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December 6, 2002

RECEIVED
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VIA FACSIMILE AND FIRST CLASS MAIL

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

Re: Application No. 16927 – Post-Hearing Comments on OP/DDOT Reports
(Temperance Row – Public Welfare Foundation and Manna, Inc.)

Dear Mr. Griffis and Members of the Board:

Attached is the Applicant's Post-Hearing comments on the reports of the Office of Planning and the D.C. Department of Transportation in the above-referenced case. Thank you for your consideration of this application.

Sincerely,

Jamie Z. Goodson

Nathan W. Gross, AICP

Attachment

Cc: Office of Planning
Advisory Neighborhood Commission 1B

BZA
Case No. 16927
Exhibit No. 40

Board of Zoning Adjustment
District of Columbia
CASE NO.16927
EXHIBIT NO.40

APPLICANT'S POST-HEARING COMMENTS ON OFFICE OF PLANNING AND DEPARTMENT OF TRANSPORTATION REPORTS

Board of Zoning Adjustment Case No. 16927
Public Welfare Foundation and Manna, Inc.
December 6, 2002

This memorandum is offered as Applicant's comments on the post-hearing reports of the Office of Planning ("OP") and the Department of Transportation ("DDOT").

1. **Parking Lot Approval.** The OP report refers to Applicant's prior reference to Board of Zoning Adjustment ("BZA") approval of a parking lot on the subject property in the late 1980s. We have located BZA Order No. 16295, which turns out to have a decision date of February 4, 1998 rather than the late 1980s. A copy of that order is attached in *Exhibit A*. We include it because it relates to the general question of the adequacy of the alley network for vehicular circulation in this square.

The applicant in Case No. 16295 was the owner of the True Reformer Building and the subject interior lots immediately prior to the Public Welfare Foundation's acquisition.[1] The approval is for a parking lot of 79 spaces. It is also noteworthy that Condition No. 1 requires that "a majority of the property [must be] used for short-term parking needs of retail, service and public facility uses in the vicinity." (p. 9) Thus, not only is the number of parking spaces vastly greater than the 10 spaces requested in No. 16927, but the requirement to provide short-term parking for nearby business

[1] The property involved in No. 16295 included the same lots as the instant case, plus two additional row house lots fronting on 12th Street.

establishments assures a high volume of traffic in and out of the alley. As noted in our previous post-hearing submission, such in-and-out traffic is likely to adversely affect surrounding townhouse residents due to loss of privacy, noise and in the evening hours, headlight glare. By contrast the 12 affordable townhouses proposed in the instant application will be an extremely low-volume traffic generator, especially being residential uses immediately adjacent to a Metrorail station.

A copy of the site plan for the parking lot approved in Application 16295 is attached in *Exhibit B*. At the bottom of page 3 the Order states that the case was referred to the Department of Public Works, but "DPW did not submit a report to the Board." Apparently, DPW had no significant concerns about the alley network in Square 274 servicing 79 commercial parking spaces. This is clearly in contrast with DDOT's current and excessive concern over three residential parking spaces to be accessed from the easternmost north-south alley.

2. **Parking Spaces.** The Department of Transportation report supports the Applicant's requested variance from 12 required parking spaces to 10 spaces and the special exception to locate some spaces other than on the lots with the dwelling units. DDOT, however, with the concurrence of OP, opposes the three parking spaces on Lots 10, 11 and 12 because the alley is only 10 feet wide and is a dead end at the south. DDOT's and OP's recommendation is to locate the parking spaces in the front yards of the three townhouses.

The Applicant has several comments:

- The suggestion for parking in the front yards is completely impractical because it is highly unlikely that the Historic Preservation Review Board would approve front yard

parking in front of townhouses in a historic district. As OP correctly notes, this approach would require two additional variances. Applicant's team discussed the possibility of providing the spaces within the frame of the houses as garages, but given the small sizes of the houses, this would necessitate an increase to three stories in height. This, in turn, would require a height variance. In any option, access from Temperance Place would require curb cuts, an undesirable element in addition to the detrimental aesthetics and conflict with historic preservation standards.

