GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

D.C. OFFICE OF PLANNING
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Memorandum

TO: Board of Zoning Adjustments

FROM: Andrew Altman, Director
Office of Planning

DATE: September 5, 2001

SUBJECT: Waiver of Rules for Late Submittal of the Office of Planning Report on BZA #16745

The attached report concerning BZA Application #16745 is being submitted less than 7 days prior to the Board of Zoning Adjustment consideration of the item scheduled for public hearing. The Office of Planning respectfully requests that the Board of Zoning Adjustment waive its rule and accept the report into the record.

Attachment

AA/mbr

BZA
Case No. 16745
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO.16745
EXHIBIT NO.23

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: September 5, 2001

SUBJECT: BZA Application #16745 (International Deliverance Church of God)
1541 5th Street, N.W.

APPLICATION

The application by the International Deliverance Church of God requests, pursuant to 11 DCMR 3104.1, special exception to allow accessory parking spaces located other than on the same lot as the main use under Section 214, or in the alternative pursuant to §3103.2, an area variance from the parking requirements for a church under §2101.

PROPOSAL

The applicant proposes to convert the existing building into a church and provide the required parking spaces at another location.

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends that the special exception to provide accessory parking spaces at a location other than on the same lot as the church be **APPROVED**, as the applicant is providing adequate parking to satisfy the needs of the church. OP recommends that the variance from the church parking requirements requested in the alternative be **DENIED**.

SITE AND AREA DESCRIPTION

The subject property is located at 1541 5th Street, N.W. (Square 510, Lot 36) at the southeast corner of 5th and Q Streets (See Figure 1). The site is developed with a vacant, one-story, brick building within the Shaw neighborhood, a community of two-and three-story row houses a few of which have been converted into apartment units. Many of the houses within the neighborhood have either been recently renovated or are in the process of renovation. The community is

served by a number of churches and schools such as the Third Baptist Church and Miles Educational Center located directly west of the subject property, the Hemingway Temple A.M.E. church to the south, at 501 P Street, and the Springfield Baptist Church and Child Development Center to the south west at the intersection of P and S Streets. Schools in the neighborhood include the Montgomery Elementary School and Dunbar High School located south and southeast of the site.

ZONING REQUIREMENTS

The subject site is zoned R-4 and a church is a permitted use in this zone. Accessory parking lots incidental to permitted uses are also permitted if they meet the requirements of §214. The R-4 zone permits matter-of-right development of single-family residential uses, churches and public schools with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60%, and a minimum height of 3 stories/40 feet. The existing building is non-conforming to the requirements shown on Table 1.

Table 1

	Required	Existing	Proposed
Lot Area	**1,800 sq. ft. *minimum***	**2,050 sq. ft**	**2,050 sq. ft.**
Lot Occupancy	**1,230 sq. ft. or 60%**	**1,950 sq. ft. or 95%**	**1,950 sq. ft. or 95% (no change)**
Rear Yard	**20 feet**	**4.85 feet**	**4.85 (no change)**
Parking	**5**	**0**	**0 on site**

ANALYSIS

The 2,050 square foot property is developed with a 1,950 square foot, one-story brick building. The building is non-conforming as its lot occupancy and rear yard exceeds the requirements for buildings in the R-4 District as shown on Table 1. The application results from a proposal to renovate the existing building and convert it to accommodate a church with 50 seats. The renovation and conversion will be concentrated on the internal portion of the building and will not entail any increase in the building size (See Attachment 1[1]). As per §2101 of the Zoning Regulations, the applicant is required to provide 5 parking spaces for its congregation. Due to the fact that the property has a lot occupancy of 95% the applicant is unable to provide the required parking on-site. The Zoning Administrator therefore instructed the applicant to seek a variance from the required spaces. The applicant observed that on street parking in this

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[1] The 17-foot wide areas abutting Q Street that are shown as parking spaces are actually public space and cannot be uses for private parking. The Plan should be revised to reflect this.

neighborhood is not adequate or readily available, and has since contracted to provide parking for its congregation at another location.

There are three large churches in the vicinity of the subject property, two of which have educational centers and other activities throughout the week. These churches do not have parking on their property or accessory parking lots and are therefore in competition with the residents for parking spaces on the street. By contrast, the proposal is for a small church and is proposing to provide off site parking for its congregation.

