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June 19, 2001

MARY CAROLYN BROWN
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Internet Address:
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VIA HAND DELIVERY

Board of Zoning Adjustment for the
District of Columbia
441 4th Street, N.W., Suite 210S
Washington, D.C. 20002

Re: BZA Application No. 16724
Parking Lot at 3053 M St., N.W. (Square 1209, Lot 910)

Dear Members of the Board:

Enclosed please find an original and ten copies of the Statement of the Applicant filed on behalf of Louis Levy, *et al.*, and Colonial Parking, Inc., in support of their application for a special exception to continue the parking lot use at 3053 M Street, N.W.

Thank you for your consideration of these materials.

Respectfully submitted,

Carolyn Brown

Carolyn Brown

Enclosures

cc: Office of Planning
ANC 2E

WAS1 #986298 v1

BZA
Case No. 16724
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO.16724
EXHIBIT NO.26

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPLICATION OF LOUIS LEVY, ET AL.
3053 M Street, N.W.
(Square 1209, Lot 910)

BZA APPLICATION NO. 16724
HEARING DATE: JULY 3, 2001
ANC 2E

STATEMENT OF THE APPLICANT

I.
NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Louis Levy, *et al.*, and their lessee, Colonial Parking, Inc. ("Colonial Parking" or "Colonial"), in support of the application to the Board of Zoning Adjustment for a special exception to continue the use of the existing parking lot at 3053 M Street, N.W., (Square 1209, Lot 910) pursuant to 11 DCMR § 213. The property is located in the C-2-A and R-3 Districts. While the parking lot use is permitted as a matter of right in a commercial zone, the applicant seeks relief for that portion of the property located in the residential district. Advisory Neighborhood Commission 2E has no objection to the approval of this application.

II.
JURISDICTION OF THE BOARD

The Board of Zoning Adjustment ("BZA" or "Board") has jurisdiction to grant the special exception relief requested pursuant to D.C. Code § 5-424 and section 3104.1 of the Zoning Regulations (11 DCMR).

III.
BACKGROUND

A. Description of the Subject Property

The Subject Property consists of Lot 910 in Square 1209, the city block bounded by M Street, N.W., to the south, N Street to the north, 30th Street, N.W., to the east, and 31st

Street, N.W., to the west. It is located in the Georgetown Historic District and adjacent to the Old Stone House, an historic landmark owned and operated by the National Park Service. Fronting on M Street, the lot is irregularly shaped. A long narrow access drive, approximately sixteen feet wide at M Street and 100 feet in depth, leads to the open area of the property at the interior of the square where the parking spaces are located. That area of the site is approximately 42 feet wide and 200 feet in depth. The closest intersection to the lot is located to the south of the site, where Thomas Jefferson Street intersects, but does not cross, M Street. The intersection of 31st and M Streets, N.W., is approximately 160 feet to the west.

Colonial Parking operates the lot as a commercial venture to serve the short-term parking needs of the Georgetown business and residential community. Consisting of forty-eight spaces, Colonial Parking will occasionally stack additional cars in the center aisle of the lot, creating a maximum total capacity of approximately sixty cars. An attendant operates the lot from 9:00 a.m. to midnight, Sunday through Thursday, and from 10 a.m. to 3 a.m. on Friday and Saturday.

The surface of the parking lot is paved with asphalt, except for a small area at the entrance finished in brick in deference to the character of historic Georgetown. The grade of the lot slopes gently upward to the north from M Street. The parking area is screened from adjacent properties by a nine-foot brick wall at the western property line, a seven-foot brick wall at the rear of the site and a six-foot wooden fence to the east. Narrow strips of grass line either side of the lot, with a larger grass area located at the rear of the site. Trees, shrubbery, vines, and other natural vegetation are grouped randomly around the perimeter of the lot, which further buffer adjoining properties and soften the character of the parking area.

B. Description of Surrounding Area

The rear portion of the parking lot is located in the R-3 District, a residential area designed principally for row dwellings. (11 DCMR § 320.1) To the north of the site are residential uses. All of the houses are well removed from the boundary of the parking lot. To the east and west along M Street in the C-2-A District are commercial uses. The parking lot is contiguous to and within 200 feet of the C-2-A District. The C-2-A District is a community business area designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the city outside of the central core. The lot serves varied commercial uses located along M Street and Wisconsin Avenue, most of which do not provide off-street parking.

