

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

**Application of SMC-United Industrial Limited Partnership
2310 and 2320 31st Street, N.E.
(Rear of 3070 V Street, N.E.)**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

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I. Background:

The Subject Property (Square 4365, Lots 805 and 806) has been operated as a parking lot continuously for approximately 56 years.

The Applicant, SMC-United Industrial Limited Partnership, requests a continuation of the special exception approved by the Board of Zoning Adjustment (hereinafter, the "Board" or "BZA") in Order No. 17049, under §213 of the Zoning Regulations, in order to permit the continued operation of a parking lot. At the public hearing, the Applicant will show that special exception is appropriate in the instant case, to permit the continued use of the Subject Property as a parking lot use in a residential zoning district.

Pursuant to §3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no less 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 and evidence 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 summary statement indicating how the Applicant will meet said burden of proof.

II. Burden of Proof:

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

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

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18614
EXHIBIT NO. 5

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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

1. Section 213.2:

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

The subject parking lot is located within two hundred feet (200 ft.) of industrially zoned (C-M-1) property to the east and south.

2. Section 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. Section 213.4:

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

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

4. Section 213.5:

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

The continued operation of the parking lot will not result in dangerous or otherwise objectionable traffic conditions. As demonstrated during the last 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. Section 213.6:

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

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

6. Section 213.7:

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

The subject parking lot is used primarily for temporary vehicle storage in conjunction with the use of the warehouse property to the south.

7. Section 213.8:

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

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

C. Section 2303

1. Section 2303.1 (a): *All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous concrete or brick materials, or a combination of these materials or other material approved by the D.C. Department of Transportation as structurally equivalent or better, that form an all-weather impervious surface, and that are a minimum of four inches (4 in.) in thickness.*

The parking lot consists of a concrete surface.

2. Section 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. Section 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. Section 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. Section 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. Section 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 requirement that a minimum of five percent (5%) of the total area of the lot be landscaped.

7. Section 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. Section 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. Section 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 continuation of the waiver of the masonry wall requirement.

10. Section 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.