The applicant has rented 15 parking spaces at the Scott Montgomery Elementary School located south of the subject property (Attachment 2 – Agreement) to be used on Sundays, 10:00 am - 11:00 pm. and on Fridays, 1:30 pm – 10:30 pm. As a result of the availability of the parking spaces at the aforementioned times only, the church will conduct activities only at those times. The existing agreement with the school expires in approximately two months, November 2001, and in conversations with the school it was conveyed that they are willing to continue to make the parking spaces available to the church at the previously agreed on times.

The parking spaces are located approximately 100-feet south of the site and are accessed from 5th Street. Persons attending the church can proceed directly from the parking lot to the church via a walkway without crossing the street. The parking lot has a total of 31 marked spaces, is lighted, fenced, and secured with a gate. Since the applicant has contracted to use only 15 spaces, they proposes to place "reserved" sign on the spaces when the church is in session.

Section 214

The standard by which the BZA should approve a special exception to provide accessory parking spaces is subject to the provisions of §214. The following demonstrates how these standards are met:

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

The proposed parking spaces are located at the Scott Montgomery Elementary School that has an open air, surface parking lot.

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

The parking lot is located approximately 100 feet from the subject site.

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

An alley along the rear of the building extends to the school property. However, the school property and parking lot are fenced and cannot be accessed from the alley.

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

The parking lot complies with the requirements outlined in §2303 as it is paved, fenced, striped, and adequately lighted, and access to and from the parking lot will not cause any adverse traffic impacts. The school property and the parking lot are separated from adjacent residences by chain-linked fence. Since the parking lot is primarily for school use it is not required to provide a solid masonry wall and extensive landscaping as required for commercial parking lots. Given the limited use of the parking lot by the church the requirements of §2303.2 should be waived.

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

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

It is both economically and physically impossible to locate the required parking spaces on the subject property because the building occupies approximately 95% of the lot.

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

The parking lot is owned and maintained by the Scott Montgomery School, is completely fenced and secure, and is currently not objectionable to the community. The uses of the parking lot by the church will be limited to Sundays and Friday evenings and will not introduce noise into the community. The church will not affect the traffic in the area as the church is small and the

number of parking spaces they have rented from the school will adequately satisfy their needs and exceed the Code requirements.

> *214.8* ***Before taking final action on an application for use as an accessory parking space, the Board shall submit the application to the D.C. Department of Public Works for review and report.***

It is the opinion of the Traffic Division that accessory parking spaces will help to mitigate the parking that would be introduced by the proposed church.

Section 3104.1

The standard by which the BZA should approve a special exception is set forth in Section 3104.1 of the Zoning Regulations. The following demonstrates how the proposed accessory parking lot has met these standards:

> ***. . . special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.***

The proposed accessory parking lot is a permitted use in the R-4 District subject to the requirements of §214. As demonstrated above, the parking lot meets these requirements and will not adversely affect traffic or parking in this neighborhood. The church is a use that is closely related to residential use and having the ability to provide parking for its congregation will lessen its impact of having to compete with the residents for on-street parking spaces.

Section 3101.2

As an alternative to the special exception the applicant requested a variance from the required parking spaces. The standard by which the BZA should approve a variance is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

The subject property currently has a building that occupies approximately 95% of the site. This presents an exceptional situation to the applicant, as the requirement could only be met by demolishing the building.

> **By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.**

The requirement to provide 5 parking spaces on the subject property is physically impossible without demolishing the whole or part of the existing building. This presents an exceptional practical difficulty to the applicant and parking will have to be located off-site.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The variance requested could cause "substantial detriment to the public good". Given the number of churches and other institutional uses in the area that do not have off-street parking facilities and the fact that the area is predominantly residential granting of the variance could have a negative impact on the residents and the community. Therefore, OP recommends denial of the alternative, a variance from the provision of the required parking spaces.

COMMUNITY COMMENTS

The subject property is within ANC-2C. At the time of this report, the ANC had not reviewed this application.

