it does attract will be minimal and it meets the standards for those reasons. People like to argue over what all these words are; but, the development conditions or other standards that apply talk about the use being in harmony with the Plan. In returning a special use to a residential use under our Ordinance, where we have by definition, a school is in harmony with a residential use and the proposed use by the Gesher School is in harmony with the Plan. The staff's analysis talks about it being in conformance, which is a narrower standard to some extent, and the school itself was in harmony with the requirement and the Plan to maintain what would be considered a residential use. Also, in preparing my motion and the BZA is not saying that this is a controlling case, but there is a case cited in the footnotes to the Virginia Code, the Rowe case that talks about equal protection of applicants within a zoning district. The BZA cannot discriminate in uses that would be applied to them and that case provided some guidance on how this case ought to be approached, because it said a denial of those rights was a denial of equal protection and a taking. Insofar as the Plan itself is suppose to be general in nature and the proposed language in this instance is very specific with respect to a specific piece of property that the BZA is dealing with, sort of a what in law is sometimes called a prior restraint or something, but it is an attempt to zone through the use of the Plan and the Plan is to be used only as a guide.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in Sections 8-303 and 8-307 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **GRANTED** with the following limitations:

1. This approval is granted to the applicant only and is not transferable without further action of this Board, and is for the location indicated on the application and is not transferable to other land.

2. This Special Permit is granted only for the purpose(s), structures and/or use(s) indicated on the special permit plat prepared by Tri-Tek Engineering dated July 5, 1995 revised through January 17, 1996 and approved with this application, as qualified by these development conditions.

3. A copy of this Special Permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.

4. This Special Permit is subject to the provisions of Article 17, Site Plans, as may be determined by the Department of Environmental Management (DEM). Any plan submitted pursuant to this special permit shall be in conformance with the approved Special Permit plat and these development conditions.

5. The maximum daily enrollment for the school of general education and the summer camp shall not exceed a total of 99 students. The school of general education may include grades kindergarten through eighth grade. The operation of the school of general education and the summer camp shall not overlap. There shall be a maximum of eight (8) teachers and three (3) staff associated with such uses.

6. The maximum hours of operation for the private school of general education and the summer camp shall be from 8:30 a.m. to 3:30 p.m., Monday through Friday. Use of the facility for aftercare shall be limited to the summer camp and may extend until 4:30 p.m. Weekend and evening use of the facilities for extracurricular activities shall be permitted on a limited basis provided there is no adverse impact on the surrounding community.

7. The number of students using the outdoor recreation area at any one time shall not exceed the square foot requirements for the recreation areas stipulated by Zoning Ordinance Sect. 8-307 which require 200 square feet per child in grades Kindergarten through 3 and 430 square feet per student in grades 4 through 12.

8. Indoor recreation space shall be provided in accordance with the provisions of Chapter 30 of the Code.

9. The maximum number of seats in the main area of worship for the synagogue shall be 125. There may be one employee or rabbi associated with the use of the synagogue. Except for the use of an office by the rabbi, the use of the facility as a synagogue shall not overlap or conflict with the use of the property as a school or summer camp including the parking requirements of the school.

10. Approval of this special permit does not constitute a reduction in the number of required parking spaces. The number of parking spaces provided shall satisfy the minimum requirements set forth in Article 11 of the Zoning Ordinance unless a shared parking agreement between the synagogue and the Gesher School is approved by the Board of Supervisors. A maximum of thirty-two (32) parking spaces shall be provided on site as shown on the special permit plat provided a shared parking agreement shall be requested from and approved by the Board of Supervisors. If approval of a shared parking agreement is not obtained, an amendment to the special permit shall be required in order to allow additional parking spaces on site above the maximum number of spaces shown on the plat, which is thirty-six (36). This number includes the additional parking as shown in the dashed lines on the special permit plat. Alternatively, the number of seats in the synagogue and/or the maximum daily enrollment of the school shall be reduced accordingly and parking sufficient to meet the minimum Zoning Ordinance requirement for the school and the synagogue shall be provided as determined by DEM based on the requirements of the Zoning Ordinance. The use of the facility as a synagogue shall not be implemented until the shared parking agreement is obtained from the Board of Supervisors or the parking requirements associated with the synagogue use are satisfied. All parking shall be on site. If actual use of the facility results in the inadequacy of parking on site, the applicant shall implement measures, such as buses, van pools or car pools to bring the use into compliance with this condition.

