

# Holland & Knight

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RECEIVED  
D.C. OFFICE OF ZONING  
2013 SEP -9 AM 10:55

September 9, 2013

Board of Zoning Adjustment  
441 4<sup>th</sup> Street, N.W.  
Suite 210S  
Washington, DC 20001

Re: Application No. 18614 - Prehearing Statement of the Applicant  
Rear of 3070 V Street, N.E. (Sq. 4365, Lots 805 and 806)

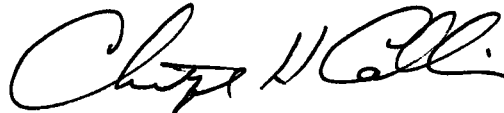
Dear Members of the Board:

On behalf of SMC-United Industrial Limited Partnership, the Applicant in the above-referenced case, enclosed please find one original and ten copies of the Applicant's prehearing submission in support of its application for zoning relief requested for the above-referenced property.

We look forward to the Board's consideration of this application at the hearing on September 24, 2013.

Very truly yours,

HOLLAND & KNIGHT LLP



Christopher H. Collins

CHC/lsn

Enclosures:

cc: Joel Lawson, D.C. Office of Planning  
Jacqueline Manning, Advisory Neighborhood Commission 5C (by U.S. Mail)  
Delano Hunter, Gateway Community Association (by U.S. Mail)

#25659692\_v1

BOARD OF ZONING ADJUSTMENT  
District of Columbia  
CASE NO. 18614  
EXHIBIT NO. 25

Board of Zoning Adjustment  
District of Columbia  
CASE NO. 18614  
EXHIBIT NO. 25

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

**Application No. 18614  
of  
SMC-United Industrial Limited Partnership  
to Reinstate Parking Lot Use  
at the  
Rear of 3070 V Street, N.E.**

**Holland & Knight LLP  
800 17<sup>th</sup> Street, N.W., Suite 1100  
Washington, D.C. 20006**

**Christopher H. Collins  
Attorney-at-Law**

**September 4, 2013**

**BEFORE THE BOARD  
OF ZONING ADJUSTMENT  
FOR THE DISTRICT OF COLUMBIA**

**APPLICATION OF  
SMC-UNITED INDUSTRIAL LP**

**BZA APPLICATION NO. 18614  
HEARING DATE: SEPTEMBER 24, 2013  
ANC 5C04**

**STATEMENT OF THE APPLICANT**

**I.**

**NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of SMC-United Industrial Limited Partnership, the owner of property located at premises 2310 and 2320 31<sup>st</sup> Street, N.E. - Rear of 3070 V Street, N.E. - (Square 4365, Lots 805 and 806) (the "Site"), in support of the above-referenced application to the Board of Zoning Adjustment. The application requests a continuation of the special exception approved by the Board of Zoning Adjustment (hereinafter, the "Board" or "BZA") in Order No. 17049, under 11 DCMR § 213, in order to permit the continued operation of the parking lot pursuant to 11 DCMR § 3104.1. The Applicant has operated the subject parking lot continuously for approximately 56 years, since 1957, with Board of Zoning Adjustment approval.

**II.**

**JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant the special exception relief requested herein pursuant to Section 3104 of the District of Columbia Municipal Regulations (the "Zoning Regulations"). 11 DCMR § 3104.

### **III.**

#### **BACKGROUND**

##### **A. Description of the Subject Property**

The parking lot is located at the rear (north) of warehouse premises at 3070 V Street, N.E., in Square 4365. The Square is roughly bounded by Adams Street, 30<sup>th</sup> Street, 31<sup>st</sup> Street and V Street, N.E. The parking lot is located within the eastern portions of Lots 805 and 806, along 31<sup>st</sup> Street, N.E. Lots 805 and 806 together contain approximately 92,177 square feet of land area. The parking lot surface occupies approximately 42,000 square feet of subject property. The remaining 50,000 sq. ft. is landscaped green space.

The property is located in an R-1-B District. The site abuts the C-M-1 District immediately to the south along V Street, N.E., and the east across 31<sup>st</sup> Street. The two current tenants of the warehouse premises at 3070 V Street, N.E. are the GSA and DHL. The subject parking lot is a private lot located directly behind the warehouse. The entrance to and exit from the lot are along 31<sup>st</sup> Street, N.E.

##### **B. Description of the Surrounding Area**

The V Street corridor, between South Dakota Avenue to the east and Bladensburg Road to the west, is lined with low-rise (one and two-story) brick warehouses, many having offices incorporated into them on the ground floor. Across 31<sup>st</sup> Street to the east of the subject site is a WMATA employee parking lot and bus storage lot in the C-M-1 District. Farther east is the open storage yard of a construction company in the C-M-1 District. Open storage yards are also scattered throughout the area. A labor union office headquarters building and public hall are located to the northeast of the subject property, on Ames Place.

The nearest residentially zoned property to the parking lot is located to the north of the subject property and is owned by the Applicant. A residential neighborhood of mostly single-family detached houses, many with rear-lot garages and/or accessory buildings are separated from the subject property by open areas and steep slopes, and by wooded areas with large trees. There is a chain link fence enclosure around the lot that acts as a buffer between the subject site and the residential areas.

**C. History of Prior BZA Approvals**

By BZA Order No. 4845, effective on or about September 20, 1957, the Board granted permission for the establishment of the subject parking lot. The Board subsequently approved the continued use of the parking lot through the issuance of the following orders: Order No. 5904 and 5905, dated May 25, 1960; Order No. 11171, dated February 6, 1973, Order No. 12219, dated December 9, 1976; Order No. 12592, dated March 28, 1978; Order No. 14787, dated June 24, 1998; Order No. 15425, dated January 31, 1991; Order No. 16164, dated April 14, 1998 and modified July 7, 1999; and Order No. 17049, dated October 7, 2003 (See Exhibit H).

**IV.**

**THE APPLICANT MEETS THE REQUIREMENTS FOR SPECIAL EXCEPTION**

**RELIEF UNDER THE ZONING REGULATIONS**

In order for the Applicant to continue the existing parking lot use, special exception relief is required under §213.

A special exception use is deemed compatible with other uses permitted in a particular zoning classification provided that the specific regulatory requirements are met. If the Applicant meets its burden, the Board ordinarily must grant the application. *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 432 A.2d 695 (1981). The court

in that case held that before the Board can decline to reissue a special exception for a period of time, there must be evidence of "(1) a change of conditions and (2) other considerations materially affecting the merits of the subject matter" *Id.* at 701. In this case, there has been no change of conditions or other considerations materially affecting the merits of the subject matter. The Applicant has operated the parking lot in full compliance with the previous order, and respectfully requests reinstatement of the Board's prior approval, for a period of 10 years.

**A.     Section 3104.1**

*This section authorizes the Board to grant special exception relief as provided in the Zoning Regulations, where the Board determines that the grant of the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely impact the use of neighboring property.*

The requested special exception relief is in harmony with the purpose and intent of the zone plan and will not adversely impact the use of neighboring property. The lot has operated compatibly with the adjacent uses in the surrounding area for approximately 56 years. 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 numerous occasions.

**B.     Section 213**

Pursuant to § 213.1 of the Zoning Regulations, use as a parking lot shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104.1, subject to the provisions of § 213. The subject application satisfies these criteria as set forth below:

1.      **§ 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 within two hundred feet (200 ft.) of industrially zoned (C-M-1) property to the east and south.

2.      **§ 213.3** - *A parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial District.*

The subject parking lot is contiguous to industrially zoned property on its south side.

3.      **§ 213.4** - *All provisions of chapter 23 of this title shall be complied with.*

All provisions of chapter 23 will be complied with, as will be further detailed below.

4.      **§ 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 56 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.

5.      **§ 213.6** - *The parking lot shall be reasonably 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.

6.     **§ 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 primarily for temporary vehicle storage in conjunction with the use of the warehouse property to the south.

7.     **§ 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.*

The Applicant understands that the application will be submitted by the Board to the Department of Transportation for review and report.

**C.     Section 2303**

1.     **§ 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.*

The parking lot consists of an asphalt surface.

2.     **§ 2303.1 (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.*

The parking lot is fenced at the lot line along its east side, and is well within the lot line on all other sides.

3.     **§ 2303.1 (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.*



The lot is used exclusively as a parking lot.

4.     **§ 2303.1 (d)** - *No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended.*

No vehicular entrance or exit is located within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended.

5.     **§ 2303.1 (e)** - *Any lighting used to illuminate a parking lot or its accessory buildings shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot.*

All direct rays of the lighting are confined to the surface of the parking lot.