SUMMARY AND RECOMMENDATION

The proposed special exception meets the provisions of Section 3103.2 of the Zoning Ordinance for granting a variance. The "exceptional situation" of the site is demonstrated through the fact that the lot occupancy is currently above that recommended for the R-4 district and further it presents a practical difficulty if the applicant were to meet this requirement. Approval of this variance request will not cause any "substantial detriment to the public good" and "will not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations or Map", as it will fulfill the intent of stabilizing the residential community. The Office of Planning therefore recommends that the Board of Zoning Adjustment **APPROVE** the requested special exception with the following conditions:

1. The Floor Plan of Existing Building should be revised to change the area labeled as parking space to public space.
2. The hours for church services and other activities be limited to the hours for which parking has been contracted.

The Office of Planning recommends that the Board **DENY** the variance from the parking requirements that was requested in the alternative.

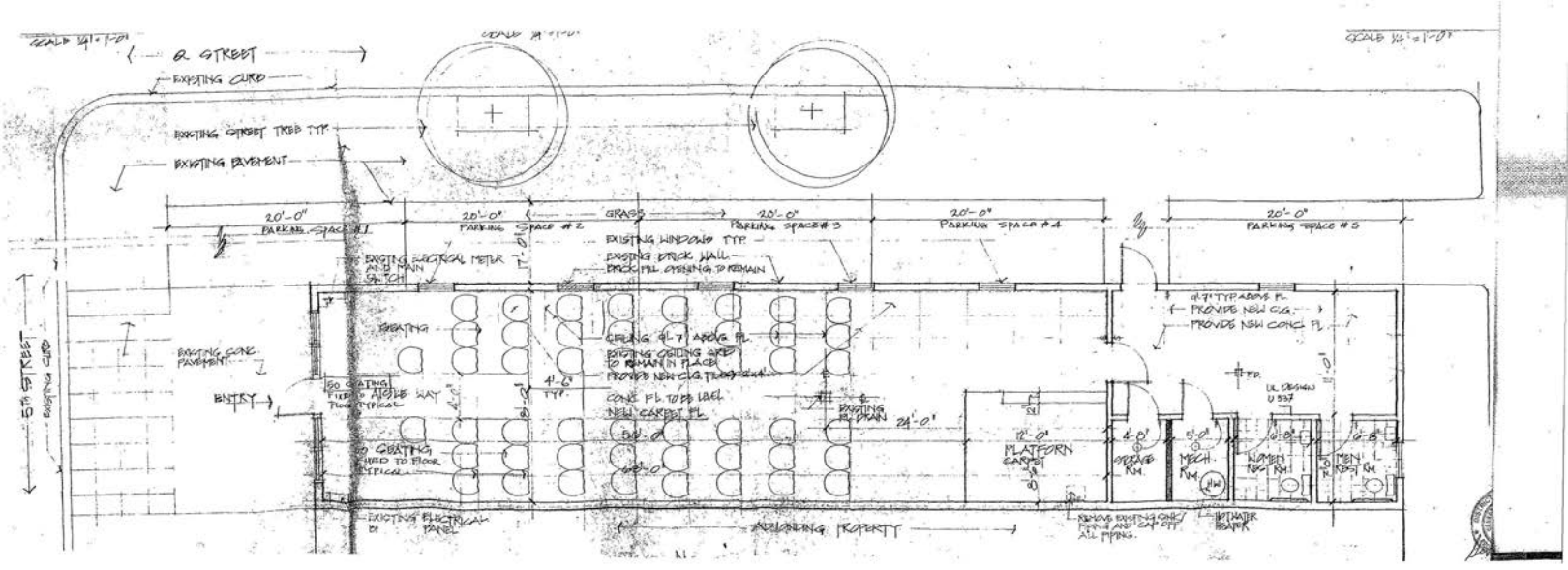
ATT: Attachment 1 – Floor Plan of Existing Building
Attachment 2 – District of Columbia Use Agreement
Attachment 3 – Parking Lot Plan

AA/mbr


Q St NW
Site
Q St NW
Q St NW
5th St NW
5th St NW
Assessory Parking
Franklin St NW
New Jersey Ave NW
4th St NW
P St NW
P St NW
P St NW

Figure 1

ATTACHMENT 1



DISTRICT OF COLUMBIA
PUBLIC SCHOOLS

Real Estate Office
825 North Capitol Street, N.E., Suite 7122
Washington, D.C. 20002-4232
202-442-5199, fax: 202-442-5180
www.k12.dc.us

November 9, 2000

Pastor H. Sutton
International Deliverance Church of God
2106 Coleridge Drive
Silver Spring, Maryland 20910