- The only other property being serviced by the 10-foot alley are four lots that front on 12th Street. The dwelling units to be constructed on these lots will have the right to provide a parking space accessed from the alley, simply because the lots are full-sized and development can proceed as a matter of right. To the north of those lots, the accessory parking lot of the Public Welfare Foundation is accessible only from the east-west alley, and not the north-south alley in question here. Immediately north of Applicant's Lots 10-12, the Metrorail mechanical service building is not habitable and generates no traffic or parking.[2] Thus, the question is whether the parking spaces for seven row house lots can adequately be served by this 10-foot alley. Within very close walking distance to the Metrorail station, peak hour in-and-out trips will be very few. If, say, 50 percent of the dwellings generate one vehicular trip in peak hours (a high assumption), 3.5 vehicles will have to negotiate the alley in the space of one hour in the a.m. peak and one hour in the p.m. peak. In common sense terms, this does not appear to be a safety problem. Although DDOT implies that the Applicant

[2] The copy of a Surveyor's Plat in *Exhibit C* shows the relationships of these properties. Lot 134 is the Metrorail service building. Lots 71-75 are now the accessory parking for the Public Welfare Foundation.

Footnote continued on next page

should have hired a transportation consultant, we do not believe the situation is sufficiently complex to warrant such an expense in an affordable housing project.

- To help alleviate the legitimate concern about maneuverability of cars in and out of the parking spaces on Lots 10-12, the Applicant has prepared an alternate site plan as found in *Exhibit D.* We propose to provide two additional feet of paved alley width on our lots (the same as we provide in the alley behind the 13th Street townhouses). In addition, the parking space for Lot 12 would be relocated from the south edge of the lot to the north edge, where it would be more removed from the dead end and would also be paired with the parking space on Lot 11 for greater maneuverability. The Applicant believes that these adjustments will enable the resident owners' cars to back out so as to exit going forward in a northerly direction. The city has many 10-foot alleys that serve a much higher volume of traffic. One of those situations would have been the 79-car parking lot approved five years ago had it been built.

3. Questions to Fire Department and DDOT. The OP report recites the questions it addressed to the Fire Department and DDOT. Applicant would like to clarify some of the matters raised. As to fire service if the alleys are made one way, Manna is no longer proposing a one-way alley system. The concept of a sidewalk along the northernmost east-west alley has been dropped. The Fire Department has advised that there will probably be a need for an additional fire hydrant, which will be detailed in the building permit process. Questions about alley paving, raised particularly regarding the eastern 10-foot alley, will be resolved in the normal way. When new buildings are

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Footnote continued from previous page
And Lots 76 to 79 are the townhouse lots facing 12th Street that could have parking in the rear yards as a matter of right.

constructed that use the alley – in this case the houses to face 12th Street and the ones on Lots 10-12 – the alley will be paved.

Conclusion

The Applicant respectfully requests that the Board approve its modified site plan as a workable resolution to the alley access issue.

Attachments

Cc: Office of Planning Advisory Neighborhood Commission 1B

Exhibit A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16295 of Temperance Market Co., LLC, as amended, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Subsection 213.1 to establish a parking lot in a residential district, a variance from Subsection 213.2 to establish a parking lot that is not located in its entirety within 200 feet of an existing commercial or industrial district in a residential district, a variance from Subsection 213.3 to establish a parking lot that is not contiguous to or separated only by an alley from a commercial or industrial district in a residential district, and a variance from the provisions of Subsection 2117.12 to establish a parking lot that does not provide screening from contiguous residential properties for a parking lot in the R-4 District at premises 1912 12th Street, NW (Square 274; Lots 804 through 820, and 55 through 61).

HEARING DATE: December 17, 1997
DECISION DATE: February 4, 1998

ORDER

SUMMARY OF EVIDENCE:

1. Subsequent to the filing of this application, the Zoning Administrator issued a revised memorandum dated November 26, 1997, which deleted the need for a variance from Subsection 2117.12, as originally advertised.

