GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

D.C. OFFICE OF PLANNING
2002 JUL 23 PM 5:00

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE July 23, 2002

SUBJECT: BZA Application 16908 – Request filed by Michael R. Biel for a use variance to establish a parking lot at 2129 9th Street, N.W., proposed by Howard University.

APPLICATION
Application of Howard University for:

> **Variance to Section 601.1(j) pursuant Section 3103.2 of Title 11 DCMR** for a use variance to establish a parking lot

for property located on the east side of 9th Street and the west side of the public alley, between V Street and Barry Place, N.W., 2129 9th Street, Square 2875, Lot 203. The property is zoned CR, Mixed Use (Commercial Residential) District.

SUMMARY RECOMMENDATION
The Office of Planning recommends approval of the request for a variance, subject to the following conditions:

1. That approval shall be for a period of five years.
2. That the existing grassy area shall be planted with trees and shrubs, subject to approval by the Department of Public Works, and that the landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance, as required by Section 2303.1(f).
3. That the Board reduce the percentage of landscaping required from 5 percent to approximately 3.2 percent, pursuant to Section 2303.1(f).

BZA
Case No. 16908
Exhibit No. 20

Board of Zoning Adjustment
District of Columbia
CASE NO.16908
EXHIBIT NO.20

PROJECT DESCRIPTION

The existing parking lot is owned by Howard University. The applicant is the owner of "The 9:30 Club", located at 815 V Street, N.W. (northwest corner of 9th and V Streets), and is leasing the parking lot from the University. No changes to the existing parking lot are proposed.

The applicant proposes to use the existing Howard University Hospital parking lot as a pay parking lot that will be open to the public between the hours of 6:00 p.m. and 6:00 a.m., seven days a week. The parking lot will continue to be used during the day (6:00 a.m. to 6:00 p.m.) by students, staff and employees of Howard University and Howard University Hospital, but will operated as off-street parking for "The 9:30 Club" and other uses in the area during the evening and nighttime hours for a charge. Section 602.1(j) specifically prohibits the use of a parking lot as a primary use within the CR district.

The subject property is used as an accessory parking lot during the day, pursuant to Section 601.3, and is described as "Existing Hospital Parking Lot V" in Exhibit 11, "Location of Central Campus Parking Lots" on page 99 of the UniverCity 20/20, Howard University 1998 Central Campus Plan. The parking lot is located within the boundaries of the Howard University Campus as that campus is defined in the Campus Plan. Parking lots in any district are subject to the provisions contained within Section 2303, Parking Lots. The attorney for the applicant has indicated that he is unaware of any permits issued for its construction.

SITE AND AREA DESCRIPTION

The property consists of Lot 203, Square 2875, in the North West quadrant of the District, and is 24,920.4 square feet in area. The property is located on the east side of 9th Street and the west side of a 16-foot wide public alley, between V Street and Barry Place, in the 2100 block of 9th Street. It is improved as a 56-space asphalt paved parking lot, with painted stripes and wheel stops at all but the five parallel spaces on the west side of the lot. An eight-foot high black metal fence encloses three side of the site, with the fourth side enclosed by the existing building bordering the subject property to the north. Along the southern edge of the fence enclosed area is a rectangular area not asphalt paved. The Office of Planning estimates that this area consists of approximately 800 square feet, that is littered with debris and some gravel, between the fence and the asphalt paving.

Access to the site is via two driveway entrances to the property from 9th Street. There is no access from the alley. On-site traffic flows in a clockwise direction. The direction of the traffic flow and the direction of the angled parking at the center of the site is the reverse of that shown on the plat prepared by the Office of the Surveyor.

The surrounding neighborhood is a transitional area consisting of a mixture of residential, institutional, commercial and industrial uses. To the north of the site is a one-story building and parking lot occupied by an elevator company, beyond which is a Howard

University parking lot. To the east, across the alley, is a parking lot. To the south is a two-story industrial building, followed by the two-story building in which "The 9:30 Club" is located. To the west, across 9th Street, are automobile oriented uses (auto repair, car wash), and the rear of abandoned row houses fronting on Florida Avenue. All surrounding properties are located within the Howard University campus boundaries.

ZONING REQUIREMENTS
The subject property is located in the CR mixed uses district (retail, residential, office, and light industry) Section 105.1(c)(1).

CR Mixed Use Districts
The CR districts shall *"encourage a diversity of compatible land uses, which may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses."*

Parking lots are permitted within the CR district as accessory uses, pursuant to Section 601.3.

Parking lots as principal uses are specifically prohibited in the CR district pursuant to Section 602.1(j). The Board of Zoning Adjustment may grant a use variance, pursuant to Section 3103.2, to allow the use. Parking lots in any district, including the CR district, are subject to the provisions of Section 2303.1.

The subject parking lot was constructed as an accessory use to the Hospital and will continue in that manner from 6:00 a.m. to 6:00 p.m. It is the lease of the lot to the applicant for the purpose of operating a parking lot as the principal use after 6:00 p.m. that has resulted in the need for a use variance.

RELIEF REQUESTED
Variance to the use provisions of Section 602.1(j), Parking Lots, pursuant to Section 3103.2

The Board of Zoning Adjustment is empowered to grant variances as provided by Section 3103.2 as follows:

> *"As set forth in D.C. Code Ann. §5-424(g)(3) (1981), "[w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions 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 exceptional 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, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The extraordinary or exceptional situation of the subject property is that it has already been developed as a parking lot that is in use during the day by Howard University and Howard University Hospital between the hours of 6:00 a.m. and 6:00 p.m. After hours the parking lot is not used by either the Hospital or the University, but naturally remains a parking lot.

