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May 15, 2002

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2002 MAY 15 AM 12:51

BY HAND DELIVERY

D.C. Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

Re: BZA Application No. 16873 –
1522-1526 Church Street, NW
Application of the National Association for the Education of Young Children (the "applicant")
Pre-Hearing Statement of the Applicant

Dear Members of the Board:

Enclosed please find an original and 12 copies of the applicant's pre-hearing statement for the above-mentioned application. The applicant looks forward to presenting its case to the Board of Zoning Adjustment on May 29, 2002.

Due to the unanimous resolution in support of the application from ANC 2B and the lack of any opposition to this case, the applicant intends to request the Board to approve this application by Summary Order.

Respectfully Submitted,

Paul A. Tummonds, Jr.

Enclosures

cc: ANC 2B
Steve Mordfin, OP
Abdoulaye Bah, DPW
Dr. Mark Ginsberg

BZA
Case No. 16873
Exhibit No. 21

Document #: 1242717 v.1

Board of Zoning Adjustment
District of Columbia
CASE NO.16873
EXHIBIT NO.21

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of the National Association,
For the Education of Young Children

BZA Application No. 16873
Public Hearing: May 29, 2002
ANC 2B

STATEMENT OF APPLICANT

I.
Nature of Relief Sought

This is an application of the National Association for the Education of Young Children, ("NAEYC" or "Applicant") pursuant to Section 3104.1 of the Zoning Regulations, for a special exception under Section 213, to continue the use of an existing parking lot in the DCOD/R-5-B District. The property involved in this application is located at premises 1522-1526 Church Street, N.W. (Lots 50-52 in Square 194, the "Subject Site").

II.
Board of Zoning Adjustment Jurisdiction

This Board has jurisdiction to grant the requested special exception relief pursuant to Section 3104.1 of the Zoning Regulations.

III.
Background

A. Description of the Subject Site and Surrounding Area

The Subject Site is located on the south side of Church Street between 15th and 16th Streets, N.W. The Subject Site consists of three adjacent lots totaling approximately 6,270 square feet of lot area. The existing parking lot is 66 feet wide and 95 feet deep. The parking lot presently includes 19 parking spaces and has an

all-weather impervious surface. A previous curb cut into the parking lot from Church Street has been removed and the parking lot is accessed solely from the alley in Square 194.

Adjacent to the east of the Subject Site is the parking lot for the St. Luke's Episcopal Church, as well as the Church itself which fronts on 15th Street, N.W. (See Exhibit A). The area surrounding the Subject Site is generally characterized by a mix of uses, including established residential uses along Church Street, office and institutional uses along 16th Street and residential and retail uses along 15th and P Streets (the new Fresh Fields located on P Street is approximately 1.5 blocks from the Subject Site).

B. Applicant's History of Use of the Subject Site

NAEYC has offices at 1509 16th Street, N.W., easily accessed from the Subject Site via the alley in Square 194 (See Exhibit A). NAEYC uses the parking lot on the Subject Site for its employees and visitors to the 1509 16th Street office during business hours. After business hours and on weekends, NAEYC allows neighborhood residents and parishioners of St. Luke's Church to use the parking lot. This provides a significant benefit to the community as it pulls cars off of the neighborhood streets in an area of the City that faces severe parking problems.

The Applicant first obtained BZA approval to use the Subject Site for parking lot use in 1992. The BZA approved NAEYC's application, and addressed the satisfaction of all of the relevant provisions of the Zoning Regulations, in BZA Application No. 15735, attached as Exhibit G. More recently, in BZA Application No. 16548 (also attached as Exhibit G), the BZA issued a Summary Order granting

NAEYC permission to continue to use the parking lot. BZA Application No. 16548 included 10 conditions of approval. The Applicant has fully complied with all of the conditions included in that Order.

IV.
Exhibits in Support of the Application

Before proceeding with the discussion of the merits of this application, the following additional exhibits are submitted:

Exhibit A: Copy of a portion of the Sanborn Map showing the Subject Site and the NAEYC office at 1509 16th Street, N.W. outlined in red.

Exhibit B: Copy of the Zoning Map showing the Subject Site in red.

Exhibit C: Surveyor's Plat of the Subject Site.

Exhibit D: Certificate of Occupancy 188973 dated October 19, 2000 authorizing the National Association for the Education of Young Children to operate a parking lot on the Subject Site for 22 vehicles during the business hours Monday through Friday, 7:00 AM – 6:00 PM.

Exhibit E: Photographs of the Subject Site.

Exhibit F: Outline of the Testimony of Dr. Mark Ginsberg, Executive Director of NAEYC.

Exhibit G: BZA Order Nos. 16548 and 15735 authorizing NAEYC to operate a parking lot on the Subject Site.

V.
Compliance with the Requirements of Section 213 of the Zoning Regulations

A. Special Exception to Permit Parking Lot Use in the DCOD/ R-5-B District.

Uses that are allowed by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain

requirements are met. In reviewing applications for a special exception under the Zoning Regulations, the BZA's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites of the Regulations are satisfied, the Board ordinarily must grant the application. See Bakers' Local Union No. 118 v. District of Columbia Board of Zoning Adjustment, 437 A. 2d 176, 178 (D.C. 1981); Washington Ethical Society v. D.C. Board of Zoning Adjustment, 412 A. 2d 14 (D.C. 1989); and Stewart v. D.C. Board of Zoning Adjustment, 305 A. 2d 516, 518 (D.C. 1973). The continued use of the Subject Site as a parking lot meets these standards, as set forth below:

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. As evidenced by the Board's Finding of Fact #2 in BZA Application No. 15735 (Exhibit G, page 4), the parking lot on the Subject Site satisfies this requirement.