2. The subject property is located on the interior of Square 247. Square 247 is bounded by U Street, NW on the north, 12th Street, NW on the east, T Street, NW on the south and 13th Street, NW on the west. The subject property (proposed parking spaces) consists of two rectangular shaped parcels and one square shaped parcel of land accessed by the square's alley system. The westernmost parcel has a dimension of 47.50 feet by 205 feet, and accommodates 47 parking spaces. The easternmost parcel has a dimension of 57.50 feet by 57 feet, and accommodates 24 parking spaces and the southernmost parcel has a dimension of 40 feet by 157.50 feet, and accommodates 38 parking spaces, for a total of 109 parking spaces. The subject property is relatively level, undeveloped and rough paved.

3. The subject property is located in the Cardoza/Shaw neighborhood of Ward One. The subject property is located in the R-4 District, and it abuts ARTS/C-2-A zoned and developed property on the north side.

4. The subject property is surrounded by the following land uses:

   a. **North:** The westernmost portion of the proposed parking lot abuts a 15-foot wide public alley. Further north is a Green Line Metro Station entrance at the southwest corner of 13th and U streets, NW, in the ARTS/C-2-A District. Further north across U Street is the Lincoln Theater and a variety of commercial retail and

service establishments in the ARTS/C-2-A District. The easternmost portion of the proposed parking lot is located directly south of a PEPCO substation building in the R-4 District.

b. **Northeast:** The four-story True Reformer building (for which a portion of the proposed parking lot would serve) is located on the southwest corner of 12th and U streets, NW, in the ARTS/C-2-A District.

c. **East, South and West:** The subject property is separated from the rear yards and garages of row dwellings in the R-4 District by public alleys that are 10 and 15 feet wide.

5. The applicant proposed to use the subject alley lots to provide parking for the future tenants and visitors of the historic True Reformer Building at 1200 U Street, NW. The proposed parking lot would also serve retail and service businesses that are located along the nearby U Street commercial corridor. The applicant submitted a detailed parking lot site plan with the application (Exhibit Nos. 2 and 6). An amended parking lot site plan was submitted at the public hearing, along with a written description of how the parking lot would operate.

6. The subject property consists of vacant alley lots located on the interior of Square 274. These lots are substandard in terms of their lot width and lot area, by R-4 District requirements. These lots are unable to be developed with single-family dwellings in accordance with Section 2507, as the lots do not abut an alley 30 feet or more in width. BZA Order No. 5908, dated May 25, 1960, approved the use of a portion of the subject site (Lots 804 through 814) as a parking lot.

7. **Section 213 Parking Lots (R-1) – Subsection 213.1** states that a parking lot shall be permitted in a R-1 District if approved by the Board of Zoning Adjustment in accordance with Section 3108.1, and subject to the following provisions.

Subsection 213.2 states that a parking lot shall be located in its entirety within 200 feet of an existing commercial or industrial district. The applicant testified that the zone boundary line separating the R-4 zoned portion of the square from the ARTS/C-2-A zoned portion of the square runs east to west down the centerline of an alley that runs parallel to U Street, NW. The applicant explained that approximately eight feet of the parking lot's south side projects beyond 200 feet of the ARTS/C-2-A District boundary line to the north. A majority of the proposed parking spaces are located within the 200-foot requirement. Several of the proposed parking spaces would be partially located beyond the 200 feet requirement. The applicant is requesting a variance from this provision. The applicant maintains that strict compliance with this provision would create a practical difficulty on the owner given the unusual configuration of the alley lots, their existing distance from the ARTS/C-2-A boundary, the existence of the alley right-of-ways and the zoning limitations governing the use of the alley lots.

Subsection 213.3 states that a parking lot shall be contiguous to or separated only by an alley from a commercial or industrial district. The applicant testified that there is a 25-foot wide north/south public alley, which separates the easternmost from the westernmost parking spaces.

This alley separation causes the parking lot to not be totally contiguous to the ARTS/C-2-A District. The applicant indicated that from a practical and operational standpoint, once the proposed lot is paved and striped, the whole area including the north/south alley would appear and actually functions as a single unified surface parking lot. This situation, specifically alley lots under the same ownership that are separated by an alley or alleys, is not uncommon throughout the District. The applicant proffered its future intentions of initiating the legislative process for closing the north/south alley, which divides the subject parking lot. The applicant is seeking a variance from this provision in order to use the westernmost portion of the subject property for parking for 47 spaces. The applicant maintains that the exceptional situation caused by the location of the bisecting alley and the zoning limitations governing the use of alley lots makes the strict compliance with this provision practically difficult.

