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: November 7, 2001

SUBJECT: Waiver of Rules for Late Submittal of a Report Concerning BZA Application 16785, Requesting a Variance from the Parking Requirements for Conversion of Office Space to a Public Hall on Property Located at 39 New York Avenue, N.E.

The attached report concerning an application by the African Community Center requesting approval of a variance from Section 2101, pursuant to Section 3103.2 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, is submitted less than 7 days prior to the Board of Zoning Adjustment's Public Hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

BZA
Case No. 16785
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16785
EXHIBIT NO.25

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: November 7, 2001

SUBJECT: BZA Application 16785

APPLICATION

In this application, Francis J. Bundu, President of the African Community Center, Inc., is requesting approval of a 100% variance from a parking requirement under Section 2101, pursuant to Section 3104.1 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, to allow the establishment of a "public hall" use in an existing second floor meeting room on property located at 39 New York Avenue, N.E.

SUMMARY RECOMMENDATION

The Office of Planning recommends denial. In the alternative, OP would support deferring a final decision to allow the applicant to: (1) work with the ANC to explain this proposal and address concerns; (2) continue negotiations with District government to gain access to a secured parking facility immediately east of the New York Avenue Carwash, and provisions to provide access to such a facility that do not require walking the length of the block; and (3) discuss with the Department of Public Works whether handicapped-accessible spaces can be provided near the building entrance.

SITE AND AREA DESCRIPTION

According to the Sanborn Map and District real property database, the 39 New York Avenue, N.E. address applies to lots 17, 18 and 801 on Square 671. Lots 18 and 801 are developed with a building occupied by the New York Avenue Carwash. Immediately west on lot 17 is a three-story masonry building occupied by the PMI garage on the first floor and the offices of the applicant on the second floor. These buildings entirely cover all three lots so there are no on-site parking areas. Vehicles are parked in front of the buildings on the sidewalk in the public right-of-way. Principal (front) building entrances are along New York Avenue, N.E., with (rear) service and delivery access from N Street, N.E.

Square 670 to the north across New York Avenue has been cleared for future office development. Further north across the former O Street. N.E., right-of-way is a seven-story office development with a gated surface parking lot that covers Square 669. Immediately south of the subject property is N Street, N.E., with perpendicular parking along the north side and parallel parking along the south side. Occupying the southern street frontage are office buildings occupied by the Department of Health (DOH), including offices of the DOH Addiction Prevention and Recovery Administration (APRA), and

associated parking lots. APRA also operates a methadone treatment program that appears to contribute to significant loitering in this area.

Development to the east consists of a controlled-access parking lot with a chain link gate along New York Avenue, N.E., and a McDonalds Restaurant at the intersection of 1st Street, N.E. Staff understands that this parking lot is under contract to the Department of Housing and Community Development. To the west is a pair of two-story masonry buildings consisting of first floor bars and second floor office space, a parking lot with a chain-link gate at both ends, and a three-story masonry office building owned by Covenant House of Washington, D.C. at the intersection with N and North Capitol Streets. All these properties are zoned C-3-C (according to Office of Zoning maps).

APPLICANT'S PROPOSAL

The African Community Center would like to convert its large second floor meeting room into a public hall for weekend cultural and social activities. The applicant stated that the meeting room has a floor area of 5,000 square feet with no fixed seating. As described in an undated Additional Argument to Support Variance, the center would "support an atmosphere" that would bring people together to celebrate birthdays, wedding engagements, wedding receptions, and other activities. No alcohol would be served. The hall would be available from 8:00 p.m. on Friday night until midnight on Sunday. The statement also noted that there are over 200 parking spaces in the immediate area.

When the applicant applied for a Certificate of Occupancy. Michael D. Johnson, Zoning Administrator, denied the request in a letter dated June 19, 2001, because the use requires off-street parking spaces. As a result, the applicant submitted the subject request for a variance from the parking requirement. It should be noted that this letter refers to the property being zoned C-M-1.

EXISTING ZONING AND RELIEF REQUESTED

The subject property is either zoned C-3-C or C-M-1. The proposal would allow an existing meeting room with a floor area of 5,000 square feet to become as a "public hall" use on weekends.

The Zoning Regulations do not include a definition of "public hall", however there is a reference under Section 1711.1 (j) to an "Assembly hall, auditorium, public hall, or other performing arts space, ...". Based on this reference, a public hall is deemed a performing arts space under these regulations.

Public halls are permitted in C-3-C and C-M-1 as a matter of right by reference under Sections 751.2 (a) and 801.2 (respectively). Section 1201.1 provides the following parking requirement for a public hall use in all zoning districts except C-4 and C-5 (PAD):

> "1 for each 10 seats of occupancy capacity for the first 10,000 seats, plus 1 for each 20 seats above the first 10,000; Provided, that where such seats are not fixed, each seven square feet (7 ft.^{2}) usable for seating shall be considered 1 seat."