Dear Pastor Sutton:

Attached for your records is a copy of the conditionally approved use agreement submitted by the International Deliverance Church of God, requesting permission to use parking space facilities at Scott Montgomery Elementary School. This use is requested to provide parking for the Church on Fridays from 7:30 p.m. until 10:30 p.m. and on Sundays from 10:00 a.m. until 11:00 p.m., commencing December 1, 2000 and concluding November 30, 2001. Please note, D.C. Public Schools' activities take preference over this use. Notwithstanding anything to the contrary contained herein, D.C. Public Schools shall have the unilateral right, in its sole discretion, to terminate this Agreement upon thirty (30) days prior written notice. The fees have been calculated as defined on Attachment I. Payment of fees is a prerequisite for use.

The total user fee is $9,450.00. You may make monthly payments in the amount of $787.00. Please submit a certified check or money order made payable to **D.C. Public Schools**, and forward to the D.C. Public Schools Real Estate Office, 825 North Capitol Street, N.E., Suite 7122, Washington, D.C. 20002. Additionally, please return an executed copy of the attached Assumption of Risk and Indemnification Form, the Conditions of Use and an insurance certificate no later than November 29, 2000. The User's fee and proof of insurance is a prerequisite for use.

If this use is cancelled or postponed, please notify the Real Estate Office on (202) 442-5199.

Sincerely,

Veronica L. Falwell, Deputy Director

VLF:yc

Attachments

cc: Ms. Ann Thomas, Principal
Security
Facilities

ATTACHMENT 2

Conditions Governing Use of Montgomery Elementary School's
Parking Facilities by the International Deliverance Church of God
December 1, 2000 to November 30, 2001

The following terms govern this use:

1. Rules of the Board of Education, Section 3500, et. Seq., which are incorporated by reference.
2. This agreement grants use of the parking facilities at Montgomery Elementary School on Fridays from 7:30 p.m. to 10:30 p.m. and on Sundays from 10:00 a.m. to 11:00 p.m. beginning December 1, 2000 to November 30, 2001.
3. The User shall be responsible for repairing any damage to the Montgomery Elementary School site or building due to this use. The parking is made available "as is".
4. Proof of public liability insurance in the amount stated in the Board Rules, with the D.C. Board of Education, and the D.C. Government as an additional insurer shall be on file in the D.C. Public Schools, Real Estate Office, 825 North Capitol Street, N.E., Washington, D.C. 20002, prior to use.
5. If the User defaults on any term herein, the agreement is subject to termination.
6. If the User desires to terminate the agreement prior to the end of the term agreement, a notice of five (5) days must be submitted to the D.C. Public Schools' Real Estate Office.
7. All notices related to this agreement shall be sent to:

For User: Pastor H. Sutton
International Deliverance Church of God
2106 Coleridge Drive
Silver Spring, Maryland 20910

For DCPS: Veronica L. Falwell, Deputy Director
District of Columbia Public Schools, Real Estate Office
825 North Capitol Street, N.E., Suite 7122
Washington, D.C. 20002

Signature _____
Pastor H. Sutton

Date _____

Attachment I

APPLICATION TO USE FACILITIES
COST REIMBURSMENT
International Deliverance Church of God

Assessed Rate: $3.00 x 30 (parking spaces) = $90.00 (per day)

$90.00 x 105 days = $9,450.00

$9,450.00/12 (months) = $787.50

ASSUMPTION OF RISK
AND INDEMNIFICATION FORM

The **International Deliverance Church of God** hereby agrees that all property and activities of any kind or nature whatsoever that may be in, upon, or about the designated space of the **International Deliverance Church of God** at **Montgomery Elementary School**, at any time during the term of this use agreement, or any renewal or extension hereof, shall be in, upon or about said premises at the sole risk and hazard of the **International Deliverance Church of God** or those claiming by, through the **International Deliverance Church of God.** Moreover, the **International Deliverance Church of God** hereby agrees to indemnify and save harmless the District of Columbia Government, the D.C. Public Schools, and their agents and employees, from all penalties, claims and demands resulting from the **International Deliverance Church of God** use and occupancy of the designated premises, and in the conduct of its operation on said premises.