Subsection 213.5 provides that no dangerous or other 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 applicant testified that the use of the subject parking lot would be an asset to the neighborhood. The proposed parking lot would serve the future tenants and visitors to the True Reformer office/retail building located in the same square. This historic four-story building contains approximately 35,000 square feet of gross floor area, occupies 100 percent of the site and has no on-site parking. Additionally, the applicant noted that the proposed lot would provide necessary, convenient, and monitored parking for the patrons and visitors to the U Street commercial corridor, which includes entertainment, government, cultural, retail and service uses. The proposed parking lot would help to make parking spaces available for the area residents, who presently must compete at all hours with visitors. There is excellent access to the proposed parking lot through the square's alley network. No dangerous or other objectionable traffic conditions would result from the establishment of the parking lot, and the present character and future development of the neighborhood would not be adversely affected.

Subsection 213.6 provides that the parking lot is 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 testified that the proposed parking lot is necessary and would be convenient to other uses in the vicinity, so that the likely result would be a reduction in overspill of parking on neighborhood streets.

Subsection 213.7 provides that 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 of the site. The applicant testified that it is anticipated that the majority of the proposed parking spaces would serve the short-term parking needs of drivers seeking quick, convenient and safe access to the True Reformer building, and the various retail, service and other uses located along the U Street commercial corridor.

Subsection 213.8 provides that the Board submits the application to the DC Department of Public Works for review and report. The Office of Zoning referred this application to the DC Department of Public Works. DPW did not submit a report to the Board.

8. **Compliance with Section 2303 – Parking Lots**

a. **Subsection 2303.1** provides that a parking lot in any district shall conform to the following special provisions:

(1) 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 minimum of four inches in thickness.

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

(3) 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.

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

(5) 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.

(6) 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.

b. **Subsection 2303.2** states that in addition to the provisions of Subsection 2303.1, a parking lot located in an R-4 District, and a parking lot located in any other district where such parking lot is contiguous to an R-4 District, shall be screened from all contiguous residential property located in an R-4 District by a solid brick or stone wall at least 12 inches thick and 42 inches high or by evergreen hedges and/or evergreen growing trees which are thickly planted and maintained and are at least 42 inches in height when planted.

(1) The parking lot shall be screened from all contiguous residential property located in an R-1, R-2, or R-3 district by a solid masonry wall at least 12 inches thick and 42 inches high; and

(2) All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls shall be kept free of refuse and debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition, and in a neat and orderly appearance.

c. **Subsection 2303.3** states that if approved by the Board of Zoning Adjustment, the conditions set forth in Subsection 2303.2 may be waived or modified.

9. The Board finds the application to be in compliance with Sections 213 and 2303 of the Zoning Regulations.

10. **Subsection 2117.12** requires that the open parking spaces be screened from all contiguous residential property located in an R-4 District by a solid brick or stone wall at least 12 inches and 42 inches high or by evergreen hedges or evergreen growing trees which are thickly planted and maintained and are at least 42 inches in height when planted. The applicant's revised site plan submitted at the public hearing complies with this provision.

11. The applicant submitted for the record a letter dated December 10, 1997, to the Single Member District Representative of ANC 1B02 stating that the following conditions shall apply to the operation of the proposed parking lot in deference to the community's concerns.

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, which form an all-weather impervious surface, and which is a minimum of four inches in thickness.

b. The parking lot shall be designed so that no 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 vehicle entrance or exit shall be within 40 feet of a street intersection as measured from the intersection of the curb lines extended.

e. Any lighting used to illuminate the accessory parking spaces shall be arranged so those direct rays of lighting are confined to the surface of the parking lot. The type of lighting used to illuminate the lot will be selected for its compatibility with the surrounding residential uses.

f. The parking lot shall be landscaped on its perimeter with Leyland Cyprus trees covering a minimum of five percent of the total area of the parking lot. Landscaping shall be maintained in a healthy growing condition and in a neat and

orderly appearance. A six-foot high chain link fence will surround the perimeter of the parking lot.