11. Construction of a third westbound lane along Route 236 shall be provided for public street purposes as approved by the Director, DEM. Said lane shall be striped as a right turn deceleration lane. A concrete sidewalk shall be provided along Route 236 as approved by the Director, DEM.

12. All access to the subject property shall be from Prince William Drive. The entrance shall be designated "Entrance Only" and the exit shall be designated "Exit Only" and appropriate signage shall be installed accordingly. The entrance and exit shall be provided in accordance with the Virginia Department of Transportation (VDOT) standards. The existing curb cut located on Skyview Lane shall be closed.

13. Prior to site plan approval, and as may be required by VDOT, the applicant shall provide a queuing analysis in order to assess the adequacy of the existing left turn lane eastbound on Route 236. If it is determined that the existing left turn lane is inadequate, then the applicant shall commit to decrease the number of peak hour trips to the site by use of increased bus transportation or car pools.

14. Transitional Screening and Barriers shall be modified and shall be provided as follows:

    - Northern lot line: the existing vegetation as shown on the special permit plat shall be maintained and shall satisfy the transitional screening requirement. A row of evergreen trees shall be provided as shown on the special permit plat in order to supplement the existing vegetation. A six-foot high board-on-board fence shall be provided along the edge of the transitional screening yard adjacent to Lot 38 as depicted on the special permit plat.

    - Eastern line lot line: a six foot high chain link fence shall be provided along the eastern property line as shown on the special permit plat. A row of evergreen trees shall be planted between the chain link fence and the lot line.

    - Western lot line adjacent to Prince William Drive: the existing vegetation as shown on the special permit plat shall be maintained and shall satisfy the transitional screening requirement. The barrier requirement shall be waived.

    - Southern lot line: the existing vegetation shall be maintained and supplemental evergreen plantings shall be provided which will screen the parking, pool and tennis court area. The barrier shall be modified to allow the existing fences to remain.

    - All plantings shall be of a size, type and species as determined by the Urban Forestry Branch, Department of Environmental Management (DEM).

15. Landscaping and building foundation plantings shall be provided around the proposed structure in order to enhance the visual appearance of the building. The landscaping and the foundation plantings shall be shown on a Landscape Plan which shall be provided to the County Urban Forester for review and approval.

16. Interior and peripheral parking lot landscaping shall be provided in accordance with the provisions of Sect. 13-201 and 13-202 of the Zoning Ordinance.

17. The limits of clearing and grading shall be as shown on the special permit plat and shall be subject to review and approval by the Urban Forestry Branch at the time of site plan approval. Definitive limits of clearing and grading which emphasize the preservation of mature trees and the existing vegetation especially along all property lines shall be provided. If it is determined by the Urban Forestry Branch to be necessary to remove any trees previously designated to be preserved in order to locate utility lines, trails, etc., that cannot be located elsewhere, then an area of additional tree save of equivalent value as determined by the Urban Forestry Branch may be substituted at an alternative location on the site. If a suitable alternative location cannot be identified on site by the Urban Forestry Branch, then the applicant may elect to replace such trees according to the directions of the Urban Forestry Branch pursuant to (Part 4 of Section 12-0403.7) of the Public Facilities Manual (PFM).

18. Best Management Practices shall be provided to the satisfaction of the Director, Department of Environmental Management (DEM). If on-site stormwater management facilities are required, such facilities shall be located in the northeast corner of the site, and shall not encroach into the required transitional screening yards.

19. Any proposed lighting of the parking areas shall be in accordance with the following:

    - The combined height of the light standards and fixtures shall not exceed twelve (12) feet.

- The lights shall focus directly onto the subject property.

- Shields shall be installed, if necessary, to prevent the light from projecting beyond the facility.

20. The maximum Floor Area Ratio for the proposed structure shall not exceed 0.06. The maximum building height shall not exceed 36.5 feet.

21. There shall be no pole-mounted signs associated with this use. Building mounted and freestanding signs shall be permitted in accordance with Article 12, Signs.

22. Any trash dumpster located on the property shall be screened by a board-on-board fence, or with plantings which shall completely screen the view of the dumpsters, subject to the approval of DEM.