2. Section 213.3 - A parking lot shall be contiguous or separated only by an alley from a Commercial or Industrial district. As evidenced by the Board's Finding of Fact #3 in BZA Application No. 15735 (Exhibit G, page 4), the parking lot on the Subject Site satisfies this requirement.

3. Section 213.4- All provisions of Chapter 23 of this title shall be complied with. All of the provisions of Chapter 23 are satisfied, see Section V. B. 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 use of the parking lot by NAEYC will not create any objectionable traffic conditions. In fact, the removal of the curb cut and entrance into the parking lot from Church Street has helped to decrease any potential conflict between cars traveling along Church Street and cars entering and exiting the parking lot. The present character and future development of the neighborhood will not be negatively impacted by the continued use of a parking lot on the Subject Site.

5. Section 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 Applicant will continue to allow members of the adjacent residential community and parishioners of St. Luke's Episcopal Church to use the parking lot at night and on weekends. Based on comments received from members of the community, this is an important amenity to the neighborhood and helps lessen some of the parking constraints that exist in this area.

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. All of the parking spaces are used for employees and visitors to the NAEYC office located at 1509 16th Street, N.W. or used for residential or church purposes at night and on weekends.

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 Public Works for review and report.

The Applicant's counsel has contacted the Office of Planning and Department of Public Works representatives regarding this application and has provided them with copies of this statement.

B. The Applicant Meets the General Requirements of Chapter 23 of the Zoning Regulations Regarding the Operation of Parking Lots

1. Section 2303.1(a)

Section 2303.1(a) provides that 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 District of Columbia Department of Public Works as structurally equivalent or better, which form an all-weather impervious surface, and which is a minimum of four inches in thickness.

The Applicant complies with this requirement.

2. Section 2303.1(b)

Section 2303.1(b) provides that the parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line.

As shown in Exhibit E, the parking lot complies with this requirement. No vehicles (or any part thereof) project over any lot line or building line.

3. Section 2303.1(c)

Section 2303.1(c) provides that 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.

There is no parking attendant structure on the Subject Site and it is only used for a parking lot.

4. Section 2303.1(d)

Section 2303.1(d) provides that no vehicular entrance or exit shall be within 40 feet of a street intersection as measured from the intersection of the curb lines extended.

The Applicant complies with this requirement.

5. Section 2303.1(e)

Section 2303.1(e) provides that 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 lighting is arranged so that all direct rays of the lighting are confined to the surface of the parking lot. A photograph of the enhanced lighting provided for the parking lot, as required by Condition No. 9 of the Order in BZA Application No. 16548, is attached as part of Exhibit E.

6. Section 2303.1(f)

Section 2303.1(f) provides 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 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.

In response to the concerns that were raised by the community during the BZA special exception process in 2000, the Applicant earnestly and thoroughly satisfied the 10 conditions of approval that were enumerated in BZA Application No. 16548. As clearly evidenced in the pictures attached as Exhibit E, the Applicant has added significant landscaping along the Church Street frontage of the lot and has diligently policed the lot to assure that it is maintained in a clean and safe condition.

7. Section 2303.5

Section 2303.5 provides that the Board may require any special treatment of the premises that it deems necessary to protect the value of adjacent property.

The Applicant believes that the support that it has received from the community, as described below, provides ample evidence that it is not necessary for the Board to do anything further to protect the value of adjacent properties.

C. Section 3104.1 - The application meets the general criteria for special exception approval.

For all of the reasons described herein, this application for continued parking lot use is 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 properties. Accordingly, the Applicant respectfully requests that the special exception relief be granted.

VI.
Witness

A. Dr. Mark Ginsberg, Representative of the Applicant

VII.
Community Support

At its regularly scheduled monthly meeting on May 8, 2002, Advisory Neighborhood Commission (ANC) 2B adopted a unanimous resolution in support of this application. The ANC noted the great strides that the applicant has taken to address concerns that were previously raised regarding the maintenance, landscaping and upkeep of the property, and the ANC supported the Board approving this application for a period of 5 years.

VIII.
Conclusion

For the reasons stated above, the Applicant respectfully requests that special exception relief be granted in this case.