g. All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls shall be kept free of refuse and debris on a daily basis.

h. The parking lot will have assigned spaces for the use of the tenants and visitors to the True Reformer building once renovated and occupied.

i. A parking lot attendant will be on duty to assist with valet parking.

j. A parking lot attendant and security guard as needed, will be on duty during the evening hours of operation.

k. The vehicular entrance to the parking lot will be restricted to the alley behind the True Reformer building at 1200 U Street, NW.

l. The vehicular exit from the parking lot will be restricted to the 12th Street alley entrance on the southeast corner of the block. A left turn only sign will be located at the exit. Signs will be used to direct parking lot use to the appropriate entrance and exit points.

m. The parking lot will be secured during non-business hours with locked chains, and steel posts.

12. Several witnesses, including residents of the area, appeared in opposition to the parking lot application for various reasons. Some of the witnesses expressed that they had not been properly notified of the public hearing. Some of the witnesses felt that the rental truck business, which presently leases the property from the applicant, is an illegal use. Several witnesses felt that they did not have enough time to review the applicant's revised site plan. Several witnesses stated their preference that the alley lots be developed with housing.

13. The Mayor of the District of Columbia in a letter dated December 16, 1997 stated that:

> the parking lot will be a vast improvement over the existing conditions on the interior of the square. The use of the parking lot is an essential prerequisite for attracting tenants to the historic True Reformer building. Without having dedicated parking available to the True Reformer building's future tenants and visitors, the renovation and occupancy of this wonderful landmark is substantially handicapped. Not only is the approval of the parking lot critically important to the successful marketing of the True Reformer building, but it is equally important to the success of the other businesses located along the U Street corridor.

14. Advisory Neighborhood Commission (ANC) 1B by correspondence dated December 18, 1997 requested a waiver from the seven-day filing requirement for the submission of its report. The Board granted the ANC's request.

At its monthly meeting held on December 10, 1997, ANC 1B voted to oppose the application. The ANC indicated that the reasons for opposing the application are that it does not meet the required regulatory standard of the Regulations; and the community is, unanimously, opposed to it. The ANC's position was based on the expressed sentiments of the residents and representatives of the area in meetings, as well as through the receipt of electronic media. The ANC articulated their specific concerns as follows:

a. The area has been experiencing a resurgence of housing rehabilitation. In addition, new residential construction is proposed in the vicinity of the site. There is a need for the Board to protect the residential character and uses of the neighborhood. The R-4 District, generally, prevents intense development or non-residential uses of property. A parking lot for numerous cars and trucks would invite future applications for uses that also fail to harmonize with the R-4 District.

b. The application does not appear to meet any of the tests to receive the requested relief. The lots are not exceptionally narrow, shallow, or irregularly shaped. Thus, the characteristics of the site do not prevent it from being used as prescribed by the Zoning Regulations. The lots were occupied by dwellings in the recent past and can be redeveloped to again accommodate housing. The applicant should demonstrate how the R-4 District would be disadvantageous. The applicant recently acquired the lots. Any hardship is self-imposed.

c. Increased vehicular traffic in the square's alleyways will negatively affect public safety and neighboring properties. The proposed use would be transient in nature, thereby changing the residential character of the lots. Also, the proposed use would not promote neighborhood stability, and would not serve well the residents of the neighborhood.

d. The applicant's request for zoning relief not to screen the parking lot from the nearby residential properties is illustrative of the property owner's objective to change the residential character of the area.

e. The proposed parking lot would diminish residential property values and the desirability of the homes near to the site to prospective residents.

f. Approving the application would establish a precedent that may lead others to follow.

15. The African-American Civil War Memorial Freedom Foundation in a letter dated December 15, 1997, stated its support for the proposed parking lot (Exhibit 28). The letter noted that "The memorial and plaza are scheduled to be unveiled on July 18, 1998, and we are in desperate need of parking for the general public expected to visit from all across the nation."

16. The Board acknowledged the receipt of letters into the record from approximately 20 business owners along U Street in support of the application. The business owners noted that the parking lot would help to retain their customer clientele in an area with limited parking opportunities.