6.     **§ 2303.1 (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 five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot otherwise requiring Board approval.*

The parking lot is kept free of refuse and debris and is landscaped with grass, trees, and bushes. The amount of landscaping on the site exceeds the five percent landscaping requirement of this provision, as well as the ten percent landscaping requirement of Section 2111 of the Zoning Regulations.

7.     **§ 2303.2** – *In addition to the requirements of § 2303.1, a parking lot located in an R-1, R-2, R-3, R-4 or R-5 District, and a parking lot located in any other district where such parking lot is contiguous to an R-1, R-2, R-3, R-4 or R-5 District, shall be screened from all contiguous residential property located in the R-1, R-2, R-3, R-4 or R-5 District by a solid brick*

*or stone wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high or by evergreen hedges or evergreen trees that are thickly planted and maintained and at least forty-two inches (42 in.) in height when planted.*

*(a) The parking lot shall be screened from all contiguous residential property located in an R-1, R-2, or R-3 District by a solid masonry wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high; and*

*(b) All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls shall be kept free of refuse and debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing conditions and in a neat and orderly appearance.*

The only contiguous residential property to the parking lot are Lots 28 and 29, which are owned by the Applicant. These lots are unimproved and serve as a buffer between the subject property and the nearest residential property not owned by the Applicant, per the prior approvals of the Board.

8.     **§ 2303.3** – *If approved by the Board of Zoning Adjustment as a special exception under § 3104, the conditions in § 2303.2 may be waived or modified.*

The Board has previously waived compliance with § 2303.2(a), and the Applicant requests that this waiver be continued. The parking lot has operated for over 56 years pursuant to BZA approval, without a masonry wall enclosure. The lot is fenced in.

9.     **§ 2303.4** – *Before authorizing a waiver or modification, the Board shall consider:*

*(a) The adequacy of protective and screening walls located on adjacent residential property;*

(b) *Topographic and traffic conditions; and*

(c) *Any adverse effect the requested waiver or modification of standards may have on adjacent residential property.*

There have been no changes with regard to the physical conditions or operational character of the parking lot since the last Board approval pursuant to Order No. 17049. The Applicant respectfully requests a waiver of the masonry wall requirement.

10.     § 2303.5 – *The Board may require any special treatment of the premises that it deems necessary to protect the value of adjacent property.*

The Applicant has continued to comply with the conditions of the approval specified in its last Order (No. 17049). The Applicant is committed to continuing to operate the parking lot in a manner so as to protect the value of the adjacent property.

## V.

### **EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION**

|                          |                                                                                                                                    |
|--------------------------|------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>Exhibit A:</u></b> | Portion of the Baist Atlas Map showing the subject site outlined in red;                                                           |
| <b><u>Exhibit B:</u></b> | Portion of the Zoning Map showing the subject site outlined in red;                                                                |
| <b><u>Exhibit C:</u></b> | Surveyor's Plat of the subject site;                                                                                               |
| <b><u>Exhibit D:</u></b> | Photographs of the subject site;                                                                                                   |
| <b><u>Exhibit E:</u></b> | Outline of Testimony of Representative of SMC-United Industrial Limited Partnership;                                               |
| <b><u>Exhibit F:</u></b> | BZA Order No. 17049, dated October 7, 2003, approving the use of the subject site as a parking lot for a period of ten (10) years; |
| <b><u>Exhibit G:</u></b> | Parking Lot site layout;                                                                                                           |

**Exhibit H:**

Copies of Board of Zoning Adjustment Order Nos. 4845, 5904, 5905, 11171, 12219, 12592, 14787, 15425, and 16164 approving parking lot use of the subject site.

**VII.**

**WITNESSES**

- A. Representative of the SMC-United Industrial Limited Partnership.

**VIII.**

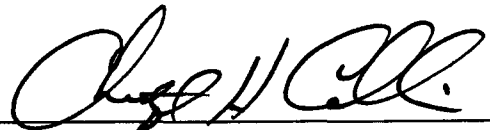
**CONCLUSION**

The Applicant submits that it has fully met the burden of proof for special exception relief under Section 213 and Subsection 3104.1 of the Zoning Regulations. The Applicant has complied with all of the conditions enumerated in the Board's previous approval under Order No. 17049.

For the reasons stated above, the Applicant respectfully requests that this application be approved for ten (10) years.

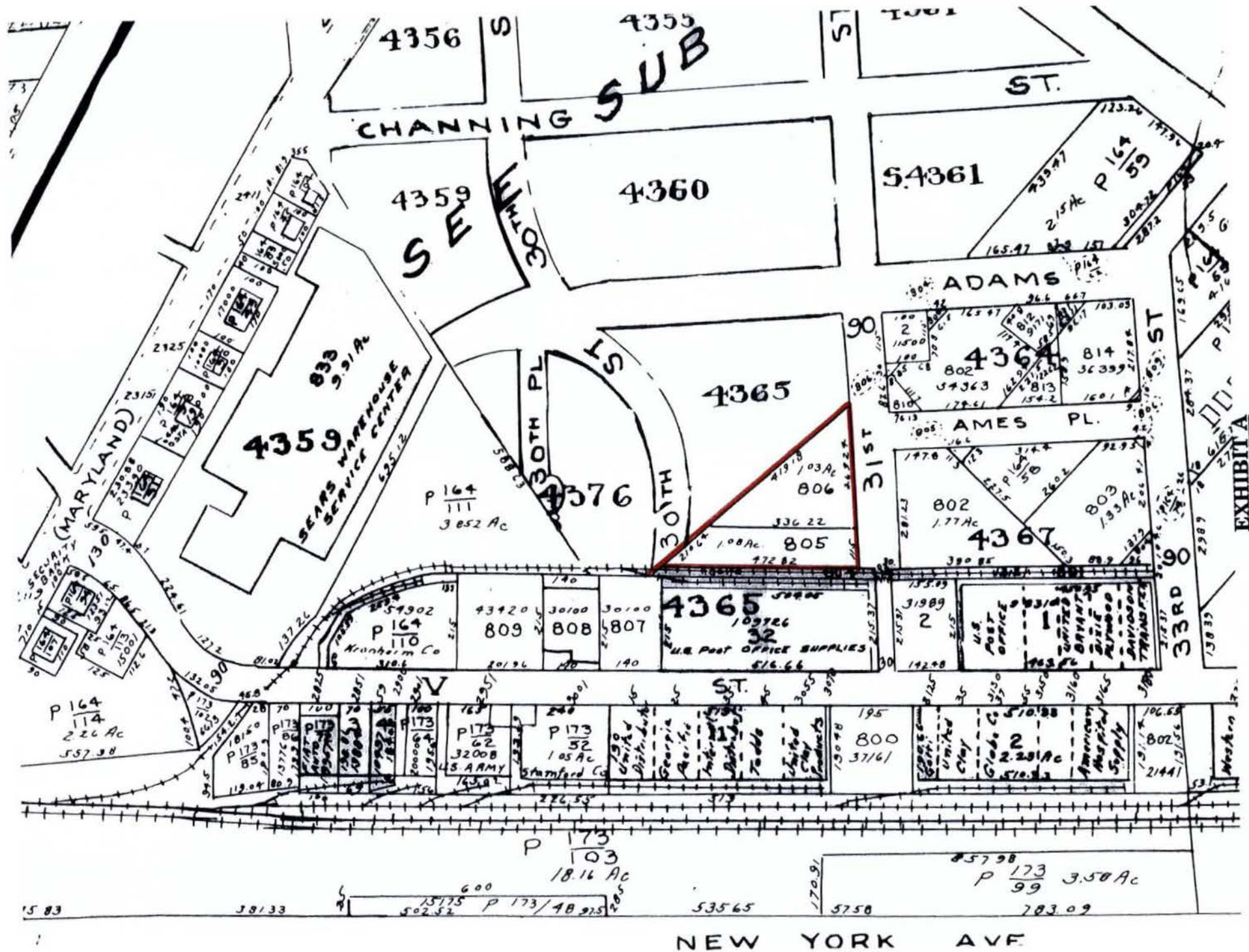
Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: 