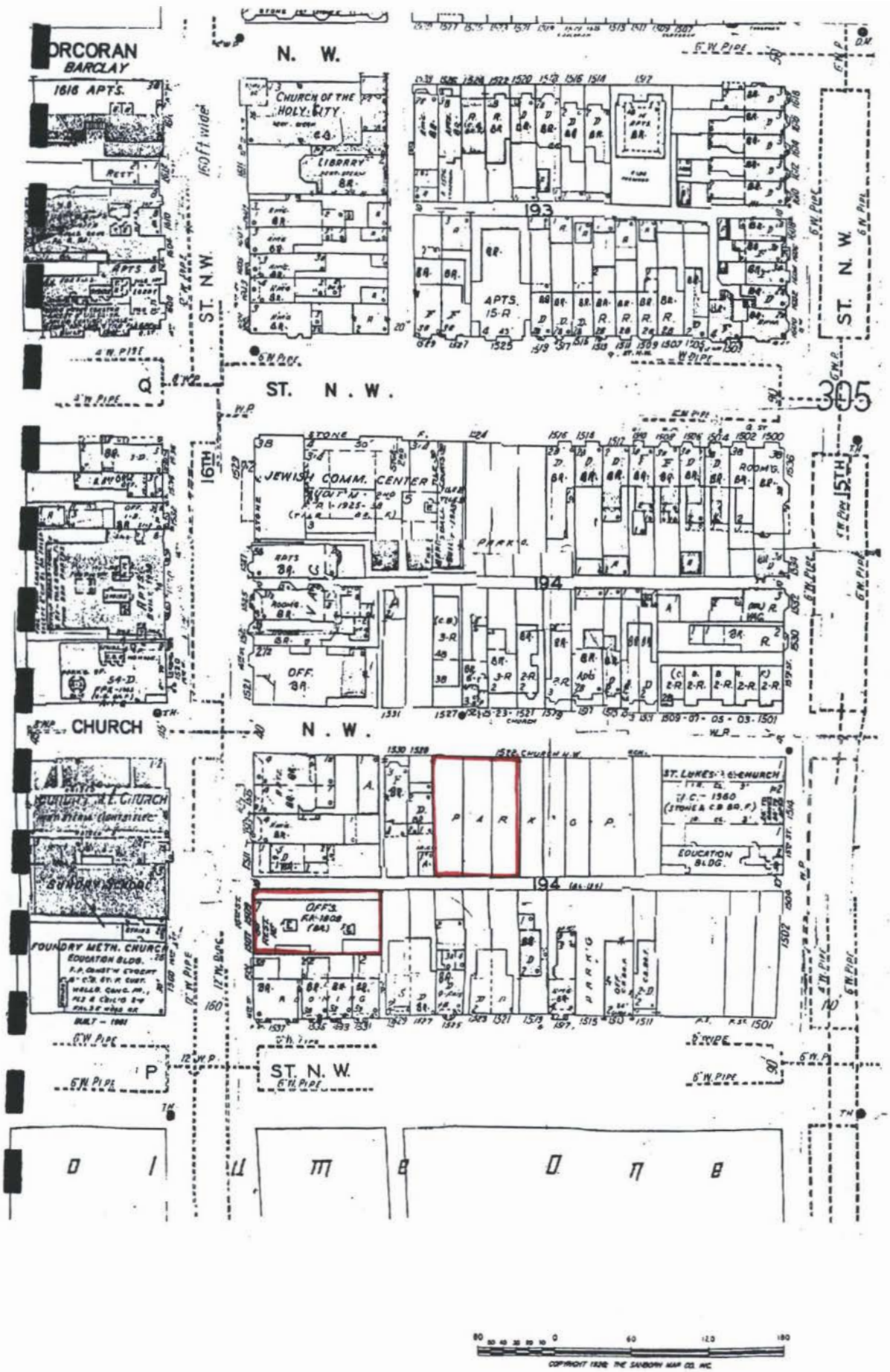
Respectfully submitted,

Shaw Pittman, LLP

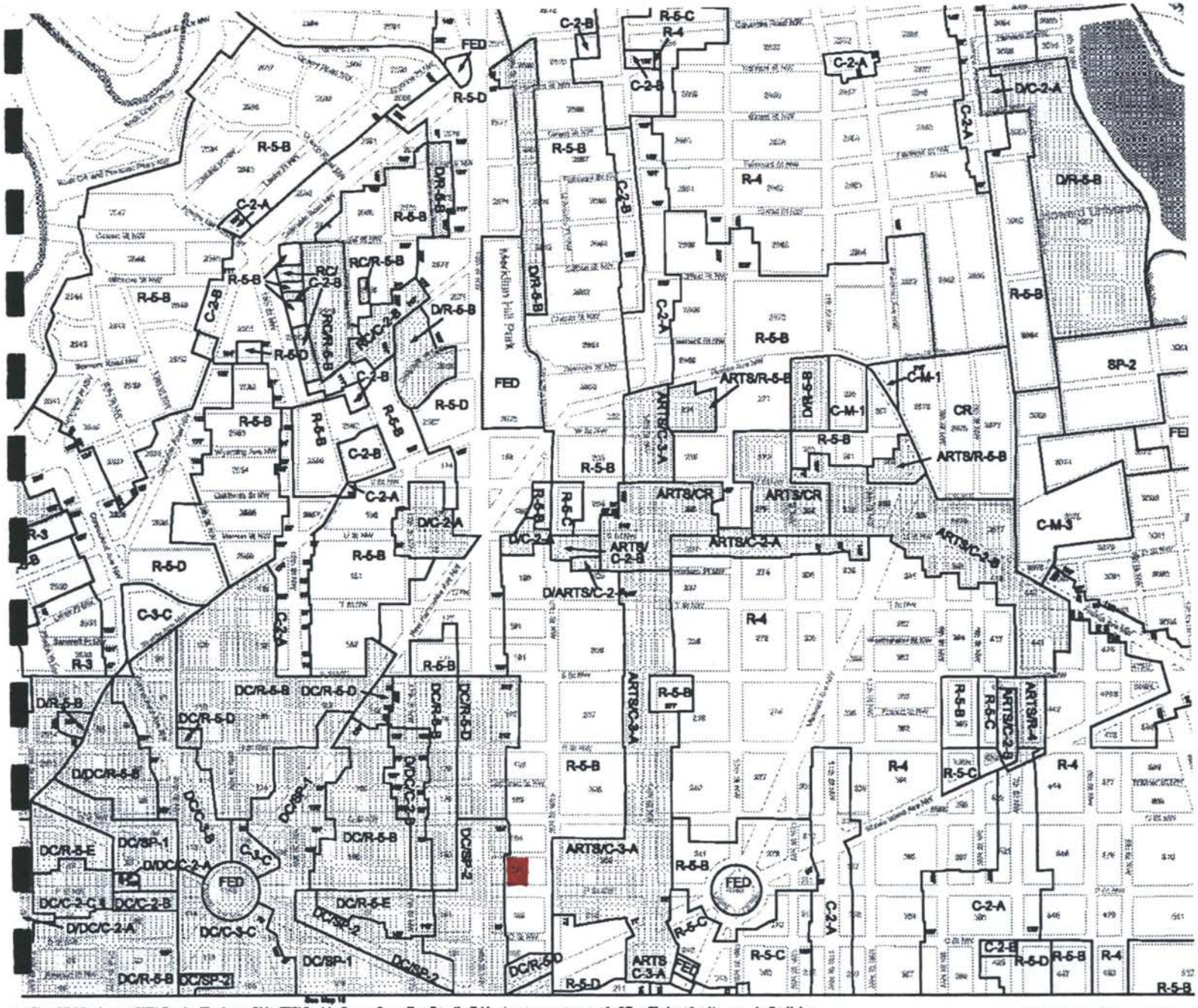
By: Paul A. Tummonds, Jr.
Paul A. Tummonds, Jr.