17. The applicant stated that it would be preferable if the approval of the parking lot would be for at least 15 years. This time period would coincide with the desired lease agreements sought by prospective tenants of the True Reformer building. The 15-year time period would give prospective tenants the assurance they need that safe and convenient parking would be provided for their employees and visitors.

18. The applicant submitted a revised parking lot Site Plan delineating the valet spaces, as requested by the Board at the conclusion of the hearing (Exhibit No. 50).

FINDINGS OF FACT:

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

1. Revisions were made to the originally submitted site plan (e.g., location of screening wall, landscaping, lighting, number of parking spaces and circulation). The revisions, however, were made to refine and improve the parking lot plan and its operation in response to concerns raised by residents of the community and the Advisory Neighborhood Commission 1B.

2. The revisions made to the site plan, to be reinforced with the conditions contained in this order, would sufficiently screen the parking lot from the adjacent residential dwellings, ensure that an attendant would be on duty when the lot is in operation, ensure that traffic flows smoothly to and from the site, and would depict where the valet parking spaces would be located.

3. The issue of whether or not the subject site can be developed with other uses, including housing, is not relevant to the relief sought in this application. The applicant is requesting a special exception to allow the operation of a parking lot, and area variances from certain specific special exceptions requirements. A parking lot is a permitted use in the R-4 District with Board approval.

4. The operation of the proposed parking lot is necessary for the successful redevelopment of the True Reformer building. Also, the renovated building would benefit the other business ventures along the U Street corridor by providing necessary and convenient short-term parking for their customers and, thus, advance the long established District policy to revitalize this corridor. The parking lot is an appropriate interim use for the property until such time that market conditions make other development cost effective.

5. The revised parking lot plan incorporates design and operational elements, which would substantially minimize the possibility of any adverse impacts on the surrounding residential community.

6. The property consists of alley lots and as such they are located on the interior of the square. Based on R-4 zoning requirements, the lots' width and area are substandard. As the lots exist, they cannot be developed with single-family dwelling units because they do not abut an alley that is 30 feet or more in width.

7. The exceptional situation caused by the location of the bisecting alley and the zoning limitations governing the use of alley lots creates a practical difficulty for the applicant.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception under Subsection 213.1 and variances under Subsections 213.2, and 213.3 of the Zoning Regulations to establish a parking lot at the site. The special exception must meet the criteria set forth in Section 3108 of the Zoning Regulations which requires that the application be in harmony with the general purpose and intent of the Zoning Regulations and Map and would not tend to affect adversely the use of neighboring property. The Board is of the opinion that the proposed parking lot use of the site would be an improvement over the present use of the property. The new parking lot would be landscaped, adding a measure of attractiveness and security to the row dwellings whose rear yards face the subject property.

In addition, the Board must find that under Section 3107, the variances sought would not impair the intent, purpose and integrity of the zone plan embodied in the Zoning Regulations and Map. The Board is of the opinion that the requested variances would alleviate extraordinary or exceptional situations or conditions related the site's shape, size and layout which makes strict compliance with the Zoning Regulations practically difficult and that the variance relief can be granted without substantial detriment to the public good.

The applicant meets the burden of proof established under Subsections 3107.2 and 3108.1, of the Zoning Regulations for approval of the requested special exception and variances to allow the establishment of a parking lot in the R-4 District. As described above, a portion of the subject site previously received BZA approval for the parking lot use. The request for parking lot use is needed to address the demand for safe and convenient parking by visitors and patrons of the adjacent U Street commercial/cultural corridor that includes the True Reformer building.

The Board concludes that the applicant has met the burden of proof, and as conditioned below, the proposed parking lot would not cause objectionable impacts on the surrounding community.

The Board concludes that it has accorded ANC 1B the "great weight" to which it is entitled. Accordingly, it is hereby **ORDERED** that the application be **GRANTED** subject to the following **CONDITIONS:**

1. Approval shall be for a period of five (5) years, provided that a majority of the property is used for short-term parking needs of retail, service and public facility uses in the vicinity.

2. The approval and conditions herein shall run with the land and shall apply so long as the property is used for a parking lot.

3. 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, which form an all-weather impervious surface, and which is a minimum of four (4) inches in thickness.