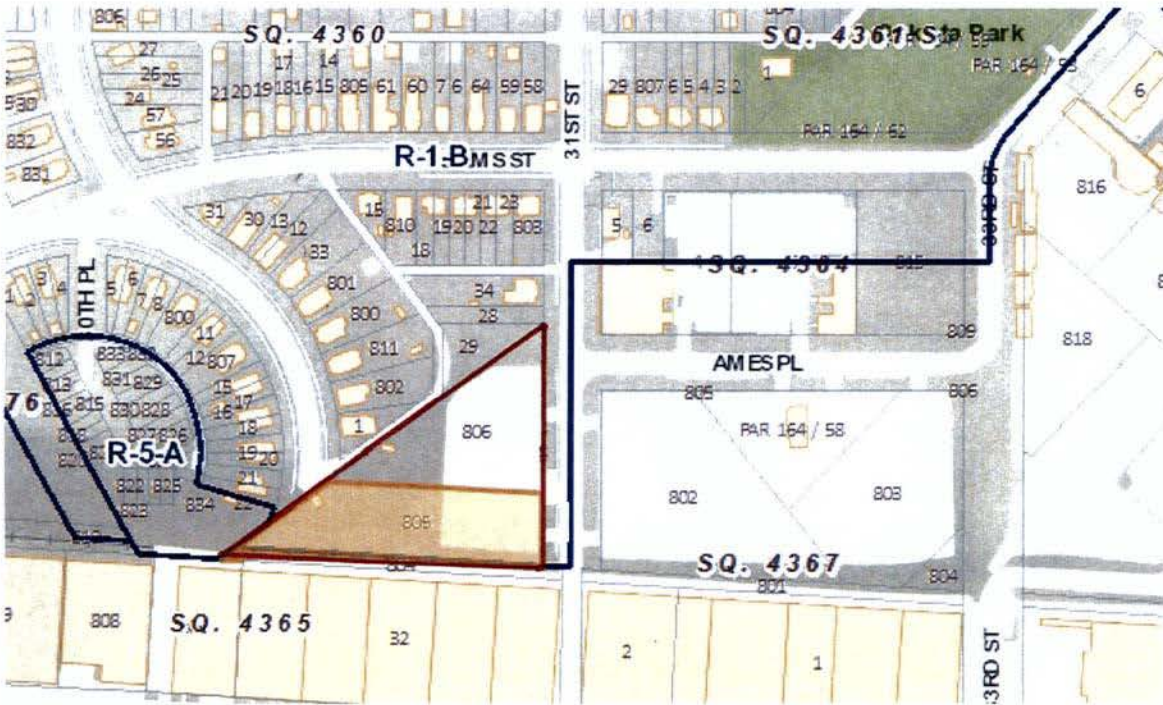
Christopher H. Collins, Esq.  
800 17<sup>th</sup> Street, NW Suite 1100  
Washington, D.C. 20006

# Exhibit A



## **Exhibit B**





Portion of Zoning Map showing subject site outlined in red.



## **Exhibit C**

DISTRICT OF COLUMBIA GOVERNMENT  
OFFICE OF THE SURVEYOR

Washington, D.C., May 15, 2003

Plat for Building Permits of SQUARE 4385 LOTS 805 & 806

Scale: 1 inch = 40 feet Recorded in A & T Book Page 3427-E

Receipt No. 04431

Furnished to: HOLLAND & KNIGHT

*[Signature]*  
Surveyor, D.C.

By LEB *[Signature]*

I hereby certify that all existing improvements shown herein, are completely dimensioned, and are correctly placed; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and placed, and agree with plans accompanying the application; that the foundations shown on these plans, are drawn, and dimensioned according to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown herein the site of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned herein; it is further agreed that the clearing of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a loss of grade along centerline of driveway of any lot on private property less than of 20% for single-family dwellings or lots, or in excess of 10% of any lot for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

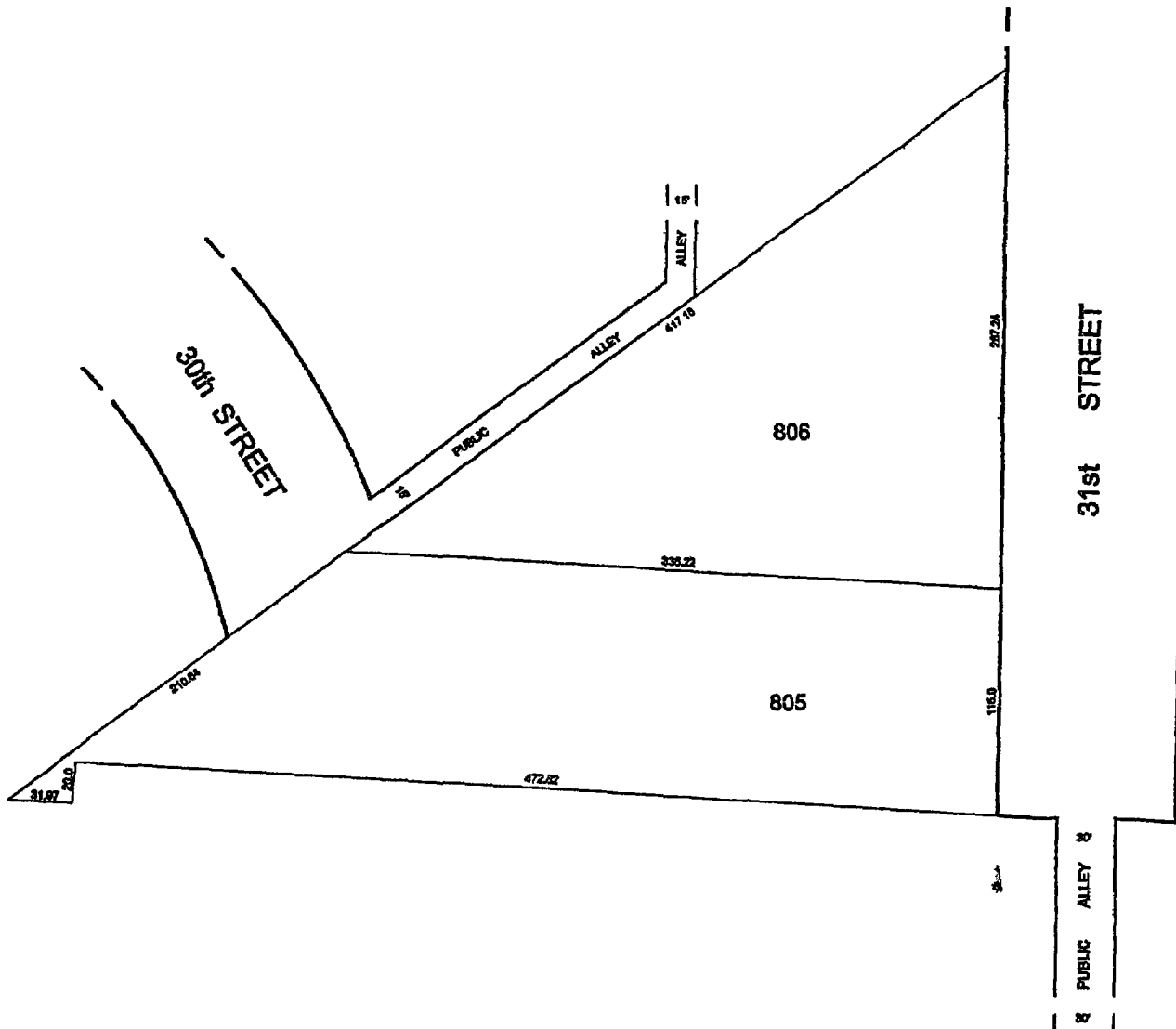


EXHIBIT C

## **Exhibit D**

**RIGHT  
TURN  
ONLY**  
ON 31ST STREET  
→





















## **Exhibit E**

**BZA APPLICATION NO. 18614**

**OUTLINE OF TESTIMONY  
FRED FARSHEY  
SMC-UNITED INDUSTRIAL LP**

- I. Introduction.
- II. The use of the subject property as a parking lot has a 56 year history of BZA approval.
- III. The continued use of the subject property as a parking lot will be in accordance with the provisions of Section 213 and 2303 of the Zoning Regulations.
- IV. The past use of the subject property as a parking lot has complied with the conditions of BZA Order No. 17049.
- V. Approval of the special exception can be granted without substantial detriment to the public good, and without substantially impairing the intent, purpose and integrity of the Zone Plan embodied in the Zoning Regulations and Map.
- VI. The application should be approved.

## **Exhibit F**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT**



**Application No. 17049 of SMC-United Industrial LP**, pursuant to 11 DCMR § 3104.1, for a special exception to allow the continuation of a parking lot under Section 213 (the parking lot was last approved pursuant to BZA Order No. 16164), in the R-1-B District at premises 2310 and 2320 31<sup>st</sup> Street, N.E. (Rear 3070 V Street, N.E.) (Square 4365, Lots 805 & 806).