C. Description of Proposal

Colonial Parking proposes to continue the parking lot use as previously approved for another ten-year period. The subject property has been used as a parking lot since 1948 pursuant to a series of special exception approvals granted by the Board. (See BZA Order Nos. 5103, 6260, 9123, 9220, 11144, 12580, 13510, 14617, and 15537.) The most recent approval was granted under BZA Order No. 15537 in 1991 for a ten-year period. A copy of BZA Order No. 15537 is attached as Exhibit E.

IV.
THE APPLICANT MEETS THE TEST FOR SPECIAL EXCEPTION RELIEF TO CONTINUE THE EXISTING PARKING LOT USE CONSISTENT WITH 11 DCMR § 213.

A. Standard for Approving Special Exception Relief

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of*

Washington v. District of Columbia Board of Zoning Adjustment, 423 A.2d 695, 701 (D.C. 1981) *quoting Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

B. Standard of Review for Parking Lot Special Exceptions

Under section 213, the Board may grant special exception relief for a parking lot in a residential district provided the conditions of that section are met. As demonstrated below, and through exhibits, testimony, and other information to be submitted into evidence before the Board, Colonial Parking meets the standards of section 213. The requested relief can be granted without materially impairing the intent and purpose of the Zoning Regulations, and the use will not tend to affect adversely the use of neighboring property.

1. Adjacency to an Existing Commercial District.

Section 213.2 of the regulations states that a "parking lot shall be located in its entirety within two hundred feet (200 ft.) of an existing Commercial or Industrial district." Section 213.3 further states that the "parking lot shall be contiguous to or separated only by an alley from a Commercial or Industrial district." Consistent with these requirements, the parking lot is located in its entirety within 200 feet of the C-2-A District. The commercial zone boundary line runs through the subject property approximately 120 feet north of M Street, as shown on the Zoning Map attached as Exhibit B. The lot then extends another 180 feet north of that boundary line, placing the remainder of the lot entirely within 200 feet of the C-2-A District.

2. Compliance with Chapter 23 of the Zoning Regulations.

Section 213.4 of the regulations requires the applicant to comply with all the provisions of Chapter 23 of the Zoning Regulations. Consistent with this requirement, the parking lot complies with the following applicable provisions of Chapter 23.

a. Impervious Paved Surface

Under section 2303.1(a), all areas devoted to driveways, access lanes, and parking areas must be paved and maintained with bituminous concrete or brick materials, or a equivalent materials, which form an all-weather impervious surface, and which is a minimum of four inches in thickness. Consistent with this provision, the subject parking lot is paved with impervious asphalt and brick with a thickness of at least four inches.

b. Appropriate Layout

Section 2303.1(b) further requires that the lot must be designed so that no vehicle or any part of a vehicle projects over any lot line or building line. Consistent with this section, the brick walls and fences enclosing the lot prevent vehicles from projecting over the lot line.

c. Limitation of Uses on the Site

The provisions of section 2303.1(c) prohibit any other uses from being conducted on the site, and do not allow any structures except for an attendant booth or an otherwise permitted use or structure. No other uses or structures besides an attendant booth are located on the parking lot, and thus the applicant is in compliance with this requirement.

d. Limitation on Proximity to Intersection

Section 2303.1(d) also prohibits any vehicular entrance or exit to be located within forty feet of a street intersection, as measured from the intersection of the curb lines extended. Consistent with this provision, the parking lot entrance is approximately 160 feet away from the intersection of 31st and M Streets, N.W.

e. Confinement of Light Rays to the Site

In order to protect adjacent property from unnecessary light wash, section 2303.1(e) requires that any lighting must be arranged so that all direct rays are confined to

the surface of the parking lot. In compliance with this subsection, the three light poles on the site are designed so that all rays are directed downward and away from adjacent residential properties.

f. Maintenance and Landscaping of the Lot

Section 2303.1(f) sets forth several requirements regarding the appearance of the lot to maintain its compatibility with its residential surroundings. That section states that:

> 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.

