GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15825 of David Dale, pursuant to 11 DCMR 3108.1, for a special exception under Subsection 357.1 to establish a youth rehabilitation home for ten youths ages 13-19 years and 12 staff, basement through the third floor, in an R-5-E/DCOD District at premises 1728 P Street, N.W. (Square 157, Lot 100).

HEARING DATE: June 9, 16 and July 14, 1993
DECISION DATE: September 8, 1993

ORDER

PRELIMINARY PROCEDURAL MATTERS:

At the public hearing of June 9, 1993, area residents, through counsel, raised as a preliminary matter, the issue of whether proper and adequate notice had been given to all who were entitled to receive it. Counsel moved for postponement of the hearing on the basis that the owners of 1730 P Street, a residential property adjacent to the subject site, did not receive notice of the application from the Board. Counsel stated that the list of owners of property within 200 feet of the site submitted to the Board by the applicant, did not include the owners of 1730 P Street. He stated that actual notice was received by his clients on May 21, 1993 when the property was posted. However, this was more than three weeks after notice by mail was to be given.

Counsel further argued that the applicant failed to submit into the record adequate information about the application to provide the residents with a reasonable basis for assessing the impact of the proposed use on their property.

Counsel stated that in addition to his clients, many other owners of property in the area failed to receive notice from the Board. Therefore, he moved for postponement of the application.

The Board determined that the property was posted in a timely manner, as indicated on the affidavit of posting, that the hearing was advertised in the D.C. Register and that the ANC received notice and held a duly noticed meeting on the application. The Board concluded that these factors combined to provide the nearby property owners with notice of the pending application.

The Board also determined to waive the 14-day filing requirement to afford the applicant an opportunity to submit more detailed information about the application, information which interested parties will have an opportunity to address.

Based on these determinations by the Board, the Board denied the motion to postpone the hearing.

Later, while the Board was hearing another application, counsel for the property owner at 1732 P Street, N.W. informed the Board of a medical emergency that required his attention, making him unavailable to participate in the hearing on the subject case. He argued that if the hearing were to go forward in his absence, it would severely prejudice his client who was out of town.

The applicant objected to the postponement but acknowledged the Board's authority to use its discretion.

The Board determined that the property owner would be prejudiced under the circumstances. Therefore, the Board postponed the hearing until June 16, 1993.

The application appeared on the supplemental agenda of June 16, 1993. While in the process of hearing previously scheduled cases, the Board determined that it would be unable to also hear the subject application due to the length of time necessary to devote to the previous hearings. Therefore, the Board postponed the subject application to July 14, 1993.

At the public hearing of July 14, 1993, counsel for the opposing neighbors at 1730 P Street, N.W. again requested postponement on the same bases argued at the public hearing of June 9, 1993. Again, the Board denied the request for postponement.

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is known as 1728 P Street, N.W. (Square 157, Lot 100). The site is located on the south side of P Street N.W. between 17th and 18th Streets N.W. It is located in the R-5-E/Dupont Circle Overlay District. The R-5-E District permits matter of right general residential uses of high density development, including single-family dwellings, flats, and apartments to a maximum height of 90 feet, a maximum floor area ratio (FAR) of 6.0 for apartment houses and 5.0 for other structures, and a maximum lot occupancy of 75 percent. Rehabilitation and substance abusers' homes accommodating from one to 20 persons are allowed in an R-5-E District with the Board's approval.

The Dupont Circle Overlay District (DCOD) is designed to preserve the character of the existing development in the area and to discourage planned unit development (PUD) applications for small sites.

The subject site is developed with a three-story plus basement row dwelling that adjoins two similar row dwellings to the west. Square 157, in which the site is located, contains a number of high-rise residential apartment buildings in addition to office buildings occupied by nonprofit and professional organizations. These office buildings include the Brookings Institute and the National Trust for Historic Preservation. Webster House, a high-rise apartment building, is located to the east of the subject site across from an 18-foot wide mid-block alley.

2. The subject property is owned by the applicant, David Dale. He stated that he purchased the property in 1971. The property underwent renovations for about three years after which it was use as a chancery for the government of Vietnam for about one year. Then, in 1974, the District of Columbia government leased the building to operate a youth home.

The property remained under the care of the D.C. government until about 1984 or 1985 when a contractor that had won a contract with the government, took over the operation of the facility. The contractor remained until the end of 1990.