**HEARING DATE:** September 23, 2003  
**DECISION DATE:** September 23, 2003 (Bench Decision)

**SUMMARY ORDER**

**SELF CERTIFICATION**

The zoning relief requested in this case was self certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 5B. ANC 5B, which is automatically a party to the application, filed a written statement, dated September 10, 2003, of issues and concerns in support of the application.

As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 213. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

At the request of the Board, the Applicant has agreed to make improvements to the landscaping in the public space along 31<sup>st</sup> Street adjacent to the parking lot.

Based upon the record before the Board, the Board concludes that the applicant has met its burden of proof, pursuant to 11 DCMR 3104.1, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the



**BZA APPLICATION NO. 17049**

**PAGE NO. 2**

**Zoning Regulations and Map. It is therefore ORDERED that the application be GRANTED SUBJECT to the following CONDITIONS:**

- 1. Approval shall be for a period of TEN (10) years.**
- 2. The layout of the site shall be in accordance with the revised site plan marked as Exhibit No. 10 of the record.**
- 3. Use of the lot shall be restricted as follows:**
  - a. All tractor trailers, contractor office trailers and other large commercial vehicles shall be restricted to the southern portion of the lot. No more than 10 tractor trailer vehicles shall be parked on the site at any given time.**
  - b. Service vehicles for the tenant of the adjacent building shall be restricted to the northern portion of the facility.**
  - c. Employee passenger vehicles for the tenant of the adjacent building shall be restricted to the central portion of the facility.**
  - d. No commuter, fringe or public parking use, except by employees of neighboring properties, shall be permitted at this facility at any time.**
  - e. No vehicle maintenance, storage of equipment or dumping of trash or other refuse and debris shall be permitted on site.**
  - f. Twenty-four hour controlled parking by chain and padlock or attendant access shall be provided.**
  - g. The lots shall be periodically monitored or patrolled when unattended.**
  - h. Any lots not used for parking shall be chained and locked.**
- 4. Lighting shall not be required at the site in accordance with the agreement between the applicant and the community.**
- 5. If Lots 28 and 29, located to the north of the facility and currently owned by the Applicant, are developed in the future, the Applicant shall notify the Board, and a further proceeding will be initiated in order to consider whether and to what extent**

an additional landscaped buffering between the residential and commercial land use is necessary.

6. The applicant shall maintain signage on the lot directing all vehicles exiting the lot to turn right on 31<sup>st</sup> Street, heading south toward V Street.
7. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weathered impervious surface.
8. No vehicle or any part thereof shall be permitted to project over any lot or building line, or on or over the public space.
9. All parts of the lot shall be kept free of refuse or debris and shall be paved and landscaped. Landscaping and lawn areas shall be maintained in a healthy growing condition and in a neat and orderly appearance.
10. 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

**VOTE:**        **5-0-0**        (Geoffrey H. Griffis, David A. Zaidain, Curtis L. Etherly, Jr.,  
Ruthanne G. Miller and Peter G. May to approve).

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

Each concurring member has approved the issuance of this Order.

ATTESTED BY:

  
**JERRILY R. KRESS, FAIA**

**FINAL DATE OF ORDER:** **OCT - 7 2003**

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT

BZA APPLICATION NO. 17049

PAGE NO. 4

TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO

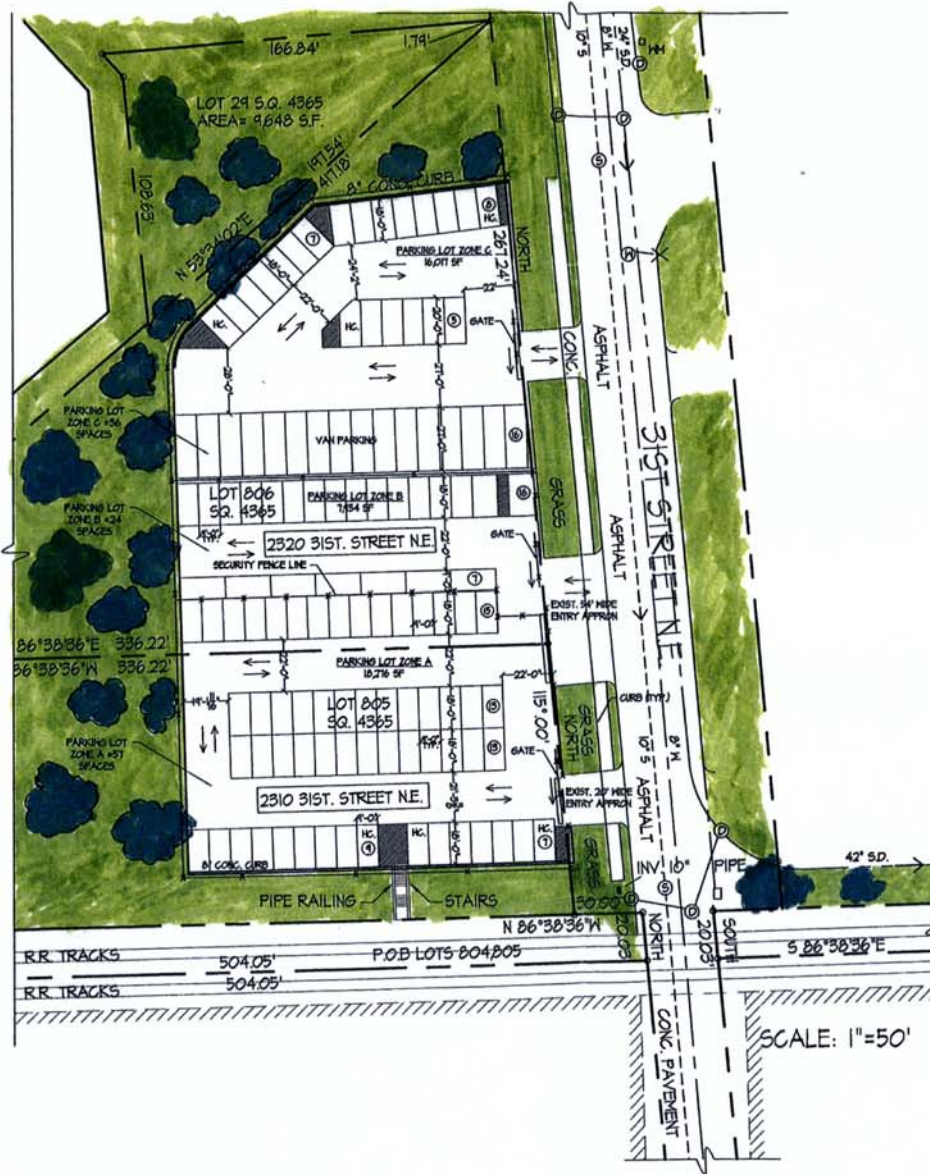
BZA APPLICATION NO. 17049

PAGE NO. 5

COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED,  
REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF  
OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

## **Exhibit G**





Ponte Mellor & Associates  
7220 Wisconsin Ave, Suite 403  
Bethesda, Maryland 20814  
P | 301.652.9336  
F | 301.652.6961

PARKING LOTS AT 2310 & 2320  
31st. STREET, NE WASHINGTON DC. 20018

STANLEY MARTIN COMMERCIAL, INC.  
DATE: 10/29/10

## **Exhibit H**

Mr. Schwab:

I move that the following Order be entered:

ORDERED:

That the appeal of the United Clay Products Company to establish a temporary automobile parking lot at the rear of 3070 Vee Street, N. E., parcel 164/102, square 4365, be granted for the following reasons and subject to the conditions hereinafter set forth:

(1) As the result of an inspection of the property by the Board, and from the records and the evidence adduced at the hearing, the Board finds that the use of this property for the temporary parking of automobiles is reasonably necessary and convenient to the neighborhood, and due to its location adjoining onto second commercial property and well removed from any residential structures, will not interfere unreasonably with the most appropriate use of neighboring property under the zone plan.

(2) There was no objection to the granting of this appeal registered at the public hearing.

In order to further protect the residential area to the north, the Board makes the following conditions mandatory to the granting of this appeal:

- (a) Permit shall issue for a period of two years, but shall be subject to renewal in the discretion of the Board upon the filing of a new appeal in the manner prescribed by the Zoning Regulations.
- (b) Appellant shall blacktop the lot.
- (c) Access to this lot shall be through the alley from V Street only.

Mr. Scrivener: I second the motion. Motion carried with Mr. Coe and Mr. Nolen not voting.