23. The pool, tennis courts and ballfields shall be used by the school of general education and synagogue and shall not be open for organized community use without amendment of this special permit.

24. There shall be no overlap of activities between the school of general education and the scheduled religious services of the synagogue.

25. This special permit for the synagogue is granted to the applicant and the lessee as indicated in the statement of justification. A change in permittee approved by the Board of Zoning Appeals shall be obtained in order for another lessee to utilize the site for a place of worship.

26. The Y.M.C.A. shall cease to operate before the Non-Residential Use Permit for this use is approved.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

Mr. Kelley seconded the motion which carried by a vote of 5-2. Mr. McPherson and Mr. Pammel voted nay.

*This decision was officially filed in the office of the Board of Zoning Appeals and became final on February 7, 1996. This date shall be deemed to be the final approval date of this special permit.

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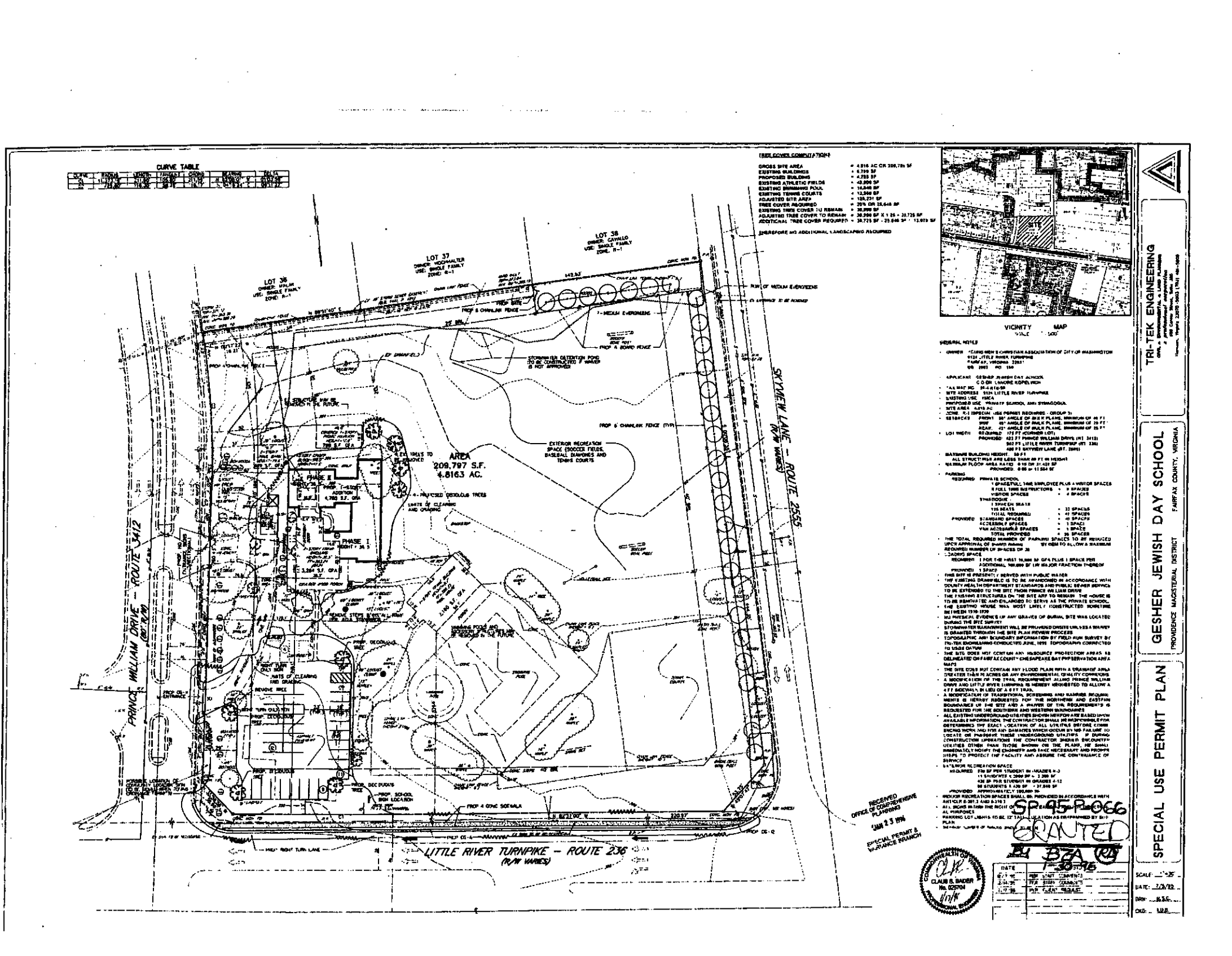