4. The parking lot shall be designed so that no vehicle or any part of a vehicle projects over any lot line or building line.

5. 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.

6. No vehicle entrance or exit shall be within forty (40) feet of a street intersection as measured from the intersection of the curb lines extended.

7. Any lighting used to illuminate the accessory parking spaces shall be arranged so that all direct rays of lighting are confined to the surface of the parking lot. The

8. type of lighting used to illuminate the lot shall be selected for its compatibility with the surrounding residential uses.

9. The parking lot shall be landscaped on its perimeter with Leyland Cyprus trees covering a minimum of five percent of the total area of the parking lot. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. A six-foot high chain link fence, clad in either black or green vinyl, shall surround the perimeter of the parking lot, pursuant to plans marked as Exhibit 50 of the record.

10. All parts of the lot not devoted to parking areas, driveways, access lanes, attendant's shelter, or required screening walls shall be kept free of refuse and debris on a daily basis.

11. The parking lot shall have assigned spaces for the use of the tenants and visitors to the True Reformer building once it is renovated and occupied.

12. A parking lot attendant shall be on duty at all times that the lot is in operation.

13. The vehicle entrance to the parking lot shall be restricted to the alley behind the True Reformer building at 1200 U Street, NW.

14. The vehicular exit from the parking lot shall be restricted to the 12th Street alley entrance on the southeast corner of the block. A left turn only sign shall be located at the exit. Signs shall be used to direct parking lot use to the appropriate entrance and exit points.

15. The parking lot shall be secured during non-business hours with locked chains, and steel posts.

16. The parking lot shall be constructed in accordance with the revised site plan labeled as Exhibit 50 in the record.

VOTE: 3-0 (Sheila Cross Reid and Susan Morgan Hinton to grant; Betty King to grant by absentee vote; Laura M. Richards not voting, not having heard the case).

THIS ORDER WAS ADOPTED BY THE BOARD OF ZONING ADJUSTMENT AT ITS PUBLIC MEETING OF FEBRUARY 4, 1998.

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT.

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

Final Date of Order: APR 1 1998

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 310.1, "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 TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIAT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16295

As Director of the Board of Zoning Adjustment, I certify and attest that on APR 1 1998 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Phil T. Feola, Esq.
Wilkes, Artis, Hedrick & Lane
1666 K Street, NW, Suite 1100
Washington, DC 20006

James B. Packard
9951 Foxborough Circle
Rockville, MD 20850

Lawrence Guyot, Chairperson
Advisory Neighborhood Commission 1B
P.O. Box 73710
Washington, DC 20056

Stanley Mayes, Chairperson
14th and U Street Coalition, Inc.
1319 Wallach Place, NW
Washington, DC 20009

W. Norman Wood, Jr.
Central Northwest Citizens Assoc.
1815 8th Street, NW
Washington, DC 20001

Joseph G. Kisha
1907 13th Street, NW
Washington, D.C. 20009

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

DATE: APR 1 1998

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 16295 of Temperance/Market Co., LLC, as amended, pursuant to 11 DCMR 3108.1 (new 3104.1) and 3107.2 (new 3103.2), for a special exception under Subsection 213.1 to establish a parking lot in a residential district, a variance from Subsection 213.2 to establish a parking lot that is not located in its entirety within 200 feet of an existing commercial or industrial district in a residential district, a variance from Subsection 213.3 to establish a parking lot that is not contiguous to or separated only by an alley from a commercial or industrial district in a residential district, and a variance from the provisions of Subsection 2117.12 to establish a parking lot that does not provide screening from contiguous residential properties for a parking lot in the R-4 District at premises 1912 12th Street, NW (Square 274; Lots 804 through 820, and 55 through 61).

HEARING DATE: December 17, 1997
DECISION DATE: February 4, 1998

DISPOSITION: The Board granted the application by a vote of 3-0 (Sheila Cross Reid, Susan Morgan Hinton to grant; Betty King to grant by absentee vote; Laura M. Richards not voting, not having heard the case.)