EXHIBIT H

Mr. Schrab:

I move that the following Order be entered:

ORDERED:

That the appeals of the United Warehouse "B" Inc. and the United Clay Products Co. to continue the operation of a parking lot for a period of five years at the rear of 3070 Vee Street, N.E., lots 805 and 806, square 4365, be granted for the following reasons and subject to the condition hereinafter set forth:

(1) The Board incorporates its findings and opinion in appeal #4845 dated September 20, 1957 when this lot was originally approved.

(2) This lot has been properly paved and has been operated in a condition which has not created any adverse affects on adjoining residential property as evidenced by lack of opposition to this appeal.

This Order shall be subject to the following condition:

- (a) Permit shall issue for a period of five years, but shall be subject to renewal in the discretion of the Board upon the filing of a new appeal in the manner prescribed by the Zoning Regulations.

Mr. McIntosh: I second the motion. Motion unanimously carried.

Before the Board of Zoning Adjustment, D. C

PUBLIC HEARING -- November 29, 1972

Application No. 11171 United Warehouse "B" Inc., appellant

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee

On motion duly made, seconded and carried unanimously, the following Order of the Board was entered at the meeting of January 23, 1973.

EFFECTIVE DATE OF ORDER -- February 6, 1973

ORDERED:

That the application for permission to continue a parking lot for a period of five (5) years at rear of 3070 V Street, N.E., Lots 805, and 806, Square 4365, be GRANTED.

FINDINGS OF FACT:

1. The subject property is located in an R-1-B District which is defined by the Zoning Regulations as an area of one-family detached dwellings. This zone abuts a C-M-1 District.
2. Previous BZA application concerning the property herein, have GRANTED permission for the continuance of this parking lot for five (5) years and subsequent five year periods.
3. On July 24, 1972, the Department of Highways and Traffic submitted a letter to the file in which they offered no objection to the granting of the application herein. Further, the Department notes that the parking lot has created no traffic problems in the past.
4. The parking lot is primarily used by an adjoining tenant, namely, the Post Office Department. The lot is approximately 45,000 square feet and one-quarter of it is under the lease of the Warehouse to the Post Office Department.
5. No opposition was voiced at the public hearing against the granting of this application, nor were any letters in opposition submitted to the file for the Board's consideration.

Application No. 11171  
February 6, 1973  
PAGE 2

OPINION:

We are of the opinion that the continuance of this parking lot will not create any dangerous or otherwise objectionable traffic conditions. The present character and future development of the neighborhood will not be adversely affected. The lot is reasonably necessary and convenient to other uses in the vicinity.

This Order shall be subject to the following conditions:

- a. Permit shall issue for a period of five (5) years but shall be subject to renewal in the discretion of the Board upon the filing of a new application in the manner prescribed by the Zoning Regulations.
- b. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- c. An eight (8) inch coping shall be erected and maintained along each side of all driveways to protect the public space.
- d. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- e. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- f. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped.
- g. 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located.



Application No. 11171  
February 6, 1973  
PAGE 3

OPINION:

h. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

i. Use of this lot shall be restricted to private automobiles. No commercial vehicles or trucks.

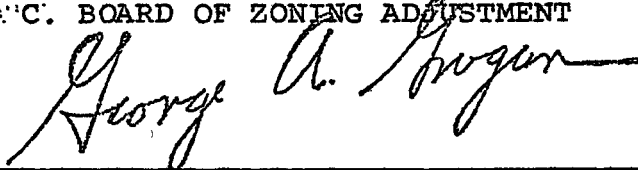
j. Landscaping plans must be approved by the Department of Highways and Traffic.

Permit shall not issue until all conditions of this Order are met and complied with and further, the Board reserves the right to direct revocation of permit upon proper showing that any terms or conditions of this Order have been violated.

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

ATTESTED:

By: \_\_\_\_\_

  
GEORGE A. GROGAN  
Secretary of the Board

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

BEFORE THE BOARD OF ZONING ADJUSTMENT, D. C.

Application No. 12219 of Richardson Realty, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under paragraph 3101.48 for modification of BZA Order No. 11171 by deleting condition "i" and permission to park vehicles belonging to the U. S. Postal Service, at rear of 3070 V Street, N.E., Lots 805 and 806, Square 4365.

HEARING DATE: October 20, 1976

DECISION DATE: October 20, 1976 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located in an R-1-B District and abuts a C-M-1 District.
2. Since 1957 the BZA has been continuously granting permission for the use of the subject property as parking lots for adjoining tenants.
3. By BZA Order No. 11171 effective February 6, 1973, the then owner of the subject premises was granted permission to continue the use of the premises as a parking lot for a period of five years.
4. Condition "i" of said Order stated that the use of the lot shall be restricted to private automobiles.
5. Applicant's tenant of the parking lot is now the U.S. Postal Service which has leased warehouse and the subject parking lot under a long term lease.
6. Said tenant uses the lot for its postal service vehicles not private automobiles.
7. Applicant seeks modification of previous BZA Order to allow him to provide parking facilities for his tenant's vehicles.

CONCLUSIONS OF LAW:

Based upon the record the Board finds that the subject parking lot is so located so as it is not likely to become objectionable to nearby or adjoining property because of noise, traffic or other objectionable conditions. The lot complies with previous BZA Orders and Article 74 of the Zoning Regulations and there will be no adverse affect upon the present character or future development of the

neighborhood. The Board further finds that the relief sought herein is in harmony with the general intent of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED subject to the permit expiring on February 6, 1978; Condition "i" of BZA Order No. 11171 is hereby deleted; permission is granted to park Postal Service vehicles and no commuter parking is permitted, at rear of 3070 V Street, N. E.

VOTE:

4-0 ( Lilla Burt Cummings, Esq., Dr. Walter B. Lewis,  
William S. Harps and William F. McIntosh)

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

ATTESTED By:

  
ARTHUR B. HATTON  
Executive Secretary

FINAL DATE OF ORDER: December 9, 1976

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12592, of Richardson Realty, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Paragraph 3101.48 to continue use of a parking lot in the R-1-B District at the rear of the premises 3070 "V" Street, N.E., (Square 4355, Lots 805 and 806).

HEARING DATE: February 22, 1978

DECISION DATE: February 22, 1978 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located at the rear of premises 3070 V Street, N.E. It is in an R-1-B Zone which abuts a C-M-1 District.

2. The premises at 3070 V Street, N.E., is a warehouse. The subject lot is a private parking lot located directly behind the warehouse. Entrance and exit to the lot is from 31st Street, N.E.

3. The applicant has leased under a long term lease the warehouse and the subject lot to the U.S. Postal Service. The lot is used to park the vehicles of the U.S. Postal Service, not private automobiles.

4. By BZA Order No. 4845, effective on or about September 20, 1957, the Board granted permission to the then owner of the subject premises to establish the said lot as a parking lot for the use of surrounding warehouses for a period of five years. Since 1957, the Board has for subsequent five year periods, granted permission for the continued use of the subject lot.

5. By BZA Order No. 12219, dated December 9, 1976, the Board modified the condition of its previous Orders, namely that effective December 9, 1976, the lot was not restricted to the use of private automobiles but rather the lot was to be used to park the vehicles of the U.S. Postal Service, not private automobiles.

6. There was no opposition to the application. There were no complaints, on record, as to the upkeep of the parking lot.

7. By letter of January 9, 1978, the application was referred to the Department of Transportation for its review and report. No report was received.

8. Advisory Neighborhood Commission 5A, filed no recommendation on the application.

CONCLUSIONS OF LAW:

Based upon the record, including the present operation of the lot, the Board concludes that the subject parking lot is located so as it is not likely to become objectionable to nearby or adjoining property because of noise, traffic or other objectionable conditions. The lot complies with previous BZA Orders and Article 74 of the Zoning Regulations and there will be no adverse affect upon the present character or future development of the neighborhood. The Board further concludes that the relief sought herein is in harmony with the general intent of the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- a. Permit shall issue for a period of FIVE years which shall be subject to renewal in the discretion of the Board upon the filing a new application in the manner prescribed by the Zoning Regulations.
- b. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- c. An eight (8) inch coping shall be erected and maintained along each side of all driveways to protect the public space.
- d. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- e. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

- f. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- g. 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 such use or structures or otherwise permitted in the zoning district in which the parking lot is located.
- h. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.
- i. The use of the subject lot shall be restricted to the parking of the vehicles of the U.S. Postal Service. No commuter parking is permitted.

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Chloethiel Woodard Smith and Leonard L. McCants to GRANT, Charles R. Norris not present, not voting).