The applicant stated that since that time, the building has been totally renovated inside and he has held it off of the market in anticipation of having it continue as a youth home. Pursuant to 11 DCMR 357.1, the applicant is requesting a special exception to establish a youth rehabilitation home for ten male youths, ages 13 to 19 years.

The applicant stated that there is adequate space in the building to operate the facility. The building contains three floors plus a basement. On the first floor is the entrance, a lobby, a living room, a kitchen, a dining room and a bathroom. The total square footage of the first floor is 1,116.7 square feet. The second floor has three bedrooms and a bath, for a total square footage of 911 square feet. The third floor also has three bedrooms and a bath for a total square footage of 716.3 square feet. The basement contains a front entry hallway, three rooms, a bathroom and a recreation room, a total of 1,138 square feet of space. The youth will reside on floors one through three and the administrative offices will be located in the basement.

3. The applicant testified that the proposed facility would be operated by Gateway Youth Homes, (hereinafter, "Gateway"), under contract with the D.C. Department of Human Services. Mr. Charles Delgado, the administrator for Gateway, testified at the public hearing about the organization and the proposed facility. Mr. Delgado testified that Gateway has successfully operated two youth rehabilitation group homes in the District of Columbia since 1990. Gateway's basic mission is to provide community-based housing and support services to adjudicated youth.

Gateway's philosophy is that young people must develop both a stong self-image and personal self-esteem to improve their development and relationship with their families as well as their community.

Gateway's approach consists of a multi-treatment plan that combines a stable, homelike environment with the provision of basic daily needs with structured supervision; program services, which include recreation, vocational assistance, educational assistance, and independent living; community social services such as health, cultural and religious exposure; and therapeutic support services. These support services are provided by Progressive Life Center, Inc. ("Progressive Life"), a non-profit human services agency with certified mental health professionals who provide individual, family, and group counseling therapy to the residents.

Twelve staff members will operate the facility. The staff consists of experienced, well-qualified, dedicated individuals who are both aware of and sensitive to the needs of the youths as well as the community in which they reside. In accordance with the guidelines contained in the Counselor's Handbook, developed by Gateway and approved by the Youth Services Administration (of DHS), the staff receives ongoing training through formal and informal instruction. Seminars concentrate on counselor development in the areas of sensitivity, use of authority and positive rapport. The staff recognizes its duty to implement the goals and objectives of Gateway, remaining focused on its ultimate purpose - to serve its residents.

Mr. Delgado testified that the residents are made aware of the rules of the house and they are required to sign conditional agreements that their stay is predicated upon a certain level of behavior that is expected of them.

4. Mr. Delgado testified that the residents will stay at the facility approximately 90 to 120 days. A youth is referred to the facility through the court system once a judge has determined that the individual youth has some redeeming qualities and that the facility could be helpful to him. Gateway reports to the judge stating how the youth has behaved while at the facility. The judge will then decide whether the youth should be released back into the community. Therefore, the youth is motivated to do well.

5. Mr. Delgado testified that Gateway tries to keep the youths at the same schools that they previously attended. However, if they have serious problems, they are enrolled in City Lights School. If neither of those is an alternative, the other option is to enroll them in other schools that are not in their neighborhood.

6. With regard to the daily schedule, Mr. Delgado testified that the residents get up at approximately 6:30 a.m. They have breakfast at 7:00 a.m. They are on their way to school at 7:45 a.m. Sometimes they try to avoid school, but staff will monitor their attendance. The residents are due back at the house at 4:00 p.m. to get ready to do chores, have dinner, then either attend counseling by Progressive Life or attend supervised recreational activities at a specific location.

Some of the youths will have jobs and will have to leave for work. The staff is always on alert to make sure that those youth who work are where they are supposed to be and are not loitering. The staff also tries to ensure that there are no negative influences around the clients such as ex-friends, etc. Mr. Delgado stated that if the residents know the rules and they know that certain behavior will not be tolerated, they will not violate the rules for fear of being returned to a locked-up environment.

Mr. Delagado testified that the program operators are not authorized to lock the residents in. Therefore, they are capable of leaving the premises. However, he stated that, based on his experience, if residents plan to abscond, they will generally do so within the first or second day of arrival. Also, they generally will not stay around the neighborhood of the facility because if they are caught, they will be locked up. Therefore, they go elsewhere. He stated that the residents generally do not abscond from the facility, rather they would leave for school or work, fail to show up there and not return to the facility.