Based this standard, the proposed public hall would require approximately 72 on-site parking spaces. When asked where event participants would park, the applicant said that on-street parking is available on Friday evenings and throughout the weekends along P Street, N.E. to the north, to the rear of the

building along N Street, N.E. and along First Street, N.E. to the west.

ANALYSIS
Since there is no space for parking on-site, the applicant requests a 100% variance from the parking requirement.

Section 3103.2 grants the Board of Zoning Adjustment (BZA) the power to grant variances from regulations set forth under the Zoning Act "[w]here by reason of exceptional narrowness, shallowness or shape of a piece of property at the time of the original adoption of the regulations, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. §§5-413 to 5-432 (1981) would result in peculiar and extraordinary practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided the relief can be granted without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map."

The type of zoning relief needed is an "area" variance, requiring that the circumstances surrounding this request are "unique" and that the usual application of the referenced regulations would result in "peculiar and extraordinary practical difficulties."

Compliance with Section 3103.2:
This site and the Covenant House of Washington, D.C. property are the two properties out of six on the square with no on-site parking. Therefore this property is somewhat unique. The subject property is fully developed so it is not possible to locate parking spaces on-site. Therefore, meeting the referenced parking requirement does present a "peculiar and extraordinary practical difficulty".

However, staff is concerned about the applicant's parking alternative for the following reasons:

- **Lack of handicapped parking and drop-off areas:** No parking spaces near the entrance are designated for handicapped-accessible vehicles parking or for dropping-off persons who need assistance.
- **Distance from available parking spaces:** The only access to the second floor is from the New York Avenue, N.E. frontage. The distance from this entrance to the eastern and western ends of the square are approximately 370 feet and 342 feet, respectively. This is quite a distance to walk *in addition* to the distance from a car parked along First Street, N.E., behind the building along N Street, N.E. or another block away on P Street, N.E.
- **Potential to Encourage Illegal Parking:** This walking distance may encourage illegally parking or stopping along New York Avenue, N.E., creating a dangerous situation.
- **No apparent pass-through access to N Street, N.E. parking:** There appears to be adequate parking available along N Street, N.E., to meet the use requirements. The two parking lots to the east and west of the property could allow pedestrians to pass through the square from New York Avenue, N.E. However, these are gated parking facilities without pedestrian pathways. Visual evidence indicates that the gates are not generally open on weekends, so this pass-though option would not be available for event participants.

- **Other activities along N Street, N.E.:** The methadone treatment program continues through the weekend.

The applicant has initiated preliminary discussions about the possible use of the controlled-access parking facility east of the carwash for weekend activities. In light of these issues, staff also requested that they:

1. Initiate discussions with the Department of Consumer and Regulatory Affairs (DCRA) to determine what improvements would be required to the existing building (handicapped accessibility, life and safety, etc.) for this proposed change in use. If improvements are required and the cost exceeds expectations, then this variance may no longer be needed.
2. Initiate discussions with the Department of Public Works to determine whether the applicant would be allowed to (or DPW would) provide handicapped-accessible parking spaces near the building entrance in the public way.

The applicant declined to pursue these inquiries after being advised that this information is not required for approval of a parking variance.

Based on this information, staff confirmed that strict application of the referenced regulations, as adopted, would result in "peculiar and extraordinary practical difficulties" with regard to providing on-site parking. However, staff is concerned that granting a variance with the suggested alternative would substantially impair "the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map." Therefore, this request is not in compliance with Section 3103.2.

COMPREHENSIVE PLAN
The Generalized Land Use Map designates the general area as "Medium-High Density" commercial, characterized by "shopping and service areas that generally offers the largest concentration and variety of goods and services outside the Central Employment Area".

Section 101, Major Themes of the Comprehensive Plan, include:

"(f) Preserving and ensuring community input;
...
(i) Promoting public safety; ..."

COMMUNITY COMMENTS
This proposal was presented to the Advisory Neighborhood Commission (ANC) 6A. On November 1, 2001, the ANC supported the recommendation of its Land Use & Zoning Subcommittee and voted to recommend denial of this request. The Single Member District 6A02 representative complained that the applicant did not respond to numerous calls for information about how the parking issue would be addressed.