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

ATTESTED BY:

  
\_\_\_\_\_  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 28 MAR 1978

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14787, of SMC United Industrial Limited Partnership, pursuant to 11 DCMR 3108.1, for a special exception under Section 212 to continue to operate a parking lot for use by the United States Postal Service in an R-1-B District at the rear of 3070 V Street, N.E., (Square 4365, Lots 805 and 806).

HEARING DATE: April 27, 1988  
DECISION DATE: April 27, 1988 (Bench Decision)

SUMMARY ORDER

The site of the application is located in Advisory Neighborhood Commission ("ANC") 5A, which is automatically a party to the application, did not file a written statement of issues and concerns.

The Board duly provided timely notice of the public hearing on this application, by publication in the D.C. Register, and by mail to ANC 5A and to owners of property within 200 feet of the site.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 212. No person or entity appeared at the hearing or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party. Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is granted, subject to the following CONDITIONS:

1. Approval shall be for a period of five years.
2. The use of the subject lot shall be restricted to the parking of the vehicles of the U.S. Postal Service. No commuter parking is permitted.

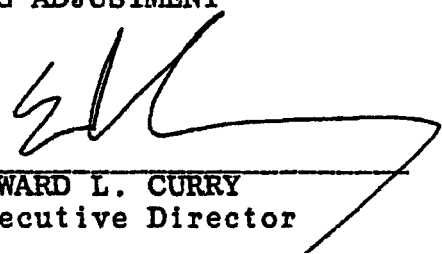
3. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
4. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
5. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
7. 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
8. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 5-0 (Charles R. Norris, John G. Parsons, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant).

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

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: 11 24 2020

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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

114787order/LJP39

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15425 of SMC-United Industrial Limited Partnership pursuant to 11 DCMR 3108.1, for a special exception under Section 214 to allow general parking for a parking lot established by Board's Order No. 14787 for vehicles of the U.S. Postal Service in an R-1-B District at the rear of 3070 V Street, N.E., (Square 4365, Lot 805 and 806).

HEARING DATE: January 23, 1991  
DECISION DATE: January 23, 1991 (Bench Decision)

SUMMARY ORDER

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to ANC 5A and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission ("ANC") 5A. ANC 5A, which is automatically a party to the application, did not submit written issues and concerns relative to the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 214. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3108, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to affect adversely the use of neighboring property in accordance with said Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS.
2. The use of the lot shall be restricted to parking of U.S. Postal Service vehicles on the northern portion; U.S. Postal Service employee parking on the central portion; and tractor trailer parking on the southern portion of the lot as shown on the plat marked as Exhibit No. 21 of the record.

3. The applicant shall install appropriate signage on the lot directing all vehicles exiting the lot to turn right on 31st Street heading south towards V Street only in order to alleviate any adverse traffic impacts on the surrounding residential neighborhood.
4. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
5. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
6. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
7. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
8. 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
9. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 3-0 (Sheri M. Pruitt, Paula L. Jewell and Carrie L. Thornhill to grant; Tersh Boasberg and Charles R. Norris not present, not voting).

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

ATTESTED BY:

  
EDWARD L. CURRY

BZA APPLICATION NO. 15425  
PAGE 3

Executive Director

FINAL DATE OF ORDER: JAN 31 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT 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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15425Order/BHS

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16164 of SMC-United Industrial Limited Partnership**, as amended, pursuant to 11DCMR 3108.1 (new section 3104 1), for a special exception under Section 213 to establish a parking lot in an R-1-B District at the rear of 3070 V Street, N E. (Square 4365, Lots 805 and 806).

**HEARING DATE:** October 16, 1996

**DECISION DATE(S):** November 6, 1996, and July 7, 1999

**MODIFICATION ORDER**

**REQUEST FOR MINOR MODIFICATION OF APPROVED PLANS**

This application was approved by the Board pursuant to Order No. 16164, dated January 2, 1998, as corrected by Order No. 16164, dated April 14, 1998. The Applicant, SMC United Industrial Limited Partnership, by letter dated June 25, 1999, in accordance with the provisions of Section 3335 of the Zoning Regulations, requested approval of minor modifications to the approved site plan (Exhibit No. 32, in the record) in BZA Order No. 16164, dated April 14, 1998. The Applicant stated that the requested minor modifications do not change the material facts the Board relied upon in approving the application

The Board in the subject case approved a special exception for continued use of the parking lot at the subject site for the adjacent warehouse use. The parking lot had a history of use by the U.S. Postal Service for its vehicles. The Postal Service will be vacating the property and would be removing its vehicles by October, 1999. The Applicant is presently in lease negotiations with the Metropolitan Police Department, which will lease the adjacent warehouse building and will use the subject lot for the parking of its vehicles. The Applicant therefore requests permission to modify the approved site plan to delete the references made to the use of the lot by the U.S. Postal Service. In conjunction with the above change to the site plan, the Applicant proposed that Conditions 3.b. and 3.c. of the Modification Order should be changed to read.



- 3.b Service vehicles for the tenant of the adjacent building shall be restricted to the northern portion of the facility.
- 3.c. Employee passenger vehicles for the tenant of the adjacent building shall be restricted to the central portion of the facility.

The above modification will allow future users (new tenants) of the parking lot to do so without having to reappear before the Board. The Applicant stated that all of the other conditions of the Order would remain in full force and effect.

**CONCLUSION OF LAW AND OPINION:**

Based on the evidence of record, the Board concluded at its regularly scheduled public meeting on July 7, 1999, that the modification sought by the Applicant in the subject matter is minor in nature, and does not change the material facts the Board relied upon in approving the application. The modification to Condition Nos. 3.b. and 3c. of Order 16164, dated April 14, 1998, will eliminate the need for the Applicant to return to the Board each time a new tenant wishes to use the parking lot.

In light of the foregoing, the Board **ORDERS** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**.

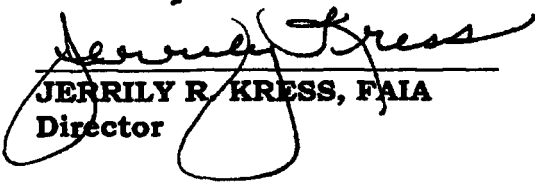
1. Amend Conditions 3.b. and 3.c in Order No. 16164, dated April 14, 1998, to read as follows:
  - 3.b Service vehicles for the tenant of the adjacent building shall be restricted to the northern portion of the facility.
  - 3 c. Employee passenger vehicles for the tenant of the adjacent building shall be restricted to the central portion of the facility
2. The layout of the site shall be in accordance with the revised site plan attached to the Applicant's June 25, 1999, letter and marked as "Proposed Modifications"

**VOTE:**      **4-0** (Betty King, John Parsons, Jerry H. Gilreath and Sheila Cross Reid to grant).

MODIFICATION ORDER NO. 16164  
PAGE NO. 3

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

ATTESTED BY:

  
JERRILY R. KRESS, FAIA  
Director

Final Date of Order: MAY 18 2000

Ord16164/PH

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA MODIFICATION ORDER NO. 16164**

As Director of the Office of Zoning, I certify and attest that on MAY 18 2000,  
a copy of the order entered on that date in this matter was mailed first class, postage prepaid to  
each party who appeared and participated in the public hearing concerning this matter, and who  
is listed below:

Mr. Fred Farshey  
SMC United Limited Partnership  
7220 Wisconsin Avenue, N.W  
Suite 210  
Bethesda, MD 20814

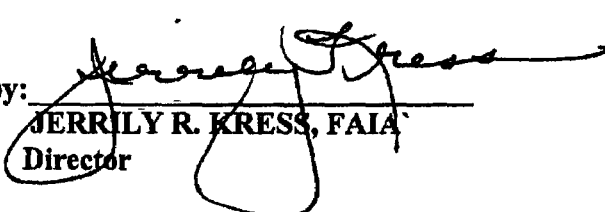
Mr. Richard Nero, Jr  
Wilkes, Artis, Hedrick & Lane  
1666 K Street, N W  
Washington, D.C 20006

Ms. Mozelle E. Watkins  
ANC 5A-11, Single Member District  
3225 Walnut Street, N.E  
Washington, D.C 20018

Ms. Leslie C. Bournes  
Gateway Community Association  
P O Box 41476  
Washington, D. C. 20018-0876

Ms. Annie M. Dawkins  
2330 31<sup>st</sup> Street, N.E  
Washington, D.C 20018

Attested by:

  
JERRILY R. KRESS, FAIA  
Director

DATE: MAY 18 2000

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No 16164 of SMC-United Industrial Limited Partnership, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to establish a parking lot for vehicles of the U S Postal Service in an R-1-B District at the rear of 3070 V Street, N E. (Square 4365, Lots 805 and 806)

**HEARING DATE**                      October 16, 1996  
**DECISION DATE**                    November 6, 1996

**ORDER**

**PRELIMINARY MATTER**

The application was advertised as a special exception under Section 214, to allow general parking for a parking lot established by Board's Order No 14787 for vehicles of the U S Postal Service. The subject property is located at the rear of 3070 V Street, N E, and is in a R-1-B District. At the hearing, the applicant requested that the Board consider the application under Section 213. The applicant stated that there has been some confusion within the Zoning Regulations, because the numbering in the regulations has changed. The applicant stated that it is asking for reinstatement of BZA Order No 15425 that was granted under Section 214. The applicant stated that if the application cannot be considered as a continuation of the previous approval, that it shall be considered as an original application of the parking lot. The applicant also stated that they are prepared to present the application under either section. The applicant stated that if you look back in history, Section 214 was intended to address those situations where there is a single property, a single ownership, and a zoning line going through the property. It speaks in terms of parking that is accessory to the principal use, and is located elsewhere than on the same lot as the principal use. The applicant stated that it may be cars, jeeps, or postal vehicles, the lot is still considered as accessory to the main use. He also stated that in its case, the main use is a warehouse, and it is typical for a warehouse to have trucks.