The exceptional or undue hardship in this case is that the parking lot already exists as a permitted accessory use to the Hospital. However, use of this same parking lot as a principal use is not permitted within the CR district. Therefore, the same existing parking lot that the Zoning Regulations permit to be used during the day as an accessory parking lot is not permitted by the Zoning Regulations to be used as a principal parking lot in the evenings.

By not allowing the use of this existing lot during the evening and nighttime hours within an area that has a shortage of off-street parking available to the public, this existing resource is not benefiting nearby commercial establishments to the extent that it could. This application seeks to make use of a parking lot that will exist anyway, with or without the granting of this application, because of its use as a daytime accessory parking lot as depicted in the Campus Plan.

It is the Office of Planning's conclusion that the applicant has satisfactorily met the criteria for variance relief of Section 3103.2, and *"that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."* (Section 3103.2)

The Office of Planning makes this conclusion based on the fact that use as a parking lot is permitted as a matter of right, under a different operator, therefore, there is a presumption that the parking lot use, in and of itself, is consistent with the zone plan. In addition, the proposed use is located in the C-R zone, which permits a wide variety of uses, including light industrial. There will be no "substantial detriment to the public good", since it is surrounded by other parking lots and commercial uses not generally open during the hours in which the applicant proposes to operate the commercial parking lot, and there are no residential uses in the immediate vicinity.

COMPLIANCE WITH SECTION 2303.1

Section 2303.1 contains the provisions to which parking lots within any district must conform.

"A parking lot in any district shall conform to the following special provisions:

(a) All areas devoted to driveways, access lanes, and parking areas shall be paved and maintained with bituminous concrete or brick materials, or a combination of these materials or other material approved by the 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 (4 in.) in thickness.

(b) The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line;

(c) No other use shall be conducted from or upon the premises, and no structure other than an attendant's shelter shall be erected or used upon the premises unless the use or structure is otherwise permitted in the district in which the parking lot is located;

(d) No vehicular entrance or exit shall be within forty feet (40 ft.) of a street intersection as measured from the intersection of the curb lines extended; and

(e) Any lighting used to illuminate a parking lot or its accessory buildings shall be arranged so that all direct rays of the lighting are confined to the surface of the parking lot.

(f) The parking lot shall be kept free of refuse and debris and shall be landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. Landscaping with tree and shrubs shall cover a minimum of five percent (5%) of the total area of the parking lot, or an area as determined by the Board of Zoning Adjustment for a parking lot otherwise requiring Board approval."

The parking lot is covered with 4-inch asphalt paving on a 4-inch gravel base and vapor barrier, as indicated on the survey plat. No part of any vehicle can project over a lot line or a building line as either a fence or a wall encloses the entire lot, and there are no applicable building setbacks in the CR district for this site. The subject property is used for parking only. The entrance and exit are located more than 40 feet from a street intersection, and a visual inspection of the lot indicated that it is kept free of refuse and debris. The parking lot is lighted by freestanding light poles and the applicant has indicated that the lighting is confined to the surface of the parking lot.

A small rectangular portion of the site along the south side of the lot is not asphalt paved. It is estimated by the Office of Planning to consist of approximately 800 square feet in area, or 3.2 percent of the site. It contains no shrubs or trees. The Office of Planning recommends that the Board approve a 3.2 percent landscape area for the site, subject to the area being planted with shrubs and trees and receiving approval from the Department of Public Works.

COMPREHENSIVE PLAN
The Generalized Land Use Map recommends the Mixed Use (institutional, moderate density commercial, moderate density residential) land use for the subject property: "A combination of land use categories are depicted in areas where a variety of uses are to be encouraged. Mixed use areas include existing commercial areas and areas proposed for significant land use changes."

This proposal will contribute towards addressing "*...the fact that parking spaces are inadequate in commercial... areas by doing the following:... (s)electing parking site locations and parking facility designs and size specifications so as to prevent adversely affecting nearby residential communities or parkland;*" (Section 1215.1(g))" and addressing the issue that "*(c)ertain activities in the ward increase the demand for parking, especially around... the Howard University area...*" (Section 1212.13)

The subject property has been identified on the Generalized Land Use Policies Map 2 as being located within the Howard Gateway Housing Opportunity Area and the Howard Gateway Development Opportunity Area.

COMMUNITY COMMENTS
ANC 1B has informed the Office of Planning by telephone that they considered the project at their June 2002 meeting, and voted to approve the proposal.

CONCLUSION
The subject property is developed as an existing accessory parking lot, and as such cannot easily be utilized otherwise. It is also located within a transitional area that is changing. Therefore its use from 6:00 p.m. to 6:00 a.m. as a pay parking lot is only marginally different from its use during the day as a private parking lot for Howard University and Howard University Hospital. However, due to potential that there could be land use changes within the surrounding area as the neighborhood redevelops, long term use of the subject property as a pay parking lot during the evening hours may not be advisable should other uses become more prominent in the immediate area.

RECOMMENDATION
The Office of Planning has reviewed the application in terms of the property's zoning, intensity of use, the character of the neighborhood and the standards for a variance. OP concludes that the proposal meets the required variance test and can be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map".

The Office of Planning recommends approval of the following:

> **Variance to Section 601.1(j) pursuant to Section 3103 of Title 11 DCMR** to permit a parking lot, subject to the following conditions:

1. That approval shall be for a period of five years.
2. That the existing grassy area shall be planted with trees and shrubs, subject to approval by the Department of Public Works, and that the landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance, as required by Section 2303.1(f).
3. That the Board reduce the percentage of landscaping required from 5 percent to approximately 3.2 percent, pursuant to Section 2303.1(f).

AA/sjm$_{AICP}$



Feature Key

- Zoning Boundaries
- Square Index

Board of Zoning Adjustment
Application No. 16908

DC Office of Planning
July 11, 2002

Scale 1:3413

250 25507500 Feet

Attachment 1