The applicant pointed out that the interior layout of the building is not conducive to leaving without permission. He stated that although the front and back doors will not be locked, there is a counselor on duty who governs the flow of traffic through the first floor. Also, the structure of the building would not allow them to go out of the windows except that in the rear there would be a fire exit, and there is an alarm on that window.

Mr. Delgado testified about the procedures for handling an abscondence. He stated that Gateway will allow the individual about one hour after curfew to return to the facility before notifying the Youth Services Administration. If he does not return within 24 hours, Gateway will call the police. He stated that Gateway's abscondence rate is about 15 percent, the lowest in the city.

The applicant maintains that the application meets 11 DCMR 357.1 which requires that all of the applicable provisions of Section 358 and Subsection 3108.1 be met.

7. Other CBRFs: Subsection 358.2 and 358.3 provide as follows:

358.2 There shall be no other property containing a community based residential facility for five (5) or more persons in the same square.

358.3 There shall be no other property containing a community based residential facility for five (5) or more persons within a radius of five hundred feet (500') from any portion of the subject property.

The evidence of record indicates that there are no CBRFs of five or more persons in the same square or within a radius of 500 feet from the subject property.

8. Parking: Subsection 358.4 provides that there shall be adequate, appropriately located, and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.

Mr. Delgado described the aspects of the operation that will affect the need for parking. He stated that the facility will use a van to transport the youth. The van will take one space. A maximum of two counselors is required for ten youths. At any one time, a maximum of three staff persons will be at the site. The residents are not permitted to have automobiles. Therefore, no more than three off-street parking spaces are required.

Mr. Delgado stated that the applicant owns the small lot (Lot 860) located behind the subject site. He is currently in the process of combining Lot 860 with the subject lot to use the rear lot for on-site parking.

Mr. Delgado testified that three cars can park behind the subject lot. He further testified that more cars can park in the alley but that this is not legal and use of the alley is not considered part of the parking proposal.

Opponents to the application testified that parking conditions in the area have created a number of problems. First, they maintain that there is inadequate space behind the subject site to park three cars. They pointed out that a portion of Lot 860 is designated as an easement for use by residents of the property to the rear of the subject site. They maintain that, at the most, two cars could park there without disturbing the easement.

Opponents testified that with the previous operation, those who drove to the site often parked in the alley. This would cut off access by trash trucks, fire trucks and other emergency vehicles. They testified that blocking the alley endangers the

lives of people who live or work in the many buildings accessed from that alley because, in the case of an emergency, they would be unable to receive help.

Opponents testified that parking is a problem in the area. Presently, it is governed by a two-hour Residential Permit Parking zone, and if cars associated with the facility park on the street, parking in the area will worsen.

The Department of Public Works (DPW) submitted a report dated June 7, 1993. With regard to traffic and parking, DPW stated that the segment of P Street N.W. where the property is located is controlled by Residential Permit Parking (RPP). Massachusetts and Connecticut Avenues are principal arterials where parking is regulated by meters. New Hampshire Avenue, 17th, 18th, and Q Streets are minor arterials with RPP parking restrictions. There is a metrobus route on P Street and a metrorail station is located within three blocks of the premises at Dupont Circle. The applicant has stated that he is providing off-street parking spaces for staff personnel to use. The parking spaces are located to the rear of the building in an area which appears to be the rear yard. The parking area is accessed through a 20-foot wide public alley. DPW stated that there are a number of apartment buildings, foreign chanceries, office buildings, and commercial establishments in the neighborhood. Many of these establishments have off-street parking facilities, yet available on-street parking remains a problem in this neighborhood.

DPW stated that the applicant's facility will have staff present 24 hours a day, seven days a week. The applicant anticipates that the maximum number of staff personnel will be on the site Monday thru Friday, 8:00 a.m. to 4:00 p.m. The applicant anticipates that there will be five staff personnel present during the aforementioned period. Since the facility is not currently staffed, the applicant is unable to determine the transporation modal split of the staff.

DPW stated that in its judgement, the proposed facility will have an impact on the neighborhood transportation system, although the availability of mass transportation should lessen the magnitude of the impact.