GENERAL NOTES

- OWNER: CONGREGATION BNAI BRITH CHRISTIAN ASSOCIATION OF CITY OF WASHINGTON
  9124 LITTLE RIVER TURNPIKE
  FAIRFAX, VIRGINIA 22031
  DB 2997 PG 1961
- APPLICANT: GESHER JEWISH DAY SCHOOL
  C/O DR. LENORE KOPELMAN
- TAX MAP NO. 58-4-16-5A
- SITE ADDRESS: 9124 LITTLE RIVER TURNPIKE
- EXISTING USE: YMCA
- PROPOSED USE: PRIVATE SCHOOL AND SYNAGOGUE
- SITE AREA: 4.816 AC
- ZONE: R-1 (SPECIAL USE PERMIT REQUIRED - GROUP 3)
- SETBACKS: FRONT: 50' ANGLE OF BULK PLANE, MINIMUM OF 40 FT
  SIDE: 45° ANGLE OF BULK PLANE, MINIMUM OF 25 FT
  REAR: 45° ANGLE OF BULK PLANE, MINIMUM OF 25 FT
- LOT WIDTH: REQUIRED: 175 FT (CORNER LOT)
  PROVIDED: 423 FT PRINCE WILLIAM DRIVE (RT 3412)
  562 FT LITTLE RIVER TURNPIKE (RT 236)
  488 FT SKYVIEW LANE (RT. 2565)
- MAXIMUM BUILDING HEIGHT: 35 FT
  ALL STRUCTURES ARE LESS THAN 60 FT IN HEIGHT
- MAXIMUM FLOOR AREA RATIO: 0.10 OR 31,420 SF
  PROVIDED: 0.05 or 11,552 SF
- PARKING
  REQUIRED: PRIVATE SCHOOL
  1 SPACE/FULL TIME EMPLOYEE PLUS 4 VISITOR SPACES
  8 FULL TIME INSTRUCTORS = 8 SPACES
  VISITOR SPACES = 4 SPACES
  SYNAGOGUE
  1 SPACE/4 SEATS
  150 SEATS = 33 SPACES
  TOTAL REQUIRED = 45 SPACES
  PROVIDED: STANDARD SPACES = 40 SPACES
  ACCESSIBLE SPACES = 1 SPACE
  VAN ACCESSIBLE SPACES = 1 SPACE
  TOTAL PROVIDED = 96 SPACES
- THE TOTAL REQUIRED NUMBER OF PARKING SPACES TO BE REDUCED UPON APPROVAL OF SHARED PARKING BY 45SM TO ALLOW A MAXIMUM REQUIRED NUMBER OF SPACES OF 36
- LOADING SPACE
  REQUIRED: 1 FOR THE FIRST 10,000 SF GFA PLUS 1 SPACE PER ADDITIONAL 100,000 SF OR ANY MAJOR FRACTION THEREOF
  PROVIDED: 1 SPACE
- THIS SITE IS PRESENTLY SERVED WITH PUBLIC WATER
- THE EXISTING DRAINFIELD IS TO BE ABANDONED IN ACCORDANCE WITH COUNTY HEALTH DEPARTMENT STANDARDS AND PUBLIC SEWER SERVICE TO BE EXTENDED TO THE SITE FROM PRINCE WILLIAM DRIVE
- THE EXISTING STRUCTURES ON THE SITE ARE TO REMAIN. THE HOUSE IS TO BE RENOVATED AND ENLARGED TO SERVE AS THE PRIVATE SCHOOL.
- THE EXISTING HOUSE WAS MOST LIKELY CONSTRUCTED SOMETIME BETWEEN 1910-1920