AGENCY COMMENTS

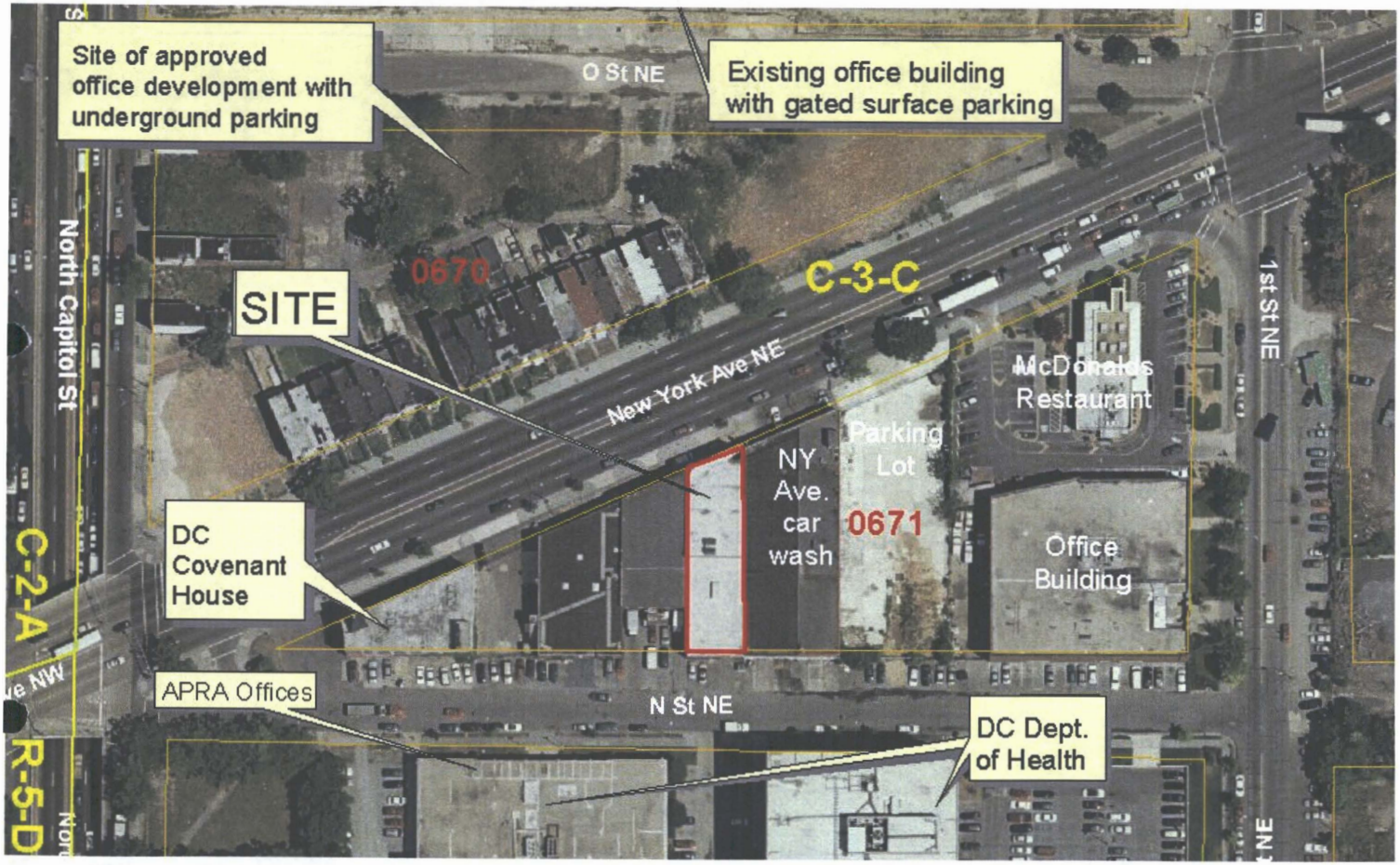
This request was referred to the District of Columbia Metropolitan Police Department, Fire Department, DPW, and DCRA for comment. To date no comments have been received.

RECOMMENDATION

Based on this information, the Office of Planning recommends denial of this application. In the alternative, OP would support deferring final action to allow the applicant to: (1) work with the ANC to explain this proposal and address concerns; (2) continue negotiations with District government to gain access to a secured parking facility immediately east of the New York Avenue Carwash, and provisions to provide access to such a facility that do not require walking the length of the block; and (3) discuss with DPW whether handicapped-accessible spaces can be provided near the building entrance.

Attachment: Exhibit 1 Property Aerial Showing Zoning

AA/afj



Property Maps and data maintained by:
Government of the District of Columbia
Office of Tax and Revenue
941 North Capitol Street, NE
Washington, D.C. 20002

BZA Application No. 16785
93 New York Avenue, N.E.

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Prepared on: October 31, 2001

Exhibit 1