Advisory Neighborhood Commission (ANC) 2B submitted a report dated May 27, 1993 and testified at the hearing. The ANC expressed opposition to the application for a number of reasons. One of the stated reasons was that there is a lack of adequate parking for a rotating staff of 12 professionals. The ANC stated that additional parking will be needed by delivery vehicles, as well as by family members and friends visiting the youth. There is little commercial parking within easy walking distance of the building. The parking

that is available typically leases for over $100 per month. Street parking is not an option because the staff would not be eligible for zone two parking stickers, and the entire area is limited to two-hour parking.

In response to the parking concerns raised by DPW and opponents to the application, Gateway submitted a parking plan designed to demonstrate compliance with the Zoning Regulations and to minimize any adverse impact on the immediate neighborhood.

A. **On-site parking**: The designated parking area at the premises is located at the rear of the building. Gateway's measurement indicates that the area can easily accommodate two regulation size (9 feet by 19 feet) parking spaces, and possibly a third. These spaces would be located on Lot 100 after the subdivision to include Lot 860. Access would be through the 18-foot wide public alley.

B. **Off-site parking**: To provide parking in addition to the on-site parking spaces, Gateway management has made arrangements with two commercial parking facilities for additional off-site parking. Initially, Gateway will contract monthly for three additional commercial parking spaces. These three spaces along with the two on-site spaces should provide sufficient parking to handle the needs of the facility and minimize neighborhood congestion. The two proposed commercial parking vendors are: Colonal Parking at 1616 P Street, N.W. and Calypso Corporation at 15th and P Streets, N.W.

C. **Public transporation**: Gateway stated that it projects that many of the staff and visitors will use public transportation to travel to and from the site.

Gateway stated that its parking plan is comprised of three components: on-site parking, off-site parking and public transportation. Gateway is of the opinion that when these components are combined, they more than adequately mitigate against concerns about sufficient staff parking for the proposed facility.

9. Subsection 358.5 provides that the proposed facility shall meet all applicable code and licensing requirements. The applicant maintains that this provision will be met. Opponents to the application raised two issues with regard to the obligation to meet code and licensing requirements: (a) the operation's lack of good standing and (b) the lack of a fire escape and second means of egress.

A. The lack of good standing: Mr. Delgado testified that there was an original master contract to operate four youth residential care homes in the District of Columbia. This contract was between Educational Designs, Inc. (EDI) and the District of Columbia government. EDI is a California-based corporation organized to manage local social service organizations. EDI currently manages Gateway. Dytrad is also a California-based corporation that manages social service organizations. Approximately two years ago, the master contract between EDI and the District government was to be novated, substituting Dytrad for EDI. The novation process is continuing. Upon completion of the novation, Dytrad is to oversee Gateway's management of the existing facilities and the subject facility, if approved.

One opponent to the application testified that EDI is in revoked status with the District of Columbia because it failed to file two annual reports, and Dytrad is in bad standing with the city because it failed to file one year's annual report. Therefore, she argued that the facilities that are currently under EDI's management are operating illegally. She also questioned the credibility of an organization that either deliberately or negligently fails to file annual reports, thereby violating Subsection 358.5 of the Zoning Regulations. Two documents were entered into the record in support of this witness' position. Exhibit No. 49 is a certificate from the Assistant Superintendent of Corporations dated June 29, 1993. It certified that Dytrad "is not in good standing having failed to file the 1993 Annual Report due on or before April 15, 1993...." Exhibit No. 50, also from the Superintendent of Corporations dated July 7, 1993, certifies that EDI was authorized to transact business on April 3, 1990 but that this certificate of occupancy was revoked on September 8, 1992 for "having failed to file Annual Reports and pay all fees due and owing on or before April 15, 1991 and 1992."

Mr. Delagado, who is part owner of Dytrad, testified in response to the opposing neighbor. Mr. Delagado stated that opponents have received misleading information about the organizations. He stated that the companies are in good standing. Gateway submitted into the record a Certificate of Good Standing dated July 20, 1993, indicating that Dytrad was authorized to do business in District of Columbia on October 29, 1992 and that as of July 20, 1993 Dytrad is in good standing having filed all annual reports required by the city's laws. Gateway also submitted a Certificate of Good Standing for EDI dated July 19, 1993. EDI was authorized to transact business in the District of Columbia on April 3, 1990.