- NO PHYSICAL EVIDENCE OF ANY GRAVES OF BURIAL SITE WAS LOCATED DURING THE SITE SURVEY
- STORMWATER MANAGEMENT WILL BE PROVIDED ONSITE UNLESS A WAIVER IS GRANTED DURING THE SITE PLAN REVIEW PROCESS
- TOPOGRAPHIC AND BOUNDARY INFORMATION BY FIELD RUN SURVEY BY TRI-TEK ENGINEERING CONDUCTED JUNE, 1995. TOPOGRAPHY CORRECTED TO USGS DATUM
- THE SITE DOES NOT CONTAIN ANY RESOURCE PROTECTION AREAS AS DELINEATED ON FAIRFAX COUNTY CHESAPEAKE BAY PRESERVATION AREA MAPS
- THE SITE DOES NOT CONTAIN ANY FLOOD PLAIN WITH A DRAINAGE AREA GREATER THAN 70 ACRES OR ANY ENVIRONMENTAL QUALITY CORRIDORS.
- A MODIFICATION OF THE TRAIL REQUIREMENT ALONG PRINCE WILLIAM DRIVE AND LITTLE RIVER TURNPIKE IS HEREBY REQUESTED TO ALLOW A 4 FT SIDEWALK IN LIEU OF A 8 FT TRAIL.
- A MODIFICATION OF TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS IS HEREBY REQUESTED FOR THE NORTHERN AND EASTERN BOUNDARIES OF THE SITE AND A WAIVER OF THE REQUIREMENTS IS REQUESTED FOR THE SOUTHERN AND WESTERN BOUNDARIES
- ALL EXISTING UNDERGROUND UTILITIES SHOWN HEREON ARE BASED UPON AVAILABLE INFORMATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING THE EXACT LOCATION OF ALL UTILITIES BEFORE COMMENCING WORK AND FOR ANY DAMAGES WHICH OCCUR BY HIS FAILURE TO LOCATE OR PRESERVE THESE UNDERGROUND UTILITIES. IF DURING CONSTRUCTION OPERATIONS THE CONTRACTOR SHOULD ENCOUNTER UTILITIES OTHER THAN THOSE SHOWN ON THE PLANS, HE SHALL IMMEDIATELY NOTIFY THE ENGINEER AND TAKE NECESSARY AND PROPER STEPS TO PROTECT THE FACILITY AND ASSURE THE CONTINUANCE OF SERVICE
- RECREATION SCREENING SPACE
  REQUIRED: 75sf PER STUDENT IN GRADES K-3
  11 STUDENTS X 75SF = 825 SF
  438 SF PER STUDENT IN GRADES 4-12
  98 STUDENTS X 438 SF = 37,949 SF
  PROVIDED: APPROXIMATELY 100,000 SF
- SIGNS FOR RECREATION SPACES SHALL BE PROVIDED IN ACCORDANCE WITH ARTICLE 8-301.3 AND 8-310.1
  A) SIGNS IN THE RIGHT OF WAY SHALL BE EXEMPT FROM THE REQUIREMENTS OF ARTICLE 12
  B) PURPOSES
- PARKING LOT LIGHTS TO BE 12' TALL LOCATION AS DETERMINED BY SITE PLAN.
- SETBACK LINES OF PARKING SPACES SHALL BE 5' FROM ALL PROPERTY LINES