This provision was enacted in March 1985, approximately twenty-seven years after the establishment of the parking lot. As originally configured, the parking lot did not include extensive landscaping. The trees, shrubs, vines, and other natural vegetation that are located along the perimeter of the site comprise approximately one percent of the lot area. The parking lot use was nevertheless re-approved by the BZA after the enactment of this new provision, first in 1987 and again 1991. The landscaping currently located on the site is sufficient to soften the "hardscape" elements of the lot and provide aesthetic appeal to the otherwise utilitarian nature of this space. Additionally, the lot is maintained in a neat and orderly appearance to ensure its compatibility with the surrounding area. No complaints have been received concerning the condition of the lot.

g. Adequate Screening from Adjacent Residential Properties

Section 2303.2 further requires that a parking lot located in an R-1 District must be screened from all contiguous residential property by either a solid brick or stone wall at least one foot thick and 3.5 feet in height, or by evergreen hedges or trees, thickly

planted and maintained, and at least 3.5 feet in height when planted. Colonial Parking is in full compliance with this requirement. The site is surrounded by brick walls and a wooden fence that are a minimum of six feet in height. Trees, shrubs, vines and other natural vegetation are located along the perimeter of the lot and provide an aesthetic buffer to adjoining properties.

Section 2303.2 also reiterates the need for maintenance of the lot. As noted above, the site is maintained in a neat, clean and orderly appearance.

3. Prohibition Against Dangerous Traffic Conditions

In order to protect the character and future development of the neighborhood, section 213.5 states that no dangerous or otherwise objectionable traffic conditions shall result of the use of the parking lot. Since 1958, the parking lot has been operated in a safe and orderly manner without creating any dangerous or objectionable traffic conditions. The lot will continue to be operated in this safe manner.

4. Convenience to Other Neighborhood Uses

Finally, sections 213.6 and 213.7 require the parking lot to 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 majority of parking spaces shall serve residential uses or short-term parking needs of retail, service, and public facility uses in the vicinity. Consistent with these sections, the parking lot provides a vital service to retail and service uses in Georgetown, an area characterized by acute parking shortages. The lot also provides parking to area churches on Sunday.

V.
COMMUNITY INPUT

At its June 5, 2001, meeting, Advisory Neighborhood Commission 2E voted unanimously not to oppose the parking lot use for another ten years. A copy of the ANC's letter is attached as Exhibit F.

VI.
EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Exhibit A:	Portions of the Sanborn Atlas showing the subject property highlighted in yellow;
Exhibit B:	A portion of the Zoning Map showing the subject property highlighted in yellow;
Exhibit C:	Site Plan of Parking Lot;
Exhibit D:	Photographs of the Subject Property;
Exhibit E:	BZA Order No. 15537;
Exhibit F:	Letter from Advisory Neighborhood Commission 2E; and
Exhibit G:	Outlines of Witness Testimony.

VII.
WITNESSES

A. Representative of Colonial Parking

B. Representative of Owner, Louis Levy *et al.*

VIII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for a special exception relief under the Zoning Regulations. The granting of the application will be in harmony with the general purpose and intent of the regulations and will not adversely affect the use of neighboring properties.

Accordingly, Colonial Parking respectfully requests the Board to grant the application and renew the parking lot use for a period of ten years.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: _____
Norman M. Glasgow, Jr., Esq.

By: _____
Mary Carolyn Brown, Esq.