Opponents to the application stated that they did not have enough financial information on the two organizations because of the filing problems. They argued that without this information, interested parties are unable to determine whether the management company will be adequately capitalized to compensate anyone in the neighborhood who is injured or suffers damages as a consequence of the actions of the facility's youths. The opponents questioned the type and adequacy of the insurance held by the management company.

Responding to this issue, Mr. Delgado testified that the District government requires a certificate of insurance before a child can be placed in the facility. Dytrad has been determined to be financially capable of entering into this contract.

B. **The fire escape and means of egress**: Opponents to the application testified that to meet the Fire and Building Codes, the applicant must provide a fire escape and a second means of egress at the site. They testified that in the past, the boys used the fire escape on the adjacent property because there was no fire escape on the subject structure. Opponents maintain that because the facility does not have a fire escape or a second means of egress and the application does not include plans or a proposal for installing the fire escape and creating a second means of egress, the applicant fails to meet the zoning provision requiring all code and licensing requirements to be met.

The applicant testified that to carry out the necessary renovations will cost several thousand dollars and that it would be imprudent to make such changes before the application is approved. The applicant assured the Board and opposing witnesses that the code and licensing will be met prior to the issuance of a certificate of occupancy if the application is granted.

10. Subsection 358.6 provides that the facility shall not have an adverse impact on the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

Traffic: The applicant maintains that traffic in the area will not be adversely affected because the site is well served by public transportation which will be used by some of those who come to the site.

Opponents to the application maintain that traffic will be adversely impacted because of the large number of people associated with the facility.

Noise: Neighbors in opposition to the application testified that under the previous operation at the site, noise was a problem for nearby residents. One neighbor testified that the alley is

U-shaped and when the residents were outside they would become involved in loud conversations and altercations. The noise created would reverberate through the area.

This witness also testified that when cars would park in the alley, they blocked off a portion of the space needed for maneuvering vehicles. Trucks would pull into the alley and have to back out using warning signals that are very loud.

Another neighbor testified that the neighborhood is generally very busy and noisy because of the many restaurants and activities nearby. The proposed facility will add to the noise.

Operations: The applicant maintains that the operations, as described by Gateway, will not adversely affect the community.

Opponents to the application raised a number of concerns about the operation and how security would be handled. They were also concerned about how the youths' movement would be controlled. They tesified that under the previous operators, there were many problems. The youth would loiter in the area behind the site. They would become loud and unruly. While using the restroom upstairs in the facility, they would make inappropriate gestures in the window to the occupants of the units across the alley from the site. The youth would use the bathroom window to leave the premises and they would use the fire escape on the adjacent building to get to ground level. Also, they would often jump over onto the roof of the adjacent property and swing from their gutter to get down to the ground level. Finally, one opposing witness testified that when the operators of the facility were called to complain about the behavior, there was no response.

To address concerns raised by opponents, Gateway submitted a security plan delineating what measures can be taken with regard to inappropriate behavior by the youth. The components of the security plan are as follows:

(a) Discipline Policy;

(b Physical Restraint Policy;

(c) Resident Loitering Policy;

(d) Resident Monitoring System;

(e) Daily Resident Work Detail;

(f) Resident Restriction Policy; and

(g) Unusual Incident Procedures.

Gateway testified that it does not have problems with loitering and improper behavior at its T Street facility because of the type of program that they operate. Gateway believes that with the same type of program at the subject site, the problems previously experienced will not occur. Gateway testified that the community around the T Street home originally opposed that facility, but once operations began, they no longer opposed it but rather supported the way operations were handled.

Gateway also submitted a plan for maintaining a liaison with the community. The plan includes an advisory board, liaison with ANC 2B, recruitment of volunteers and other liaison activities. The advisory board will include one or two individuals from the immediate neighborhood.

Gateway maintains that the implementation of the liaison plan should provide (1) open communication with ANC 2B; (2) resident knowledge about the project and introductions to both the staff and residents; (3) open community resident access to the project; (4) an environment where neighborhood issues and difficulties can be addressed and quickly resolved, and (5) positive interaction between the project and its immediate neighborhood.

