

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of First FSK LP (the "Applicant")
4817 U Street, N.W.
Square 1389, Lot 816

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

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I. Background:

The Subject Property (Square 1389, Lot 816) has been operated as a parking lot since 1946 pursuant to a series of special exception approvals granted by the Board of Zoning Adjustment (the "Board" or "BZA"). The most recent approval was granted by order dated December 4, 2007 in BZA Application No. 17680 with a condition that the approval shall be for a period of five years from the final date of the order. CVS, the lessee of the subject 78-space parking lot, proposes to continue to use the parking lot as previously approved and requests an extension of the approved special exception.

Pursuant to §3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. In said Statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception. Following herein, as required by the Board's application process, is a statement indicating how the Applicant will meet said burden of proof.

II. Burden of Proof:

Pursuant to § 213.1 of the Zoning Regulations, use as a parking lot shall be permitted as a special exception in a R-1 District if approved by the Board of Zoning Adjustment under § 3104.1, subject to the provisions of § 213. The Subject Property is in compliance, as set forth herein:

1. Section 3104.1:

This section authorizes the Board to grant special exceptions as provided in the Zoning Regulations, where the Board determines such grant(s) of special exception to be in harmony with the intent and purpose of the zone plan and which does not tend to adversely impact the use of neighboring property.

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The requested special exception relief is in harmony with the intent and purpose of the zone plan and will not adversely impact the use of neighboring property. The lot has operated compatibly with the adjacent uses since 1946. The Applicant proposes to continue operation of the parking lot in the same manner as that previously approved by the Board of Zoning Adjustment on several occasions.

2. Section 213.2:

A parking lot shall be located in its entirety within two hundred feet (200 ft.) of an existing Commercial or Industrial District.

The subject parking lot is located in its entirety within two hundred feet (200 ft.) of a C-2-A zone district.

3. Section 213.3:

A parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial District.

The commercial zone boundary line is contiguous with the western edge of the parking lot.

4. Section 213.4:

All provisions of chapter 23 of this title shall be complied with.

All provisions of chapter 23 will be complied with, as to be further detailed in the Statement and at the public hearing.

5. Section 213.5:

No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use, and the present character and future development of the neighborhood will not be affected adversely.

The continued operation of the parking lot will not result in dangerous or otherwise objectionable traffic conditions. As demonstrated during the last 60+ years of the parking lot's existence, and prior BZA approvals, the continuation of the parking lot will not adversely affect the present character or future development of the neighborhood.

6. Section 213.6:

The parking lot shall be reasonable necessary and convenient to other uses in the vicinity, so that the likely result will be a reduction in overspill parking on neighborhood streets.

The parking lot continues to minimize the demand for overflow parking on neighborhood streets. There is no overspill from the parking onto neighborhood streets.

7. Section 213.7:

A majority of the parking spaces shall serve residential uses or short-term parking needs of retail, service, and public facility uses in the vicinity

The subject parking lot is used by area retail and service uses, preventing overspill parking on neighborhood streets while accommodating the needs of local businesses.

8. Section 213.8:

Before taking final action on an application for use as a parking lot, the Board shall submit the application to the D.C. Department of Transportation for review and report.

It is the Applicant's understanding that the application will be submitted to and reviewed by the Department of Transportation.