Page_____, February 6, 1996, (Tape 1), Action Item :

Request for Reconsideration
Gesher Jewish Day School of Northern Virginia, SP 95-P-066

Mr. Hammack said he was able to review in detail the request from Mr. Leroy because it was given to him last week, but had just reviewed the request that asked the Board to negotiate 32 different development conditions with Fran Wallingford of the Mantua Citizens Association. He stated that some of the proposed development condition changes were totally inappropriate and others dealt with issues that should have been raised at the public hearing. Mr. Hammack said to negotiate with a citizens' association after the vote had been taken was inappropriate and that he was not interested in reconsidering the request.

Mr. Hammack moved to deny the Request for Reconsideration for SP 95-P-066. Mr. Kelley seconded the motion which carried by a vote of 7-0.

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Page_____, February 6, 1996, (Tape 1), Action Item :

Approval of January 30, 1996 Resolutions

Mr. McPherson moved to approve the Resolutions with the Gesher Jewish Day School of Northern Virginia, SP 95-P-066, resolution excluded from the motion. Mr. Dively seconded the motion which carried by a vote of 7-0.

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Page_____, February 6, 1996, (Tape 1), Action Item :

Approval of Gesher Jewish Day School Resolution

Mr. Hammack said he wanted to add three words to Development Condition 10 of the Gesher Jewish Day School Resolution. He said the end of that condition will read *to bring the use into compliance with this condition.* The three words added were "with this condition". He said last week he'd written out a rather long motion and didn't include all of it in his verbal motion and he wanted to amplify the reasons. Mr. Hammack said it seemed that people liked to argue over what all the words were, but, the development conditions or the other standards that apply, talked about the use being in harmony with the Plan. He said in returning a special use to a residential use, under our Ordinance, a school is in harmony with a residential use. Mr. Hammack said in his opinion the proposed use by the Gesher School is in harmony with the Plan. He said that staff's analysis talked about the use being in conformance, which is a narrower standard to some extent, and he felt the school itself is in harmony with the requirement and the Plan to maintain what would be considered a residential use. Mr. Hammack referenced a case cited in the footnotes to the Virginia Code, the Rowe case, which pertained to equal protection of applicants within a zoning district. He said you can't discriminate in uses that would be applied to them and that case provided some guidance to his thinking on how this case ought to be approached. He said because a denial of those rights was a denial of equal protection and a taking. Mr. Hammack stated that the Plan itself is supposed to be general in nature and the proposed language is very specific with respect to a specific piece of property. He said it is an attempt to zone through the use of the Plan and the Plan is to be used only as a guide. Mr. Hammack concluded by stating these comments were only an amplification of his comments last week, and he had been told by various sources that the Board would probably have to amplify this at some point and he thought he would do it while it was fresh in his mind. He asked that the comments be made part of the basis for his motion unless someone had an objection.

Mr. Hammack moved to approve the Resolution for Gesher Jewish Day School of Northern Virginia, SP 95-P-066, as amended. Mr. Kelley seconded the motion which carried by a vote of 7-0.

//

County of Fairfax, Virginia

MEMORANDUM

DATE: June 29, 2010

TO: Regina Coyle, Director
Zoning Evaluation Division

FROM: Angela Kadar Rodeheaver, Chief AKR by CAA
Site Analysis Section
Department of Transportation

SUBJECT: Transportation Impact

FILE: 3-4 (SP 95-P-066)

REFERENCE: SPA 95-P-066, Chabad Lubavitch of Northern Virginia
Land Identification: 58-4 ((1)) 50
Traffic Zone: 1520

The following comments reflect the position of the Department of Transportation, and are based on the applicant's Statement of Justification dated December 17, 2009, and the Special Permit Plat dated January 17, 1996. Because this review is based in part on the information submitted, development and use of the site in accordance with this information should be a condition of approval.

Previous approvals permit a synagogue with 125 seats and a private school of general education, with a maximum of 99 students daily. The applicant is requesting to add a child care center/nursery school use in addition to the already approved private school of general education. The student population would remain capped at 99 students daily. This department would not object to approval of the application, as long as the stipulation remains for a total of 99 children *daily*. This department would not support a condition for a total of 99 students on site at *any given time*, as the number could then exceed the daily total of 99 students, potentially resulting in additional transportation impacts.

AKR/CAA

Michelle Brickner, Director, Office of Site Development Services, Department of Public Works and Environmental Services.

Fairfax County Department of Transportation
4050 Legato Road, Suite 400
Fairfax, VA 22033-2895
Phone: (703) 877-5600 TTY: 711
Fax: (703) 877-5723
www.fairfaxcounty.gov/fcdot

FCDOT
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County of Fairfax, Virginia

MEMORANDUM

July 12, 2010

RECEIVED
DEPARTMENT OF PLANNING
AND ZONING

JUL 15 2010

SPECIAL PERMIT &
VARIANCE BRANCH

TO: Debbie Hedrick, Staff Coordinator
Zoning Evaluation Division, DPZ

FROM: Todd Nelson, Urban Forester II
Forest Conservation Branch, DPWES

SUBJECT: Gesher Jewish Day School; SPA 95-P-066

RE: Request for assistance dated June 15, 2010

This review is based upon the Special Permit Amendment SPA 95-P-066 stamped "Received, Department of Planning and Zoning, June 8, 2010." A site visit was conducted on July 7, 2010.