One witness in opposition to the application who owns the property at 1730 P Street, N.W. testified that trash was a problem with the former operation. She stated that a large amount of trash was generated by the residents, their families, staff, counselors, the cook and others. She stated that trash bins were constantly overloaded and the rubbish spilled out onto the ground creating a severe problem with rodents. She further stated that the staff at the facility would use the trash bins at her property when theirs were overflowing. However, complaints made to the facility yielded no results.

This witness expressed the view that the property owner's track record with respect to trash collection is contemptible. She is concerned about how trash collection will be handled.

Mr. Delgado testified that at the existing facilities trash collection is contracted out, implying that similar arrangements would be made at the subject site.

This opposing witness suggested that schools be used to house the youth rather than residences to minimize the impact on residential neighborhoods.

The applicant testified that schools would be inappropriate for this use because they lack facilities for sleeping and cooking.

11. Subsection 358.9 requires that the Board submit the application to the Director of the Office of Planning for coordination, review, report, and impact assessment along with reports in writing of all relevant District departments and agencies, including but not limited to the D.C. Department of Public Works, Human Services, and Corrections, and, if a historic district or historic landmark is involved, of the State Historic Preservation Officer.

The Office of Planning (OP) submitted a report dated June 2, 1993, recommending conditional approval of the application. OP noted the location of the site, the permitted uses and the purpose of the R-5-E/DCOD District. With regard to operation of the proposed facility, OP stated that the applicant anticipates that the average duration of stay for each resident would range from 90 to 100 days. Each resident would be provided with supervised living arrangements under the guardianship of Dytrad Management Services. Dytrad is an organization with experience in conducting such programs. The applicant would have a contractural agreement with the Department of Human Services to operate the facility. The residents would be provided with educational, social and therapeutic counseling services as needed. OP noted that the residents would be provided with the opportunity to go to school and/or work, as appropriate. They would also be allowed to go home on weekends, as appropriate.

Based on statements by the applicant OP further stated that there will be a curfew for the residents each evening and the program of daily activities for the residents would be designed to prepare them to re-enter the community. A crisis intervention program would also be instituted at the facility.

OP stated that there will be a total of 12 staff members at the facility. The staff would include social counselors, a therapist and two cooks. The staff would work in shifts to provide 24-hour supervision and assistance to the residents. Most of the staff would use mass transit facilities to travel to and from the site. There are two parking spaces at the rear of the structure which would be utilized by the staff.

In the opinion of the Office of Planning, if the proposed rehabilitation home is operated with the necessary operational controls as described by the applicant, no adverse impacts on the neighborhood due to traffic, noise or other objectionable conditions would be created. Therefore, OP recommended approval with the following conditions:

A. Approval shall be for a period of **FIVE YEARS**.

B. The residents of the facility shall be between the ages of 13 and 19 years.

C. The number of residents in the proposed facility shall not exceed ten youths at any one time.

D. Sufficient staff support shall be available to the residents on a 24-hour basis to provide adequate services, including emergency services.

E. The applicant shall provide sufficient parking spaces for the staff and visitors to meet the needs of the facility. If parking at the subject site is found to be insufficient, the applicant shall make appropriate arrangements in nearby commercial parking facilities for additional off-site parking.

F. All day-to-day activities of the residents shall be organized and supervised in a manner that would not create adverse conditions in the area due to noise, traffic or other objectionable conditions.

G. The applicant shall develop a security plan for the facility to be submitted for approval by the Board before the closing of the record in this case.

H. The applicant shall develop and maintain liaison with ANC 2B to resolve issues that might arise from time to time.

12. The Department of Public Works submitted a report, the content of which is discussed above under the heading of "Parking". DPW does not oppose the application.

13. The Office of CBRFs submitted a memorandum dated May 27, 1993 stating that while ANC 2B voted (6-0) to oppose the granting of the special exception at its regularly scheduled meeting on May 26, 1993, the Human Services, Commission on Social Services, Youth Services Administration, has an ongoing need for additional youth rehabilitation homes in order to provide an alternative to incarceration. However, OCBRF stated that in consideration of the residential character of the neighborhood, it would support the imposition of conditions B through F proposed by the Office of Planning.

14. The subject property is located in the Dupont Circle Historic District. The applicant sent a letter dated August 8, 1993 to the general counsel of Historic Preservation to notify him of the application.