It is expressly understood that the District of Columbia Government, D.C. Public Schools, and their agents and employees shall not be liable to the **International Deliverance Church of God** or to any person, for any accident, injury, loss, or damage to any person, or property while in, upon, or about, or entering or leaving said premises at any time during the term of the use agreement or any renewal or extension hereof, resulting from any cause whatsoever, and all claims therefore are hereby released to the District of Columbia Government and D.C. Public Schools, who may plead this release in bar thereof, in any and every suit, demand and claim for same.

By: **International Deliverance Church of God**

_____

Signature Date

Rec'd 10/4/00

#155

DISTRICT OF COLUMBIA
PUBLIC SCHOOLS
REAL ESTATE OFFICE

2000 OCT -4 PM 1:02

APPLICATION TO USE FACILITIES

This form must be received in the Real Estate Office at least twenty (20) working days prior to the proposed use. For more information call the Real Estate Office on (202) 442-5199. The Principal's approval is needed prior to submitting this application to the Realty Office.

DATE OF APPLICATION: 8/16/2000 **FACILITY REQUESTED:** Parking Space

NAME OF USER/ORGANIZATION: International Deliverance Church of God Scott Montgomery

AUTHORIZED CONTACT: Pastor H. Sutton and Missionary Morgan

ADDRESS: 2106 Coleridge Drive
Silver Spring, MD 20910

TELEPHONE: 301-933-6009 301-589-453

DESCRIPTION OF PROPOSED USE: (Attach a brochure, flyer, etc. describing your activity.)

Parking for church servicers on Sunday all day and Friday from 7:30-10:30 pm.

Check if applicable to proposed use.: More than 100 persons expected to attend. ____ **Handling of money** ____

Specific Area Requested: Auditorium ____ Gymnasium ____ Stadium ____ Armory ____

Cafeteria ____ Kitchen ____ No. of Classrooms ____ Other Parking Space.

Period of Requested Use:	**Hours** From . . To	**Days** Mon-Sun	**Dates** Month/Day/Year
	7:30 P.M To 10:30 PM	Friday &	1 year 2000 - 2001
	10 AM to 11 P.M	Sunday	

Type of User:

Public School Related:
__PTA or HSA
__DCPS Program or Activity
__Other

Non-Public School Related:
X Religious Organization
__Non-Profit Group
__Other

How is the program funded? DCPS ____ Grant ____ Other Parking Space Usage
Is the Staff paid? ____ or volunteer? ____ **Is there a charge to the participants?** Yes ____ No ____

I hereby agree to be bound by the terms of the Application to Use Facilities and to abide by the pertinent rules of the Board of Education, Section 3500 thru 3508 and Superintendent Directives. Furthermore, I agree to make final arrangements and publicize this activity ONLY after written approval has been received.

User Signature: Pastor Hughlan Sutton **Date:** 8-16-2000

NOTE: All Users must immediately vacate the premises, as a result of a court order, construction, or inclement weather. This agreement may be cancelled with a thirty (30) day notice for the convenience of the School System.

USER NAME: International Deliverance Church of God APPLICATION TO USE FACILITIES page 2 of 2

INSURANCE INFORMATION:
The following information must be accurate. (False information will be cause for immediate termination of the agreement.)

Name of Insurance Company: _____
Policy Number: _____ Coverage: _____
Name and Telephone no. of Insurance Agent: _____
All users must sign an indemnification form, after approval of the use application by the Real Estate Office as necessary. This for plus a copy of the users insurance certificate to the Real Estate Office at least forty-eight (48) hours prior to entering the building.

For DCPS Real Estate Office Use Only **Calculated by:**

REQUESTED USE	Fee	No. Rooms	Daily/Monthly	Days/Months	Total Cost
Auditorium					
Gymnasium					
Classroom(s)					
Other					