Document #: 1241759 v.1

A


ORCORAN
BARCLAY
1616 APTS.
N. W.
CHURCH OF THE HOLY CITY
LIBRARY
APTS. 15-R
193
ST. N. W.
160 ft wide
ST. N. W.
ST. N. W.
JEWISH COMM. CENTER
PARK
194
OFF. 8R.
CHURCH N. W.
16TH
15TH
CHURCH N. W.
METH. E. CHURCH
SUNDAY SCHOOL
FOUNDRY METH. CHURCH
EDUCATION BLDG.
ST. LUKES' CHURCH
EDUCATION BLDG.
PARK
OFFS.
194
PARKING
ST. N. W.
O I L M E O N E
COPYRIGHT 1926 THE SANBORN MAP CO. INC.





See Map 16

Planned Unit Developments (PUD), Transfer of Development Rights (TDR) Receiving Zones, or Compare Plans. To verify official zoning on any property, contact the Office of Zoning at the address or number listed below.

Unofficial Release

Through: February 12, 2001

February 12, 2001

400 0 400 800 Feet

FED Major Federal Tracts

Areas of Overlay Districts

Overlay	Description
AKID	Uptown Arts
CAP	Capitol Interest
CBUT	Chain Bridge University/Tenant
CP	Cleveland Park
D	Diplomatic
DC	Dupont Circle
DD	Downtown Development

Overlay	Description
HR	Hotel Residential
LO	Langdon
MW	Neighborhood Commercial-Mount Vernon
NO	Naval Observatory
RC	Reed Cooke
SH	Sixteenth Street Heights
TM	Tree and Slope Protection



DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., February 27, 2002

Plat for Building Permit of SQUARE 194 LOTS 50 TO 52

Scale: 1 inch = 20 feet Recorded in Book CHB Page 101

Receipt No. 007429

Furnished to: SHAW PITTMAN

Surveyor, D.C.

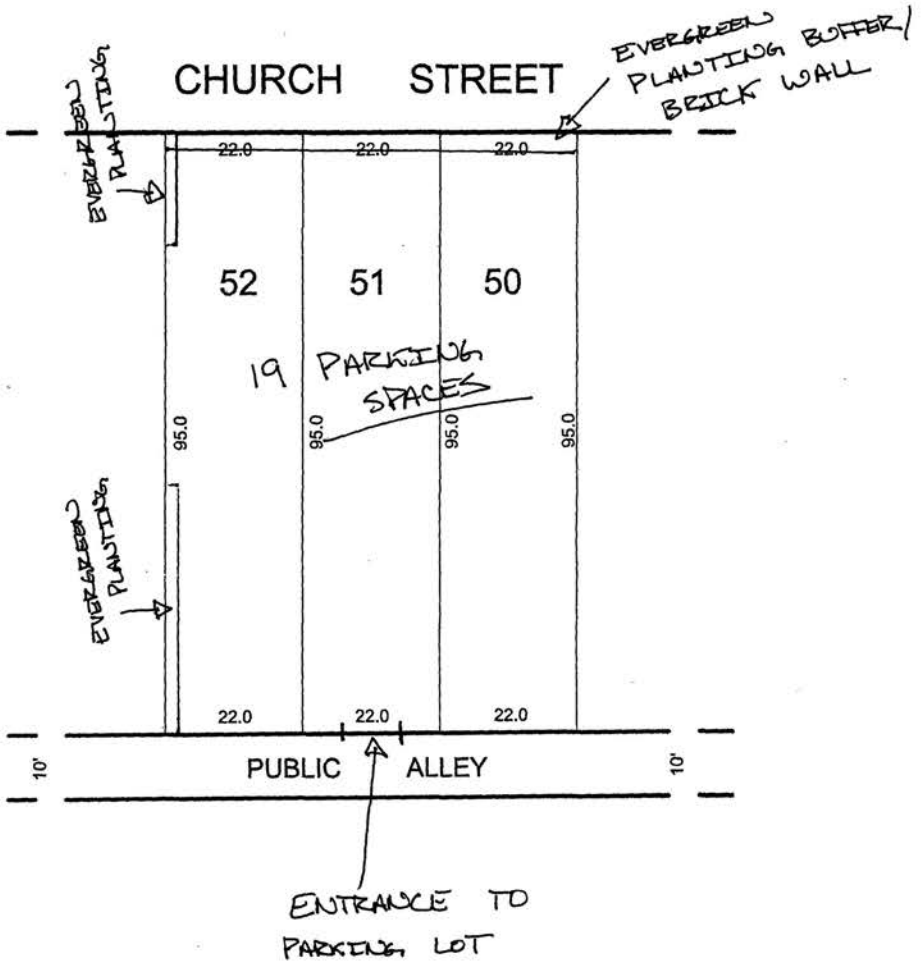
By: L.E.S.