Area residents are concerned that any changes made to the property to meet code requirements may not meet Historic Preservation Review Board (HPRB) standards. The applicant stated that any structural changes made to the property to address code requirements will comply with HPRB requirements.

The HPRB did not submit a report on the subject application. No reports were received from any of the other affected agencies that received a referral.

15. Advisory Neighborhood Commission (ANC) 2B submitted a report dated May 27, 1993. The ANC expressed opposition to the application for the following reasons:

(1) Such a facility is incompatible in a residential neighborhood because the premises are too small for the proposed program; (2) there is a lack of adequate parking for staff, parental visits, and others; (3) there is no space for outdoor recreational facilities, consequently, use of the premises for this purpose would placve an undue burden on the neighboring community with the creation of noise; (4) housing 10-12 youths plus an administrative staff of 12 is likely to generate considerable activity disrupting the peace and quiet of the neighboring residents.

Based on these concerns, ANC 2B requested that the Board deny the subject application.

16. Three witnesses testified in support of the application.

Dr. Carl Hampton, a licensed clinical psychologist with Progressive Life Center testified that Progressive Life provides the therapeutic services to the two existing Gateway homes and would provide the therapeutic services to the two other Gateway homes if they are approved.

Progressive Life has been providing mental health services to Gateway's existing houses since the approval of their contract. Those services involve individual, group and family therapy with all residents participating in all existing services. All of these services are provided on a weekly basis so every child is in individual, group and family therapy each week.

The residents also participate in a "rites of passage" program which is a cultural education training program to help the youth adhere to the existing standards of adult behavior.

Dr. Hampton testified that Progressive Life also provides consultative services to the staff of the group homes in terms of child development training, anger management, crisis intervention, handling of social/psychological issues and therapeutic interventions. Generally, a therapist will be assigned from 9:00 a.m. to 8:00 p.m., the hours of Gateway's existing program. He stated that currently there is a separate therapist assigned to each group home. The therapists provide all services. If there is any need for backup services, those services are supplied by the rest of the Progressive Life staff.

Finally, Dr. Hampton testified that people want services provided to young people in the city but no one wants to take the responsibility for it. This is a highly emotional issue and Progressive Life staff can help with people's feelings about this subject and negotiate viable resolutions to some of the emotional issues that arise.

17. The second witness to testify in support of the application emphasized the importance of establishing this and other such facilities to further comply with the Jerry M. Consent Decree.

18. The final witness to testify in support of the application stated that he is an administrator with the Youth Services Administration. He operates the only government owned group home at 3197 Stanton Road, S.E. He stated that in 1990, he was given the task of providing technical assistance to Gateway when the organization first arrived from California. He stated that he has followed the government's group home system for 13 years and has monitored Gateway's system for three years. In his opinion Gateway runs a good group home.

The witness testified that he keeps a running record of all abscondences at all of the group homes. If anything happens at the homes between 4:45 p.m. and 8:15 in the morning, that group home is to call his group home and a record is kept. He stated that emergency incidents are reported to the command center, the police, and the Mayor's office if necessary. Such incidents are taken seriously.

19. Several letters were submitted into the record in opposition to the application. One such letter was received from Councilmember Jack Evans representing Ward 2. He opposed the application for four main reasons: (a) Ward 2 is overburdened with CBRFs, with 30 percent of the city's beds; (b) the proposed facility is likely to adversely impact the neighborhood because of the inappropriate behavior of the residents; (c) the townhouse is too small for the proposed use; and (d) there are numerous alternative structures such as schools available to house a youth home.

FINDINGS OF FACT:

Based on the evidence of record the Board finds as follows:

1. Dytrad and EDI are organizations in good standing in the District of Columbia.

2. Gateway has extensive experience operating facilities like the one proposed.

3. There is no other property containing a CBRF for five or more persons in Square 157 or within a radius of 500 feet from the site.

4. Gateway's operations will include a daily schedule, a security plan, house rules and other policies and procedures to minimize the impact of the facility's operations on the community.

5. The applicant will provide two on-site parking spaces and at least three off-site leased spaces to meet the needs of the facility.

6. The area of the facility is well-served by public transporation.

7. Gateway will monitor the behavior of the youth and prohibit loitering at the facility, thereby minimizing the impacts of noise on nearby residents.