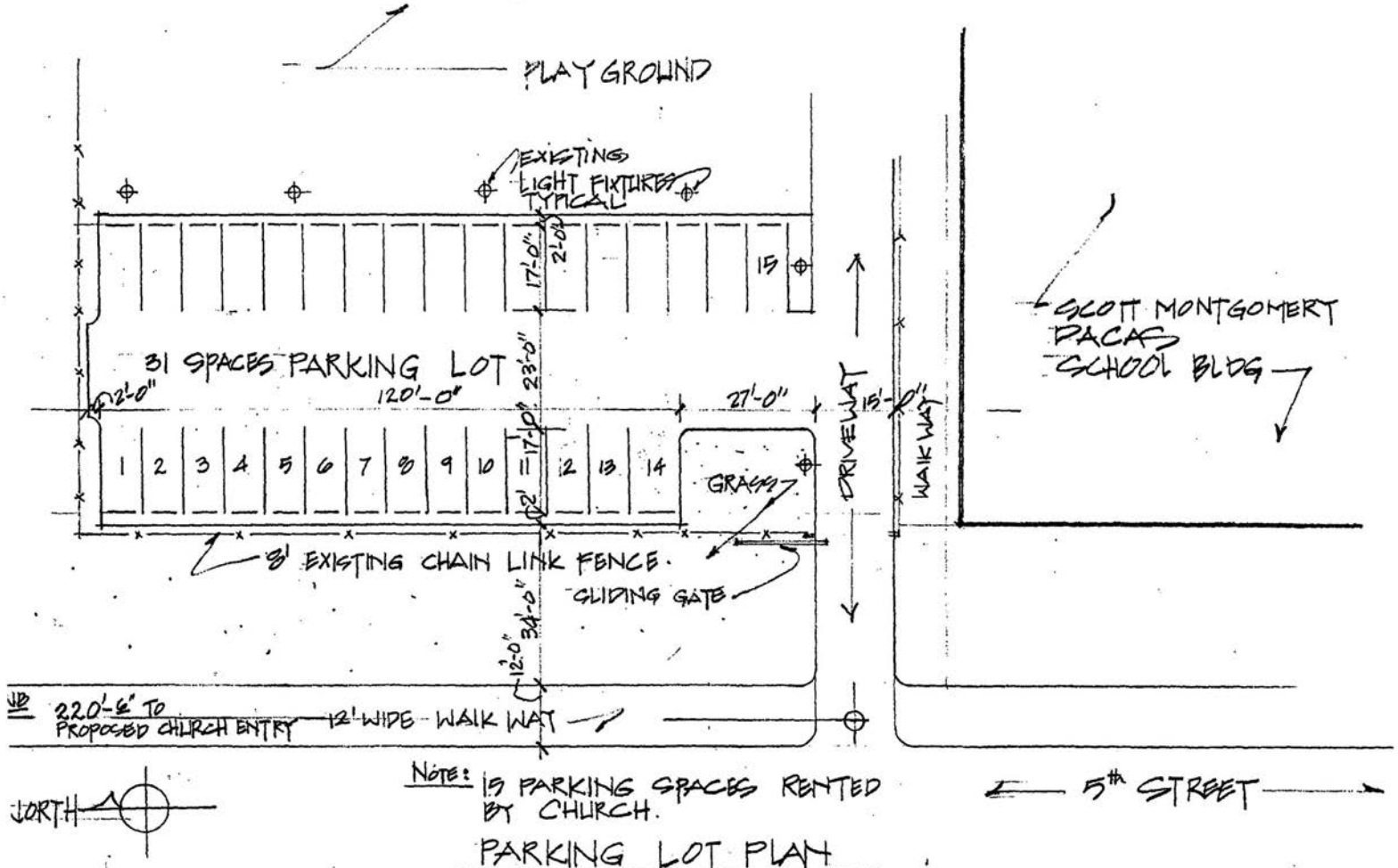
PERSONNEL	Name/Grade	Hourly Rate	Hours	Daily Cost	No. Days	Total Cost
Custodian-1						
Custodian-2						
Custodian-3						
Engineer						
Repairman						
Security						
Food Service						

CONTINUOUS USERS

Pro-Rated Rental Fee	Cost/Sq. Ft. Per Day	No. Sq. Ft.	No. Days	Total Cost
Schedule A Schedule B	$.024 .007			

DCPS SIGNATURES	RECOMMEND	APPROVE	DISAPPROVE	DATE
PRINCIPAL/FACILITY ADMINISTRATOR Ann N. Thomas				
REALTY OFFICER Veronica L Jewell		✓		11-15-00
SUPERINTENDENT/DEPUTY/ASSISTANT				

FORM NO. 5JRO390 REV 2/98



NOTE: 15 PARKING SPACES RENTED BY CHURCH.

PARKING LOT PLAN

SCALE 1:20

ZA 6745 11

ATTACHMENT 3