The Board stated that Section 214 is for accessory parking spaces, that the correct Section is 213 which permits parking lots in an R-1 District if approved by the Board of Zoning Adjustment.

The applicant stated that it went to the community to address the application and that it received support from the Advisory Neighborhood Commission and Gateway Community Association.

The Office of Planning (OP) stated that its report addressed Section 214, and if the Board continued with the hearing of the application under Section 213, they would not be prepared to address the regulations in this application. The Office of Planning said it needed to look at both

sections to see how similar or dissimilar they are OP stated that it could not respond to Section 213 at this time

The Board left the record open for OP to prepare a supplemental report

The Board stated that under Section 213 of the Zoning Regulations a parking lot must be contiguous to or separated only by an alley from a Commercial or Industrial district

The applicant stated that the subject parking lot (Lots 805 and 806) is in fact contiguous to the warehouse property Lots (Lots 804 and 32) They also stated that a railroad spur crosses Lot 804 that is owned by the applicant, but it is still a part of the warehouse site

The Office of Planning stated that when the Board approved the application for a special exception, the application was valid, but the applicant did not obtain a certificate of occupancy (C of O) OP also stated that the use was discontinued because the applicant lacked a valid C of O, and three years had lapsed OP stated that the applicant should be seeking a use variance and not a special exception

The applicant testified that they lost the certificate of occupancy, that they reapplied for the C of O, and that they have been involved in this process for twelve months

The application was amended accordingly, and the Board proceeded to hear the application under Section 213 as a special exception to establish a parking lot for vehicles of the U S Postal Service

### **SUMMARY OF EVIDENCE**

The subject property is located at the rear of 3070 V Street, N E The site is located in the Northeast Gateway neighborhood The boundaries of the property are Adams Street to the north, V Street to the south, 30<sup>th</sup> Street to the west, and 31<sup>st</sup> Street to the east

The site is a triangular-shaped piece of property that consists of two contiguous lots (lots 805 and 806) Lot 805 contains 47,297 square feet of land area, and Lot 806 contains 44,880 square feet of land area Both lots combined have a total land area of 92,177 square feet The parking lot surface occupies approximately 38,000 square feet of the subject property A chain link fence topped with barbed wire surrounds the property Egress and ingress is electronically controlled The parking lot is divided into three sections The northern portion of the lot is used for parking the United States Postal Service (USPS) employee/carrier vehicles, and employee vehicles, the central portion of the lot is used for private cars, and the southern portion of the lot is used for tractor trailers.

The site is located in an R-1-B District The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings The R-1-B District also permits parking lots, if approved by the Board of Zoning Adjustment

The subject property abuts a C-M-1 District. There are industrial and commercial uses located to the south and west of the property, whereas residential uses are located to the north

The C-M-1 and C-2-A zoned areas along V Street and Bladensburg Road contain warehouses, wholesale businesses, transportation services, automotive repair garages, fast food restaurants, and other types of businesses. An unused railroad spur and a wooded area divide the industrial uses from the residential uses along V Street.

The applicant is requesting zoning relief from Section 213 and Subsection 3108.1 of the Zoning Regulations to reinstate BZA Order No. 15425 of SMC-United Industrial Limited Partnership.

## **ISSUES AND ARGUMENTS**

**I. Subsection 213.1** states that use as a parking lot shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment in accordance with conditions specified in Section 3108 of Chapter 31 of this title, subject to the provisions of this section as stated below.

The Board is authorized to grant special exceptions, as provided in this title where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

**Adversely Affect Neighboring Property, Zoning Regulations and Map.** The applicant stated that the lot has continued in existence as a necessary adjunct to the industrial uses along V Street for over 40 years. The site and area description sections on the site plan demonstrate that the utilization of the subject premises as a parking lot will be in harmony with the existing neighboring properties. The applicant proposes to continue the parking lot use as previously approved by the Board.

The Office of Planning in its report dated October 8, 1996, stated that the site has been used as a parking lot for over 30 years. OP stated that the site serves as a buffer between two distinctly different uses, industrial and residential. Although the site is zoned for low-density residential development, the record in this case does not indicate that the site was ever used for housing. The parking lot is a functional way of using the site for much-needed parking spaces for the industrial businesses and, simultaneously, screening the nearby residential dwellings from the industrial uses. The applicant's proposal is not in disharmony with the general purpose and intent of the Zoning Regulations and Map. Further, if the recommendations suggested by the Office of Planning accompany approval of this application, the accessory parking lot would not affect adversely the use of neighboring properties.

Advisory Neighborhood Commission 5A submitted a report to the record dated October 7, 1996. In the report, the ANC stated that it met with a representative from the Postal Service and the Gateway Community Association to discuss the application. The ANCs in its report stated, no one voiced opposition to the request at the meeting, but citizens expressed concerns about not receiving a copy of the occupancy permit. The citizens wanted to know if there would be a change in the use of the property. The ANCs and the Gateway Community Association agreed to approve the application contingent upon the applicant complying with certain conditions and

making an agreement in written form. The representative of Single Member District 5A-11 testified at the hearing representing 5A-11 and ANC 5A, she reiterated the concerns expressed in the report.

Gateway Community Association (SMC) submitted a report to the record stating that it voted to oppose the application if certain conditions are not met in the future. The community association stated that, in the past, it had to continually make telephone calls to the applicant requesting resolutions to these issues. The conditions that SMC did not comply with in the Board's previous order are listed below.

1. The applicant did not install signs to direct existing traffic to flow south towards V Street,
2. None of the lots were kept free of debris and refuse, and the lots were not maintained with landscaping in a healthy growing condition or orderly appearance;
3. Over the years, the lots were used for storage of disabled vehicles and were open to public use for abandoned vehicles and refuse dumping.

ANC 5A, ANC Single Member District 5A-11 and the Gateway Community Association reached an agreement with SMC United Limited Partnership to approve the application with the following conditions:

- a. All tractor trailers, contractor office trailers and other large commercial vehicles should be restricted to the southern portion of the lot. This includes no more than 10 tractor-trailer vehicles parked on the site at any given time.
- b. U.S. Postal Service delivery vehicles must be restricted to the northern portion of the facility.
- c. U.S. Postal Service employee passenger vehicles must be restricted to the central portion of the facility.
- d. No commuter parking or public parking use will be permitted at this facility at any time.
- e. No vehicle maintenance, storage of equipment or dumping of trash or other refuses and debris will be permitted on site.
- f. 24-hour controlled parking by electronic access or attendant access must be provided.
- g. The lots should be monitored or patrolled when unattended.
- h. Any lots not used for parking must be chained and locked.
- i. Lighting must be provided for all areas of the facility and shall be arranged so that all direct rays of such lighting are confined to the surface of the facilities.



- J The two lots numbered 28 and 29 located to the north of the facility will remain as a vacant landscaped buffer area between the residential and commercial land use

The applicant also stated that there are quite a few owners of warehouses nearby that have requested permission to use the lot for parking. The applicant stated that the drivers who work at other warehouses in the vicinity, park on residential streets that abut its property. The applicant also stated that with the permission of ANC 5A and the Gateway Civic Association, it agreed to allow the drivers to use the lot to park. The applicant testified that it has not decided whether to charge the other drivers who work at some of the other warehouses in the vicinity, but if a decision is made, it will make an offer to the neighborhood to use that money to keep the areas clean.

**II. Subsection 213.2** states that a parking lot shall be located in its entirety within two hundred feet of an existing commercial district.