8. The applicant will meet all applicable code and licensing requirements before receiving a certificate of occupancy.

9. The size of the property is adequate for the proposed use.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception to establish a youth rehabilitation home in an R-5-E/DCOD District. The granting of such a special exception requires a showing through substantial evidence that the proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not tend to affect adversely the use of neighboring property. The applicant must also meet the applicable provisions of 11 DCMR 358.

The Board concludes that the applicant has met this burden of proof. The Board concludes that there is no other property containing a CBRF of five or more persons located in Square 157 or within a radius of 500 feet of the subject site.

The Board concludes that the off-street parking proposed will be appropriately located, screened and adequate to meet the needs of the occupants employees and visitors to the facility.

The Board concludes that the application will meet all applicable code and licensing requirements.

The Board is of the opinion that the facility will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area.

The Board concludes that the application has been referred to the Office of Planning and other relevant government agencies for review and report. The Board further concludes that it is capable of deciding the application in the absence of reports from the agencies that did not respond.

Finally, it is the opinion of the Board that because the application is for a special exception, the use is pre-deemed compatible with existing uses. Therefore, it is the Board's view that the application can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that the granting of the requested relief will not tend to affect adversely the use of neighboring property.

In light of the above, the Board **ORDERS** that the application is hereby **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be for a period of **TWO YEARS.**

2. The maximum number of residents at any time shall not exceed ten. The residents of the facility shall be between the ages of 13 to 19 years.

3. A minimum number of 12 staff members shall be available on a rotating, 24-hour basis. The number of staff on the premises at all times shall be sufficient to provide adequate services, including 24-hour supervision of the residents, implementation of security measures, and provision of emergency services.

4. The applicant shall provide a minimum of two on-site parking spaces at the rear of the site. The applicant shall also provide evidence that a minimum of three parking spaces have been leased in nearby commercial parking facilities for the exclusive use of staff of the subject facility for the duration of its approval.

5. Prior to the issuance of the certificate of occupancy for the subject facility, the applicant shall subdivide applicant shall subdivide existing lot numbers 860 and 100 into a single lot of record in order to ensure proper access to the parking area at the rear of the site.

6. The applicant shall police the parking area to the rear of the site, the area between the building and the alley, and the public alley adjacent to the site on a daily basis to ensure that the area is kept free of refuse and debris.

7. The applicant shall monitor its parking area and the portion of its site adjacent to the public alley to ensure that vehicles do not park at the side of the structure nor project into the public alley at any time.

8. The applicant shall supervise the activities of the residents on a 24-hour basis to alleviate any adverse impacts on neighboring property due to noise, traffic, or other objectionable conditions. The applicant shall provide the residents of the area with the telephone number of an appropriate contact person who can be reached on a 24-hour basis if there is a problem with any activity or condition at the subject facility.

9. The applicant shall establish and maintain a resident security plan as detailed in Exhibit No. 64B of the record.

10. The applicant shall establish a community liaison program as detailed in Exhibit No. 64D. In addition, the applicant shall conduct meetings between representatives of the facility, the ANC, and area residents and property owners at least four times a year. Notice of the meetings shall be given to the ANC and the owners of all property within 200 feet of the site. The applicant shall be responsible for keeping minutes of all meetings and providing quarterly reports of its activities. The applicant shall file copies of all minutes and quarterly reports with the Board at the time of filing an application for continuance of the special relief.

VOTE: 3-1 (Angel F. Clarens, Carrie L. Thornhill and Maybelle Taylor Bennett to grant; Paula L. Jewell opposed to the motion; Sheri M. Pruitt not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Madeliene H. Robinson
MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: NOV 30 1988

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15825Ord/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15825

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 30 [illegible] a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Charles W. Delgado
Gateway Youth Home
1620 T Street, N.W.
Washington, D.C. 20009

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Washington, D.C.

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1718 P Street, N.W., #206
Washington, D.C. 20036

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Washington, D.C. 20009

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Washington, D.C. 20020

Joseph William Hobson
Webster House Condo. Assn.
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Washington, D.C. 20036

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Washington, D.C. 20001

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Dennis Bass, Chairperson
Advisory Neighborhood Commission 2B
1347 Connecticut Avenue, N.W.
Suite 2
Washington, D.C. 20036

MADELIENE H. ROBINSON
Director

DATE: NOV 30 1993

15825Att/bhs