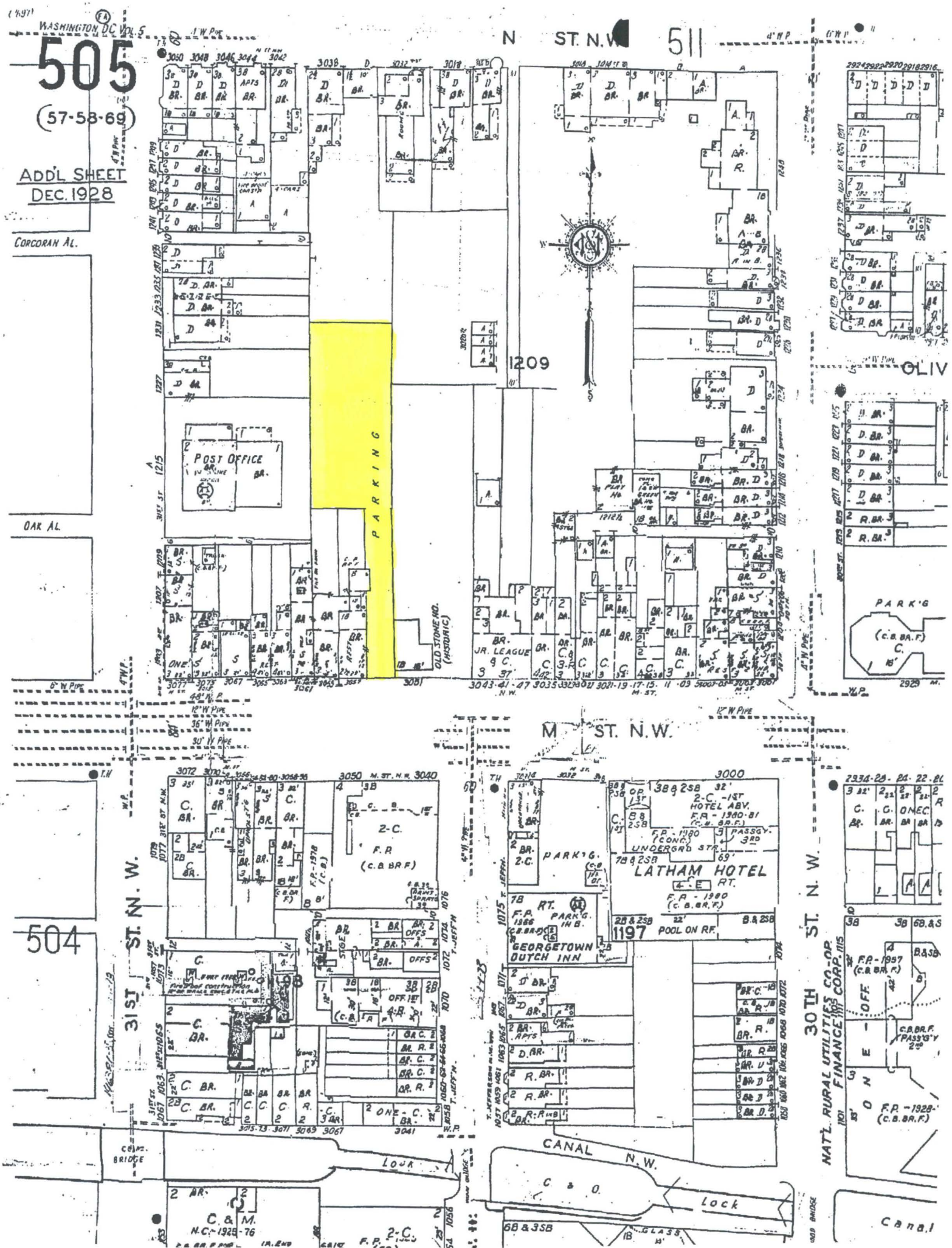
By: _____
Steven E. Sher, Director of Land Use and Zoning Services