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately 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 hereon the size 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 hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point 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.





BLRA-17
(Rev 7/00)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
P.O. Box 37200 — Washington, D.C. 20002-7200

188973

10/19/00
(date)

CERTIFICATE OF OCCUPANCY

Permission is hereby *granted to* NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN
to use suites(s) _____ on the LOT floor(s)
of the building located on lot(s) 50-52 square 194
known as premises 1522-26 CHURCH STREET, N.W. for the following
purpose(s) PARKING LOT FOR TWENTY-TWO (22) VEHICLES DURING BUSINESS HOURS FROM MONDAY THROUGHT FRIDAY 7:00AM-6:00PM. NOT SEXUALLY ORIENTED. 32402 [su]

BZA # _____ EXPIRATION DATE: 3/21/02

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY *for the premises or part thereof*, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE R5B FEE $ 37.08

Director L. JORDAN
By: _____
Designee

98-0802PM5





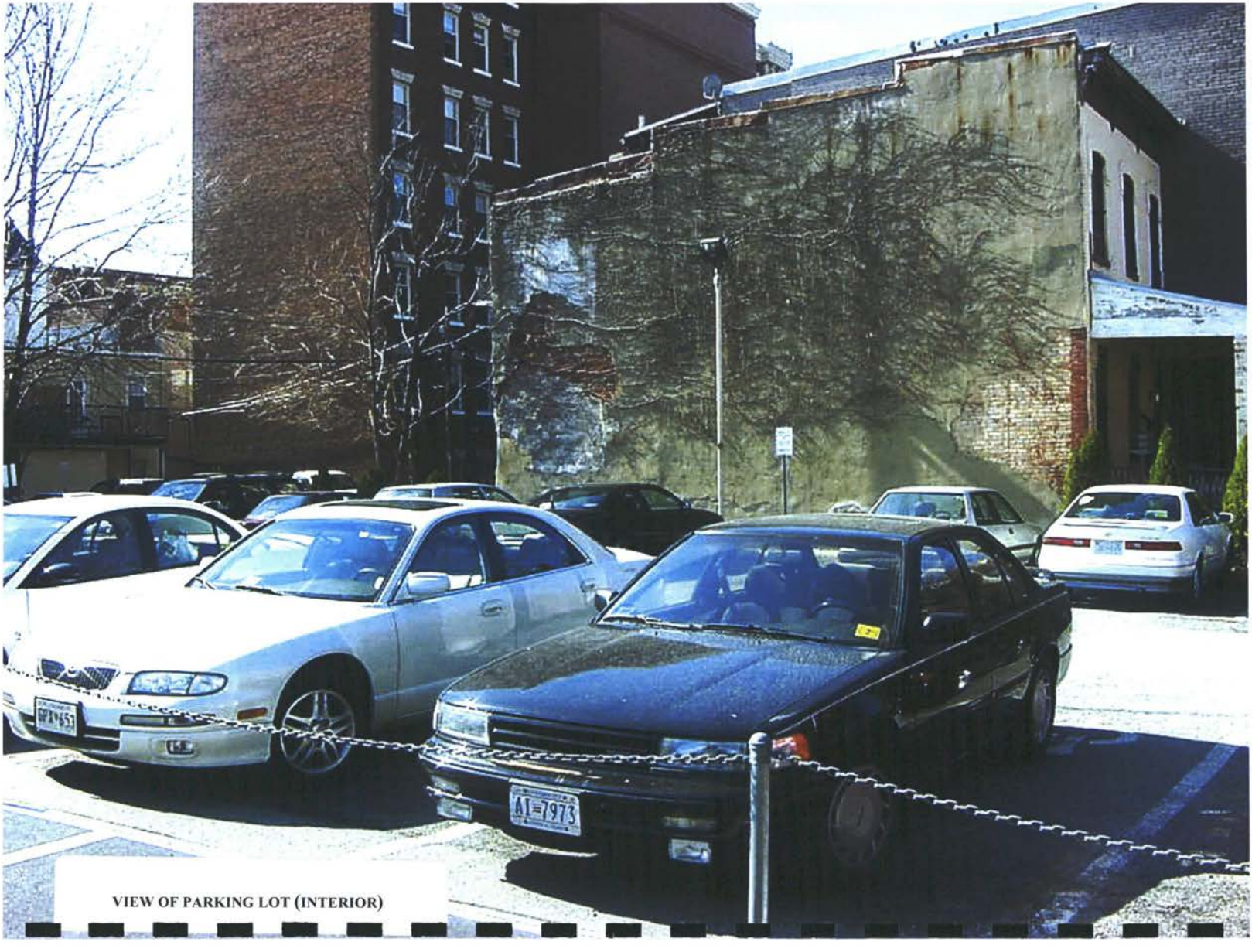
VIEW OF ENTRANCE
(LOOKING NORTH)



VIEW OF ENTRANCE
(LOOKING EAST)