In its brief to the Board dated September 24, 1996 and in its testimony at the hearing, the applicant stated that it met this test because the parking lot is located within 200 feet of industrially (C-M-1) zoned property to the east and south.

The Office of Planning in its supplemental report dated October 23, 1996, stated that the existing parking lot is located in its entirety within 200 feet of an industrial district. Approximately 50 feet separate both uses.

**III. Subsection 213.3** states that a parking shall be contiguous to or separated only by an alley from a Commercial or Industrial district.

The applicant stated that the subject parking lot is contiguous to industrially zoned property on its south and east sides.

The Office of Planning in its report stated that the parking lot is not contiguous to or separated by an alley from the U S Postal Service Warehouse. An unused railroad spur separates the two uses. According to OP, the applicant stated at the hearing that, along with owning the site, the partnership owns the railroad spur (Lot 804) and the USPS Warehouse (Lot 32).

**IV. Subsection 213.4** provides that all provisions of chapter 23 of this title shall be complied with.

The Office of Planning testified at the hearing that the applicant's site plan does not identify any lighting that may be used at the site at night. Also, the site plan does not identify any on-site landscaping. OP stated that the Zoning Regulations require that five percent of the parking lot's total land area, at a minimum, shall be landscaped. OP also stated that the site plan that was submitted with the application was the same site plan that was submitted with the last application and that it needs to be revised. OP stated that the resurfaced area had not yet been striped and that it is difficult to ascertain the correct number of parking spaces that would be available at the site. In addition, OP stated that the site plan does not indicate the number of vehicles that would be parked on the northern and southern portions of the site.

The applicant testified that it concurs with the Office of Planning's recommendation, that the site plan must be updated because there are a number of things that are not shown.

The Board recommended that the applicant submit revised site plans into the record

**V. Subsection 213.5** provides that 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 applicant testified that the continued operation of the parking lot would not result in dangerous or otherwise objectionable traffic conditions. The applicant stated that they have demonstrated by its nearly 40 years existence, and previous BZA approvals, that the continuation of the parking lot will not adversely affect the character of future development of the neighborhood.

The Office of Planning in its report stated that to alleviate the potential of having industrial-related traffic from the site traveling into the adjacent residential neighborhood, the applicant has agreed to install a sign directing all vehicles exiting the lot to use V Street. OP stated that they are not aware of any existing dangerous or objectionable traffic conditions that prevent the continued use of the site as a parking lot.

The application was referred to the Department of Public Works. At the time of the hearing the Board had not received a report, nor was there a representative at the hearing.

**VI. Subsection 213.6** states that the parking lot must be reasonably necessary and convenient to other uses in the vicinity.

The applicant stated that the lot shall be used by the U.S. Postal Service and other warehouses in the vicinity. The applicant also stated that this use has minimized the demand for overflow parking on neighborhood streets, that there is no spillover parking from the parking lot.

The Office of Planning stated that as proposed, the site would be used exclusively to provide parking for the warehouse located at 3070 V Street, N.E. The warehouse property is 100 percent developed. The site has a long history of being used to provide for the warehouse, and prevents spillover parking onto nearby residential streets.

**VII. Subsection 213.7** states that 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 applicant testified at the hearing that it intends to allow parking short-term during the day, that there will be no parking allowed at night.

The Office of Planning in its report stated that none of the parking spaces would be used for residential purposes, however, the applicant stated that the lot would be used for short-term parking. The lot will be used for employee and visitor parking during daytime hours. The tractor trailers and other commercial vehicles that would be using the site would be in use.

regularly and not parked for long periods of time The site would not be used for the storage of vehicles

**VIII. Subsection 213.8** states that 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 Public Works for review and report

The application was referred to the D C Department of Public Works

The Office of Planning submitted a supplemental report dated October 23, 1996 In that report, OP stated that the applicant submitted a revised site plan that addresses the concerns identified at the public hearing That the site plan depicts existing landscaping, how the site is to be striped, and the number of parking spaces that will be made available for both passenger and commercial vehicles OP also stated that the applicant testified that the property will not be artificially illuminated The Office of Planning recommended approval of the application with conditions in their supplemental report The Department of Public works did not submit a report

### **FINDINGS OF FACT**

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

1 The application was incorrectly advertised under Section 214 The Board amended the application and proceeded to hear it under Section 213 as a special exception to establish a parking lot

2 The applicant does not have a certificate of occupancy for previous approval of the parking lot The applicant did at one time have a C of O, but it was lost or misplaced The applicant did reapply for the certificate of occupancy

3 The lots are contiguous, but they are separated by a railroad spur that is owned by the applicant

4. There will be no change in use of the property

5 The conditions imposed by the Board will be adequate to alleviate the concerns expressed by neighbors

### **CONCLUSIONS OF LAW AND OPINION**

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to establish a parking lot for vehicles of the U S Postal Service in an R-1-B District The granting of such a special exception requires a showing through substantial evidence that granting the relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and that it will not adversely affect the use of neighboring property in accordance with the Zoning Regulations and Map The applicant must also meet the requirements of 11 DCMR 213 regulating parking lots in R-1 Districts

The Board concludes that the applicant has met the burden of proof. The Board also concludes that the application is in harmony with the general purpose and intent of the Zoning Regulations and that the use will not tend to adversely affect the use of neighboring property.

The Board concludes that it has accorded ANC 5A the "great weight" to which it is entitled. In light of the foregoing, the Board **ORDERS** that the application be **GRANTED**, **SUBJECT** to the following **CONDITIONS**:

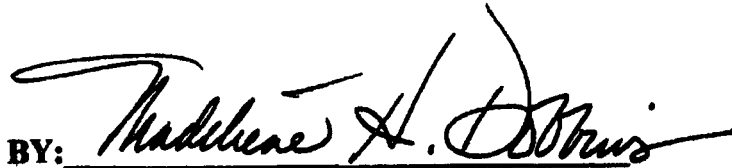
- 1 Approval shall be for a period of five years.
- 2 The layout of the site shall be in accordance with the revised site plan marked as Exhibit No. 32 of the record.
- 3 Use of the lot shall be restricted as follows:
  - a All tractor trailers, contractor office trailers and other large commercial vehicles shall be restricted to the southern portion of the lot. No more than 10 tractor trailer vehicles parked on the site at any given time.
  - b U.S. Postal Service delivery vehicles shall be restricted to the northern portion of the facility.
  - c U.S. Postal Service employee passenger vehicles shall be restricted to the central portion of the facility.
  - d No commuter, fringe or public parking use, except by employees of neighboring properties, shall be permitted at this facility at any time.
  - e No vehicle maintenance, storage of equipment or dumping of trash or other refuse and debris shall be permitted on site.
  - f Twenty-four hour controlled parking by chain and padlock or attendant access shall be provided.
  - g The lots shall be monitored or patrolled when unattended.
  - h. Any lots not used for parking shall be chained and locked.
- 4 Lighting shall be provided for all areas of the facility and shall be arranged so that all direct rays of such lighting are confined to the surface of the facilities.
- 5 Lot 28 and 29 located to the north of the facility, shall remain as a vacant landscaped buffer area between the residential and commercial land use. This area shall be maintained in a neat and orderly condition.
- 6 The applicant shall install signage on the lot directing all vehicles exiting the lot to turn right on 31<sup>st</sup> Street, heading south toward V Street.

- 7 All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weathered impervious surface
- 8 No vehicle or any part thereof shall be permitted to project over any lot or building line, or on or over the public space
- 9 All parts of the lot shall be kept free of refuse or debris and shall be paved and landscaped Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance
- 10 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located

**VOTE:** 4-0 (Laura M Richards, John G Parsons and Sheila Cross Reid to grant, Susan Morgan Hinton to grant by absentee vote, Angel F Clarens no present, not voting)

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMEN**

ATTESTED BY:



**MADELIENE H. DOBBINS**  
Director

JAN 2 1998

**FINAL DATE OF ORDER** \_\_\_\_\_

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 TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

**16164ORD/BJW/bjw**

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16164**

As Director of the Board of Zoning Adjustment, I certify and attest that on JAN 2 1998 a copy of the order entered on that date in this matter was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below

Mr Fred Farshey  
SMC United Limited Partnership  
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Wilkes, Artis, Hedrick & Lane  
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Ms Mozelle E Watkins  
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Ms Leslie C Bournes  
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Ms Annie M. Dawkins  
2330 31<sup>st</sup> Street, N E  
Washington, D C 20018

  
**MADELIENE H. DOBBINS**  
**Director**

DATE JAN 2 1998