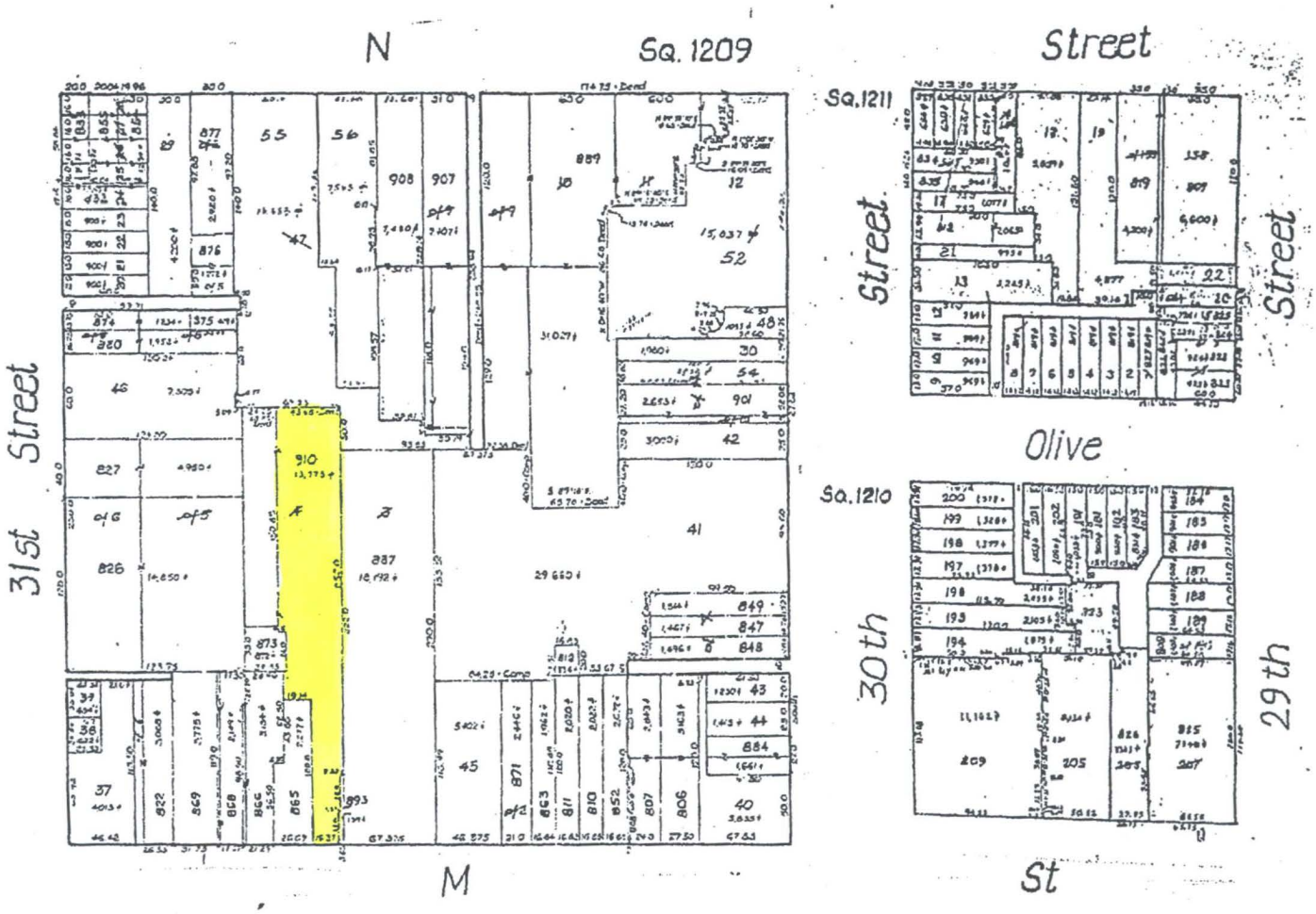
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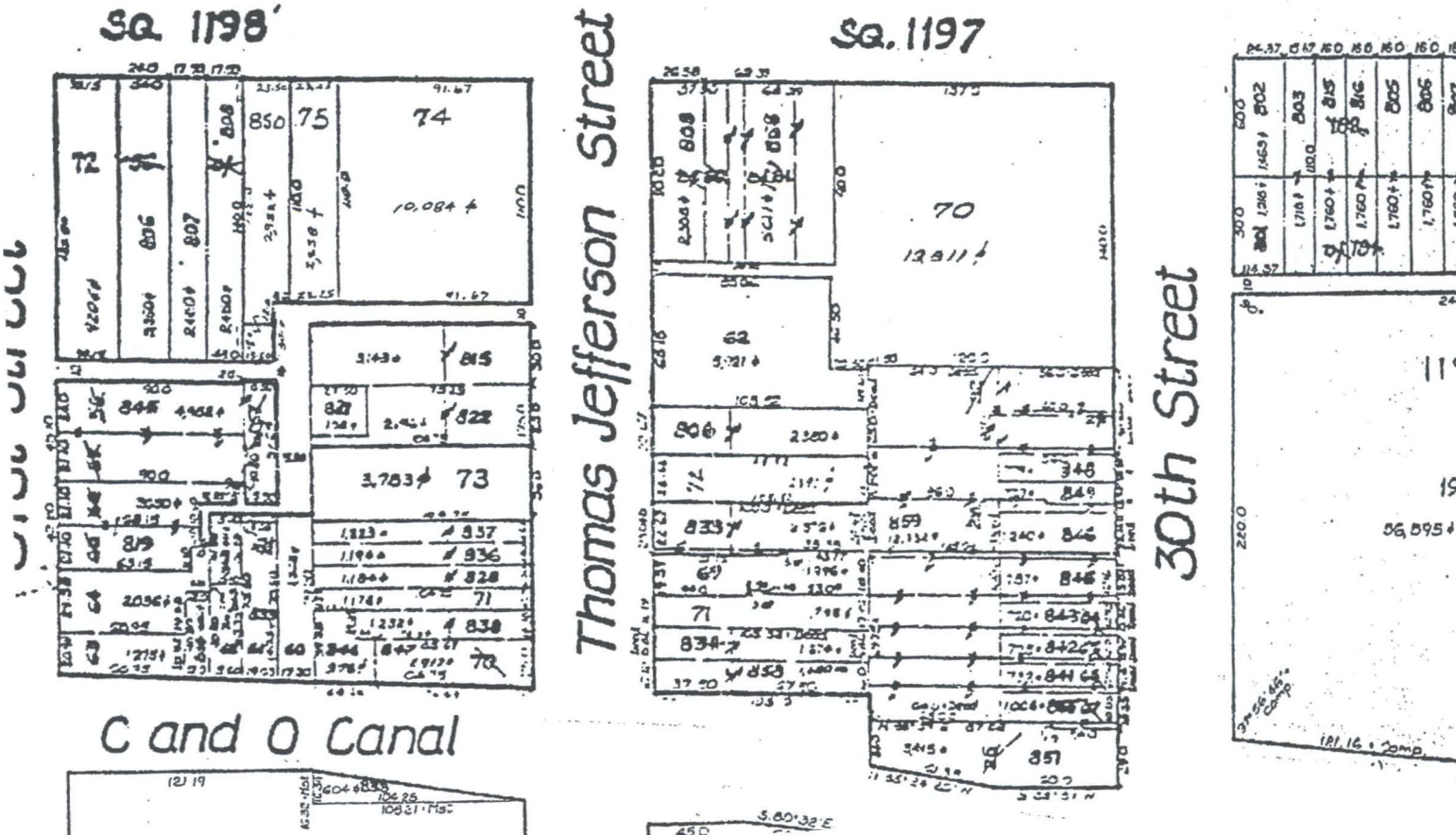
June 19, 2001