Site Description: This site is an existing private school of general education with associated Synagogue. The majority of the site is a maintained grassland with various mature trees scattered throughout. Vegetation at the western portion of the property adjacent to Prince William Drive consists primarily of black locust and mulberry trees. Vegetation at the southwest corner of the property adjacent to the existing parking lot consists primarily of dogwood, white pine, and pin oak. There is existing evergreen vegetation located along the northeastern and eastern property boundaries consisting primarily of eastern white pine trees.

1. **Comment:** The required transitional screening type 1 and barrier D, E, or F are not provided along the northern, southern, eastern, and western property boundaries where the site is adjacent to the existing single family detached dwellings. In addition, it does not appear the existing vegetation in these areas meets the intent of the transitional screening and barrier requirements.

   Recommendation: Transitional screening calculations in accordance with Paragraph 3A, Section 13-305, of the Zoning Ordinance of Fairfax County, should be provided for the northern, southern, eastern, and western property boundaries. Supplemental landscaping and associated barriers should be provided in these areas to meet the intent of the transitional screening and barrier requirements.

Please contact me at 703-324-1770 if you have any questions.

TLN/
UFMID #: 150980

cc: RA File
DPZ File

Department of Public Works and Environmental Services
Land Development Services, Urban Forest Management Division
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035-5503
Phone 703-324-1770, TTY: 703-324-1877, Fax: 703-803-7769
www.fairfaxcounty.gov/dpwes

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-303 Standards for all Group 3 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.

2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

8-308 Additional Standards for Churches, Chapels, Temples, Synagogues or Other Such Places of Worship with a Child Care Center, Nursery School or Private School

Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education may be approved as a special permit use in accordance with the provisions of this Part or as a special exception use in accordance with the provisions of Part 3 of Article 9. The choice of whether to file an application for a special permit or special exception shall be at the applicant's discretion. In either event, such use shall be subject to the additional standards set forth in Sections 9-309 and 9-310.

9-309 Additional Standards for Child Care Centers and Nursery Schools

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area shall be of such size that 100 square feet of usable outdoor recreation area shall be provided for each child that may use the space at any one time. Such area shall be delineated on a plat submitted at the time the application is filed.

For the purpose of this provision, usable outdoor recreation area shall be limited to:

A. That area not covered by buildings or required off-street parking spaces.

B. That area outside the limits of the minimum required front yard, unless specifically approved by the Board in commercial and industrial districts only.

C. Only that area which is developable for active outdoor recreation purposes.

D. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.

2. All such uses shall be located so as to have direct access to an existing or programmed public street of sufficient right-of-way and cross-section width to accommodate pedestrian and vehicular traffic to and from the use as determined by the Director. To assist in making this determination, each applicant, at the time of application, shall provide an estimate of the maximum expected trip generation, the distribution of these trips by mode and time of day, and the expected service area of the facility. As a general guideline, the size of the use in relation to the appropriate street type should be as follows, subject to whatever modification and conditions the Board deems to be necessary or advisable:

Number of Persons	**Street Type**
1-75	Local
76-660	Collector
660 or more	Arterial

3. All such uses shall be located so as to permit the pick-up and delivery of all persons on the site.

4. Such use shall be subject to the regulations of Chapter 30 of The Code or Title63.2, Chapter 17 of the Code of Virginia.

9-310 Additional Standards for Private Schools of General Education and Private Schools of Special Education

1. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area for a private school of general education shall be of such size that:

   A. 200 square feet of usable outdoor recreation area shall be provided for each child in grades K-3 that may use the space at any one time, and

   B. 430 square feet of usable outdoor recreation area shall be provided for each child in grades 4-12 that may use the space at any one time.

   Such usable outdoor recreation area shall be delineated on a plat submitted at the time the application is filed.

   For the purpose of this provision, usable outdoor recreation area shall be limited to:

   A. That area not covered by buildings or required off-street parking spaces.

   B. That area outside the limits of the required front yard.

   C. Only that area which is developable for active outdoor recreation purposes.

   D. An area which occupies no more than eighty (80) percent of the combined total areas of the required rear and side yards.

2. In addition to complying with the minimum lot size requirements of the zoning district in which located, the minimum lot area of a private school of special education shall be based upon a determination made by the Board; provided, however, that the proposed use conforms with the provisions set forth in Sect. 304 above.

3. All private schools shall be subject to the provisions set forth in Par. 2 and 3 of Sect. 309 above. If applicable, such uses shall also be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.