

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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2012 OCT 26 PM 2:29

Application of Lauriol Properties LLC
Cactus Cantina (the "Applicant")
Square 152, a portion of Lot 862

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The subject property (a portion of Lot 862, Square 152) is currently improved with a surface parking lot that provides accessory parking for the Lauriol Plaza restaurant located at the southeast corner of the intersection of 18th and T Streets, NW. Said use was approved as a special exception by the Board of Zoning Adjustment (the "Board" or the "BZA") pursuant to the order dated February 9, 1998, for BZA Application No. 16301 (the "1998 Order"). The Applicant seeks to continue the operation of the accessory parking lot in the same manner as previously approved.

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 § 214.1 of the Zoning Regulations, accessory passenger automobile parking spaces elsewhere than on the same lot or part of a lot on which any principal R-1 use is permitted, except for a one-family dwelling, shall be permitted as a special exception in a R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of § 214. The subject property is complies, 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 general intent and purpose of*

the zone plan and which does not tend to adversely impact the use of neighboring property.

The requested special exception relief is in harmony with the general intent and purpose of the zone plan and will not adversely impact the use of neighboring property. The subject property has operated compatibly with the adjacent uses for nearly 15 years. The Applicant proposes to continue operation of the accessory parking lot in the same manner as that previously approved by the Board.

2. Section 214.2: *Accessory parking spaces shall be in an open area or in an underground garage no portion of which, except for access, shall extend above the level of the adjacent finished grade.*

The accessory parking lot is in an open area.

3. Section 214.3: *Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.*

The accessory parking lot is located, in its entirety, within 200 feet of the restaurant to which it is accessory. In fact, the subject property is immediately adjacent to the restaurant property.

4. Section 214.4: *Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.*

The accessory parking lot is contiguous to the restaurant property to which it is accessory.

5. Section 214.5: *All provisions of chapter 23 of this title regulating parking lots shall be complied with, except that the Board may in an appropriate case under § 2303.3 modify or waive the conditions specified in § 2303.2 where compliance would serve no useful purpose.*

The accessory parking lot complies with the applicable provisions of Chapter 23, namely the following provisions of Sec. 2303.1:

- (a) All areas devoted to driveways, access lanes, and parking areas shall be surfaced and maintained with an all-weather surface. In addition

to traditional impervious surfaces, allowable all weather surfaces include porous (or pervious) concrete, porous asphalt, and/or mechanically-reinforced grass, excluding grass or gravel.

- (b) The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line;
- (c) No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located;
- (d) No vehicular entrance or exist shall be within 40 feet of a street intersection as measured from the intersection of the curb lines extended;
- (e) Any lighting used to illuminate a parking lot or its accessory building shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot; and
- (f) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with trees and shrubs shall cover a minimum of 5% of the total area of the parking lot, or an area as determined by the Board for a parking lot otherwise requiring Board approval.

In this case, the accessory parking lot complies with the 1998 Order, which includes the following conditions in response to the above-referenced provisions:

Condition No. 5: Landscaping shall be maintained in a healthy growing condition and have a neat and orderly appearance.

Condition No. 6: The lot shall be cleaned daily and trash pick-up shall occur five times per week.

Condition No. 7: Any lighting of the parking lot shall be arranged so that all direct rays are confined to the surface of the lot.

Condition No. 8: All areas devoted to driveways, access lanes, and parking areas shall be maintained with an all-weather impervious surface paving material.

Condition No. 9: No vehicle or any part thereof shall be permitted to project over any lot or building line or on the public space.

Condition No. 10: Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

Condition No. 11: No other uses shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises, unless the use or structure is otherwise permitted in the district in which the parking lot is located.

6. Section 214.6: *It shall be deemed economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:*

- (a) *Strip zoning or shallow zoning depth;*
- (b) *Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;*
- (c) *Unusual topography grades, shape, size, or dimensions of the lot;*
- (d) *The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or*
- (e) *Traffic hazards caused by unusual street grades or other conditions.*

In this case, the Lauriol Plaza site is completely built out without space to accommodate any additional surface parking. Constructing additional parking spaces on that site (i.e. below-grade parking) would be economically impracticable, assuming it were even possible given the site configuration and dimensions.

7. Section 214.7: *Accessory parking spaces shall be so located, and facilities in relation to the parking lot shall be so designed, that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.*

The accessory parking lot and related facilities are located and designed in a manner that is not likely to become objectionable to the adjoining or nearby property owners because of noise, traffic, or other objectionable conditions. In fact, the parking lot and related facilities comply with the 1998 Order, which includes the following conditions to address this provision:

Condition No. 3: The lot shall be attendant-controlled during its hours of operation.

Condition No. 4: The lot shall be secured during all hours that it is not in operation.

Condition No. 5: Landscaping shall be maintained in a healthy growing condition and have a neat and orderly appearance.

Condition No. 6: The lot shall be cleaned daily and trash pick-up shall occur five times per week.

Condition No. 7: Any lighting of the parking lot shall be arranged so that all direct rays are confined to the surface of the lot.

Condition No. 9: No vehicle or any part thereof shall be permitted to project over any lot or building line or on the public space.

8. Section 214.8: *Before taking final action on an application for use as an accessory parking space, 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.