WAS1 #985089 v1

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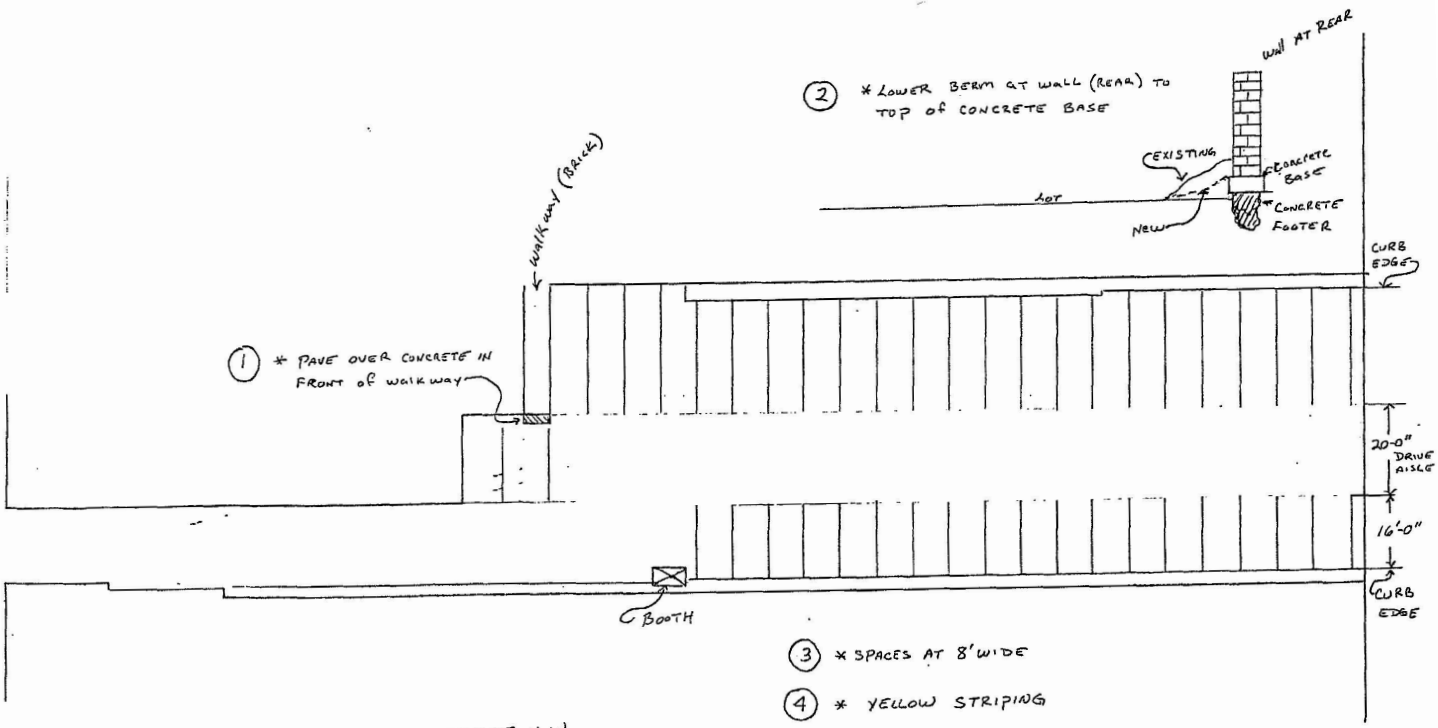