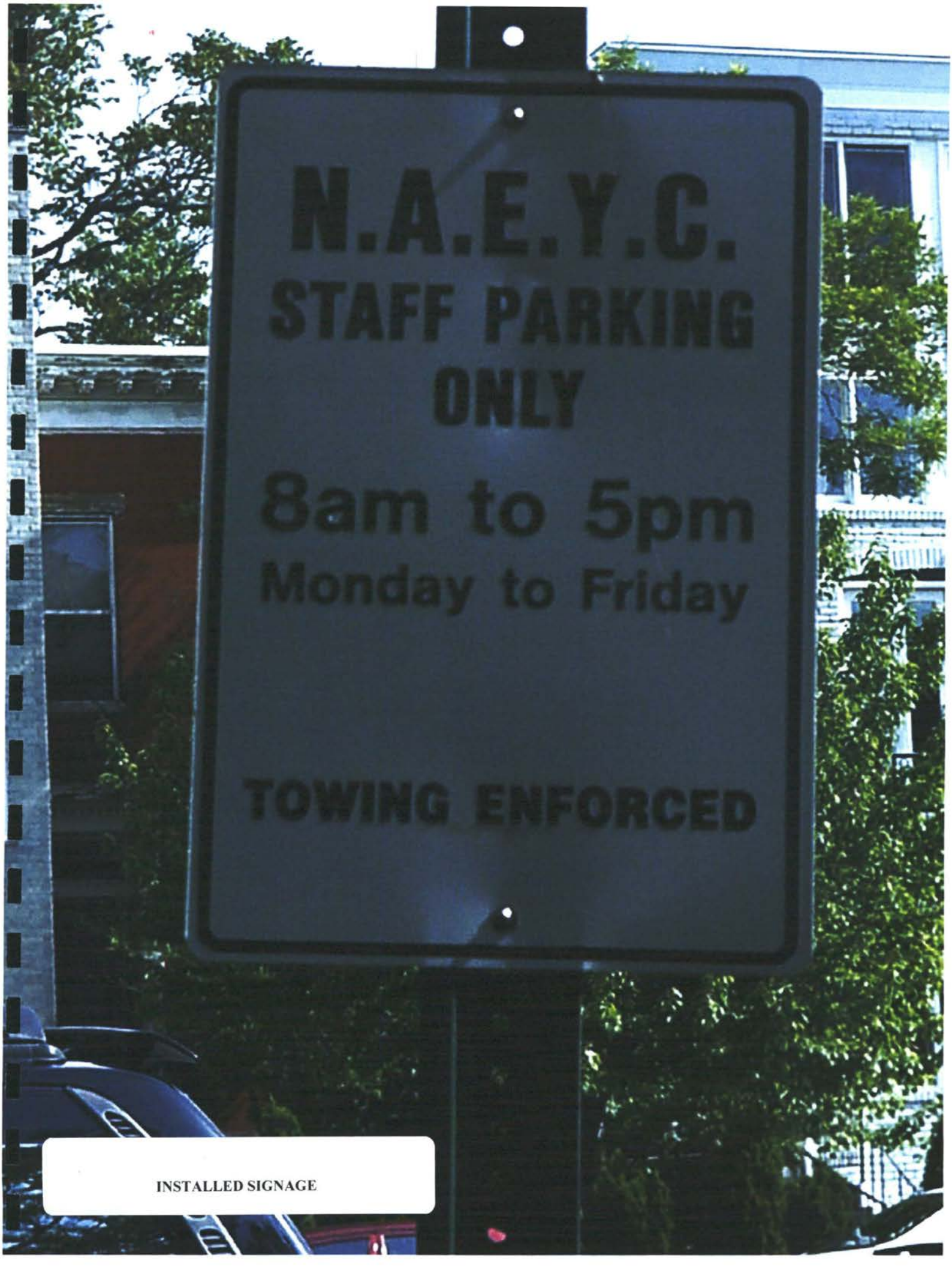
VIEW OF PARKING LOT AND LANDSCAPED BUFFER



VIEW OF PARKING LOT (INTERIOR)



VIEW OF EVERGREEN PLANTING BUFFER AND BRICK WALL ALONG CHURCH STREET



INSTALLED SIGNAGE



IMPROVED LIGHTING


LANDSCAPE BUFFER

F

OUTLINE OF TESTIMONY OF
DR. MARK GINSBERG,
EXECUTIVE DIRECTOR, NAEYC

I. Introduction

A. Dr. Mark Ginsberg; Executive Director, National Association for the Education of Young Children

II. NAEYC's History of Use of the Subject Site (1522-1526 Church Street, N.W.)

A. NAEYC first obtained BZA approval for the use of the parking lot on the subject site in 1992, as approved by BZA Application No. 15735.
B. Two years ago, NAEYC came before the BZA for this same parking lot approval in BZA Application No. 16548.
C. BZA Application No. 16548 approved the parking lot use for a two year period with 10 conditions.
D. NAEYC heard the concerns of the neighborhood and the BZA in 2000. All of the conditions of the previous Order have been satisfied and the appearance and maintenance of the lot have drastically improved.
E. As described in detail in the Pre-Hearing Statement, the continued parking lot use fully satisfies all of the applicable requirements of the Zoning Regulations.

III. Community Support

A. NAEYC continues to allow nearby residents to use the parking lot at night and on weekends and also allows parishioners of St. Luke's to use the parking lot on Sundays.

B. ANC 2B adopted a unanimous resolution in support of the application on May 8, 2002.

IV. Conclusion

Based on the unanimous community support for this project and the satisfaction of the applicable requirements of the Zoning Regulations, NAEYC requests that the BZA approve this application by Summary Order.



GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 16548 of National Association for the Education of Young Children, pursuant to 11 DCMR 3104.1, for a special exception under Section 213 to continue the use and operation of an existing parking lot with 22 parking spaces in an R-5-B District at premises 1522-26 Church Street, N.W. (Square 194, Lots 50 through 52).

HEARING DATE: February 16, 2000
DECISION DATE: February 16, 2000 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 2B, and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to this application, filed a written statement in support of the application with five conditions.

The Advisory Neighborhood Commission in addition to nearby property owners expressed concerns about this application. Some of the concerns of the neighborhood residents are:

- The lack of maintenance of the lot by the association over the past few years and the association's failure to respond to neighborhood complaints.
- The Applicant failed to obtain the proper Certificate of Occupancy (C of O) to operate the parking lot since approval of the previous order. (Order No. 15735 was issued on September 2, 1994.)
- The Applicant did not follow-through on the Board's previous order. Specifically, fences were not constructed; landscaping and screening was not provided; and, an old shack that was located on the property was not removed in a timely manner.
- The parking lot was not cleaned and maintained in good condition, as required.

The Board also received letters and testimony in support of the application. Many residents indicated that the parking lot provided a needed service to the community because of severe parking constraints within the neighborhood. The parking lot provides over night parking for residents and parking for the parishioners from nearby Saint Luke's Episcopal Church. If the parking lot were discontinued, parking would spillover and could adversely impact the surrounding residential streets.

The applicant provided the Board with a copy of a proposal for re-developing the site. The work to be performed at the site includes planting new evergreen trees; removing pavement, grading and a driveway apron; and, installing a new light pole and signage.

As directed by 11 DCMR 3119.2, the Board 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 Section 213. Although there was opposition by neighborhood residents to the application, no party testified in opposition. 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 3104.1, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Approval shall be for **TWO YEARS.**

2. Visitors and employees of the National Association for the Education of Young Children shall use the parking lot during business hours.

3. The NAEYC shall obtain a Certificate of Occupancy, as soon as it is in receipt of the Board's Order.

4. During the evenings and on weekends, the parking lot shall be made available to members of the community and to nearby churches.

5. The parking lot shall be posted with a sign, which limits its use during the day exclusively to the NAEYC. The existing signage shall be modified to indicate that the lot is reserved for NAEYC members from 7:00 a.m. to 6:00 p.m., Monday through Friday.

6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. At least 5 percent of the lot shall be landscaped.

7. A designated person shall police the parking lot on a regular basis, Monday through Friday, for security purposes.

8. The parking lot shall be striped so as to designate the location of all parking spaces.

9. Lighting shall be provided to sufficiently illuminate all areas of the lot. Such illumination shall be so arranged that all direct rays of the lighting are confined to the surface of the parking lot.

10. The Applicant shall implement the proposed landscaping and maintenance contract (Exhibit No. 33 of the record).

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-1-1 (Robert Sockwell, Rodney Moulden, Anne Renshaw to approve; Carol Mitten, opposed to the motion; Sheila Cross Reid, abstaining.)

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

ATTESTED BY: Jerrily Kress
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: MAR 21 2000

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 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBSECTION 3125.6".

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

BAB/3.9.00

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 16548

As Director of the Office of Zoning, I hereby certify and attest that on MAR 21 2000, a copy of the order entered on that date in this matter before the Board of Zoning Adjustment 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:

Thomas E. Arend, Jr.
601 13th Street, N.W.
Washington, DC 20005

Jefferson C. Glassie
2300 N Street, N.W.
Washington, DC 20037-1128

Kyle Pitsor, Chairperson
Advisory Neighborhood Commission 2B
P.O. Box 33224
Washington, DC 20033

Michael Johnson, Zoning Administrator
Building & Land Regulation Administration
Dept. of Consumer and Regulatory Affairs
941 North Capitol Street, NE, Suite 2000
Washington, DC 20009

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15735 of the National Association for the Education of Young Children, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to continue to operate a parking lot in an R-5-B District at premises 1522-26 Church Street, N.W. (Square 194, Lots 50-52).

HEARING DATE: October 21, 1992
DECISION DATE: December 2, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 1522-26 Church Street, N.W., on the south side of Church Street, between 15th and 16th Streets, N.W. The subject property consists of three adjacent lots totalling approximately 6,270 square feet of lot area. The property is rectangular in shape. It is 66 feet wide and 95 feet deep. The property has an all-weather impervious surface and accommodates 22 vehicles. The property is zoned R-5-B.

2. The area surrounding the site is characterized by mixed-uses. The heterogeneous community includes residential development, professional office space, hotels, institutional facilities (i.e., churches), retail establishments, open space, limited vacant land and surface parking lots. The property is located within close proximity to several major arterial roadways such as 16th, 15th, P and Q Streets. There are several satellite parking lots located in the community that are used by commuters. In addition, there are many high-rise residential buildings located along 16th Street close to the site.

3. The applicant is a nonprofit association engaged in a variety of programs designed to help teachers improve their skills in working with young children and their families.

4. The applicant proposes to continue to use the subject site as a parking lot for 22 automobiles for employees and visitors to its office building located at 1509 16th Street, N.W. The existing parking lot is being used to provide overnight parking for neighborhood residents. It also provides parking for parishioners attending church services and activities at nearby Saint Luke's Episcopal Church which is located on the southwest corner of Church and 15th Streets.

5. The property is located in the R-5-B District which does not permit parking lot use as a matter of right. However, a parking lot is a permitted use in the R-5-B District, if approved by the Board. Therefore, the applicant is requesting a special exception to allow use as a parking lot at the subject property.