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C and O Canal




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ROCK CREEK
OAK HILL CEMETERY
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R-5-B
MONTROSE PARK
EAST PL.
ST.
C-1
ROCK CREEK
23RD
24TH
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C-2-A
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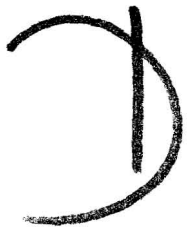
C



3053 M STREET, N.W
(STONEHOUSE LOT)

SCALE = 1:20

9-14-2000





View from M Street, showing entrance to property.



View from entrance to property.



View from front of lot.



View from back of lot, looking toward M Street.



View from back of lot, looking toward M Street.

WAS1 #930653 v1



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15537 of Samuel M. Levy, et al, pursuant to 11 DCMR 3108.1, for a special exception under Sections 214 and 322 to continue to operate a parking lot in a C-2-A/R-3 District at premises 3053 M Street, N.W., (Square 1209, Lot 910).

HEARING DATE: September 11, 1991
DECISION DATE: September 11, 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 2E and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission (ANC) 2E. ANC 2E, which is automatically a party to the application, submitted 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 and 322. 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 advese 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:**

a. Apaproval shall be3 for a period of **TEN YEARS** from the date of expiration of the previous Certificate of Occupancy, namely until April 21, 2001

b. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material frorming an all-weather impervious surface.

c. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

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

e. 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.

f. 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.

g. 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 (Maybelle Taylor Bennett, Paula L. Jewell, Sheri M. Pruitt, Charles R. Norris 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: SEP 24 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.

ord15537/LJP

F

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Advisory Neighborhood Commission 2E

Representing the communities of Burleith, Foxhall-MacArthur, Georgetown and Hillandale

3265 S Street, NW • Washington, DC 20007

(202) 338-7427 • FAX (202) 338-0279 • anc2e@erols.com

June 15, 2001

Board of Zoning Adjustment
Suite 210
441 Fourth Street, NW
Washington, DC 20001

RE: 3053 M Street, Parking Lot
Application # 16724

Dear Members of the Board:

The above – referenced item was listed on the Consent Calendar of the agenda for the June 5, 2001 regular scheduled meeting of ANC 2E. The Consent Calendar means that the listed projects have been reviewed by ANC 2E and anticipates referring them to the appropriate agency without discussion if no one contacts the office prior to the meeting.

At the June 5, 2001 meeting, the Consent Calendar was unanimously passed by the seven out of eight commissioners who attended the meeting.

If there are any questions on the above action, contact the office at 338-7427.

Sincerely,

Peter Pulsifer

Peter Pulsifer
Chair, ANC 2E

COMMISSIONERS:

Scott Polk, District 1 Len Levine, District 2 Peter Pulsifer, District 3 Justin Kopa, District 4
Justin Wagner, District 5 Bill Starrels, District 6 Tom Birch, District 7 Mark Ryan, District 8

OUTLINE OF TESTIMONY
OF REPRESENTATIVE OF COLONIAL PARKING

I. Introduction

   A. Position with Colonial Parking

   B. Scope of Responsibilities Related to M Street, N.W. Site

II. Need for Parking Lot

   A. Neighborhood Businesses

   B. Overspill Parking from Residential Streets

III. Operations and Maintenance of Lot

IV. Community Support

V. Special Exception Standards for Renewal

   A. Review of Standards

   B. Ten-Year Renewal

VI. Conclusions

OUTLINE OF TESTIMONY
OF REPRESENTATIVE OF OWNER

I. Introduction

II. History of Parking Lot Use at Site

  A. First BZA Approval in 1948

  B. Lease to Colonial Parking

III. Need for Parking Lot

IV. Conclusions

WAS1 #985915 v1