6. The applicant stated that all applicable provisions of Sections 213 and 2303 of the Zoning Regulations will be met by the application.

7. The applicant's representative requested that the subject property be permitted to continue to operate as a parking lot. He expressed some concerns about the security problems associated with the use of the lot.

8. The applicant testified that the association will take the necessary corrective measures to improve security at the lot. He cited the need to install bright lights and improved landscaping of the area. He stated that the association planned to repair the brick wall on the north end of the lot and the chain link fence along the side.

9. By memorandum dated October 14, 1992, and through testimony at the hearing, the Office of Planning (OP), noted the physical characteristics of the subject site, the proposed use, and the special exception requested. With regard to the special exception, OP noted that the parking lot was last approved by the BZA on May 5, 1982 with seven conditions attached. OP, also noted that BZA Order No. 13676 and the certificate of occupancy associated with the site expired eight years ago. OP further noted that the applicant is proposing to use the site as a parking lot between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday. OP also noted the existing conditions of the lot with a brick wall located along the front of the property and a chain link fence screening the property on both the east and west sides. No screening is provided at the rear of the property, along the portion of the site that abuts the alley.

The Office of Planning stated that the parking lot is reasonably necessary and convenient to the location of the proposed NAEYC headquarters building at 1509 16th Street, N.W. In addition, due to the operation of the parking lot, there would be a reduction in the demand for parking on the streets and in the neighborhood. OP is of the view that no dangerous or objectionable traffic conditions would result from the continued use of this site as a parking lot. Also, the present character and future development of the neighborhood would not be adversely affected if the applicant's request is approved. The parking lot would not be in disharmony with the purpose and intent of the Zoning Regulations, and it would

not adversely affect the use of neighboring property in accordance with the Zoning Regulations. Therefore, OP recommended approval with the following conditions:

1. Approval shall be for a period of five years.

2. The applicant shall provide a site plan of the proposed parking lot depicting the parking layout as well as the location of the light fixtures for the approval of the Board of Zoning Adjustment.

3. The parking lot shall be used by visitors and employees of the National Association for the Education of Young Children during business hours, Monday through Friday.

4. During the evenings and on weekends, the parking lot shall be made available to members of the community and to nearby churches.

5. The parking lot shall be posted with a sign which limits its use during the day exclusively to the National Association for the Education of Young Children.

6. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped.

7. A designated person shall police the parking lot on a regular basis, Monday through Friday, for security purposes.

8. The parking lot shall be striped so as to designate the location of all parking spaces.

9. Lighting shall be provided to sufficiently illuminate all areas of the lot. Such illumination shall be so arranged that all direct rays of the lighting are confined to the surface of the parking lot.

10. By memorandum dated October 25, 1992, the Department of Public Works (DPW) revealed that the parking lot was not well maintained. However, the DPW agreed with the proposed improvements of the lot by the owner. Therefore, the Department of Public Works has no objections to the application.

11. Advisory Neighborhood Commissions (ANC) 2C and 2B did not provide comments regarding their position on the application.

12. No one appeared at the hearing to testify as a neighbor in support of the application.

13. One neighbor appeared at the hearing in opposition to the application. He expressed a concern about the lack of security at the lot, but later withdrew his opposition based on the improvements to be made to the lot - a better lighting system and the installation of a fence.

CONTESTED ISSUES OF FACT:

Based on the evidence of record, the only contested issue is whether the lot will be adequately secured.

FINDINGS OF FACT:

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

1. The measures proposed by the applicant will be adequate to secure the property.

2. The parking lot will be located in its entirely within 200 feet of an existing commercial district.

3. The parking lot is separated only by an alley from an SP-1 District.

4. The parking lot is reasonably necessary and convenient to other uses in the vicinity and it reduces the overspill of parking on neighborhood streets.

5. The majority of the spaces serve residents in the area overnight and the short term parking needs of a nearby service facility use during the day.

CONCLUSIONS OF LAW AND OPINION:

Based upon the record before the Board, the Board concludes that the applicant is seeking a special exception to continue a parking lot use in an R-5-B District. The granting of such a special exception requires a showing through substantial evidence of record 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 Regulations and Maps. The applicant must also meet the requirements of 11 DCMR 213 regulating parking lots.

The Board concludes that the applicant has met this burden of proof. The Board is of the opinion that allowing the proposed use to continue will be in harmony with the intent, purpose, and

integrity of the zone plan. The Board is also of the opinion that the proposed use will not adversely affect the use of neighboring properties.

In light of the foregoing, it is hereby **ORDERED** that the application is **GRANTED, SUBJECT** to the **CONDITION** that the parking layout, landscaping, and lighting shall be as shown on the revised plans marked as Exhibit No. 32A of the record.

VOTE: 4-0 (Angel F. Clarens, Sheri M. Pruitt and Paula L. Jewell to grant; William L. Ensign to grant by absentee vote; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY: Madeliene H. Robinson
MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: SEP 2 1994

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 SIX MONTHS, UNLESS *WITHIN SUCH* PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15735/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15735

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 2 - 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Rick Collins
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Washington, D.C. 20037-3202

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Marilyn M. Smith
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Peter Brett
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Washington, D.C. 20005

Mr. Dennis Bass, Chairperson
Advisory Neighborhood Commission 2B
1347 Connecticut Avenue, N.W., #2
Washington, D.C. 20036

MADELIENE H. ROBINSON
Director

DATE: SEP 2 1994