FINAL DATE OF ORDER: April 1, 1998

RECONSIDERATION ORDER

The Board granted the application with 16 conditions, by Order dated April 1, 1998, to establish a 79-space parking lot. Joseph G. Kisha (movant herein) and Francis M. Clarke, III filed motions, dated April 8, 1998, for reconsideration. Francis M. Clarke, III was not granted party status at the hearing. Therefore, although the requests were identical, the Board only considered Joseph G. Kisha's request. The movant attached to the request petitions signed by persons who reside within 200 feet of the site.

Motions for reconsideration or rehearing are governed by the Board's Rules of Practice and Procedure found in 11 DCMR Section 3332, which provides that a motion for reconsideration or rehearing shall state specifically the respects in which the final decision is claimed to be erroneous, the grounds of the motion and the relief sought. No requests for rehearing shall be considered by the Board unless new evidence is submitted which could not reasonably have been presented at the original hearing.

The movant's reconsideration request was based on the following:

- Notification of the applicant's proposal to use the site for a parking lot was not provided to all property owners within a 200-foot radius, as required by 11 DCMR. There were nearby property owners unaware of the pending application.

- The Board's erroneous factual determination of the community's need for parking is without basis or supporting evidence.

The respondent (Temperance Market) requested that the Board deny the movant's motion. The respondent indicated that, as required by the Zoning Regulations, notice of the public hearing was published in the D.C. Register; mailed to Advisory Neighborhood Commission (ANC) 1B; and, mailed to persons within a 200-foot radius of the site. Further, the property was posted and the signs were maintained with the appropriate information, including the hearing date.

The respondent stated that the property owners who did not receive notice of the public hearing reside on the west side of 13th Street (1908, 1910, 1914 and 1916 13th Street, NW). These properties are not within the 200-foot radius; rather, they are located 220-feet away from the site. The respondent also noted that proper notice of the public hearing was given as indicated by the following: movant's petitions presented at the public hearing that contained 32 signatures; the ANC's testimony that its public meeting on the application was well attended; and, testimony that information on the application and the BZA hearing were widely disseminated and extensive public dialogue on the application occurred.

The list containing the names and addresses of property owners within 200-feet of the site is provided by applicants to the Office of Zoning. No evidence was presented to indicate that the list was inaccurate or incomplete. Based on the Board's review of the list, proper notice of the public hearing was given, by mail, to the appropriate property owners. The Board agrees with respondent's argument that proper notice of the public hearing was given to all persons who had an interest in the case.

With reference to the movant's argument that the Board made an erroneous factual determination about the community's need for parking, the Board finds that not all of the locations identified by Mr. Kisha were available for parking, and the applicant was not required to demonstrate that there was a need for parking in the community.

CONCLUSIONS OF LAW AND OPINION:

Movant did not demonstrate that the application was not properly advertised and that adequate notice of the public hearing was not sent to all of the property owners within 200 feet of the site. All affected property owners were properly notified of the hearing. Notice of the pubic hearing was placed in the D.C. Register, mailed to ANC 1B, mailed to persons within 200 foot of

the site, and the property were properly posted. The Board concludes that the movant failed to introduce new evidence that could not reasonably have been presented at the original hearing. Accordingly, the Board hereby **ORDERS** that the **MOTION FOR RECONSIDERATION BE DENIED.**

VOTE: 3 – 0 (Sheila Cross Reid, Betty King and Maurice Foushee to deny.)

DECISION DATE: May 6, 1998

The proposed Reconsideration Order was sent out for exceptions by correspondence dated March 9, 1999. By correspondence dated March 31, 1999, the applicant indicated that the proposed Reconsideration Order accurately, and specifically, reflects the Board's decision in the case. No exceptions were filed.

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
JERRILY R. KRESS
Director

FINAL DATE OF ORDER: MAR 22 2000

UNDER 11 DCMR §3103.1 (new 3125.9), "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 OF THE DISTRICT OF COLUMBIA."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

BZA APPLICATION NO. 16295

As Director of the Board of Zoning Adjustment, I certify and attest that on MAR 22 2000 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

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Advisory Neighborhood Commission 1B
P.O. Box 73710
Washington, DC 20056

Stanley Mayes, Chairperson
14th and U Street Coalition, Inc.
1319 Wallach Place, NW
Washington, DC 20009

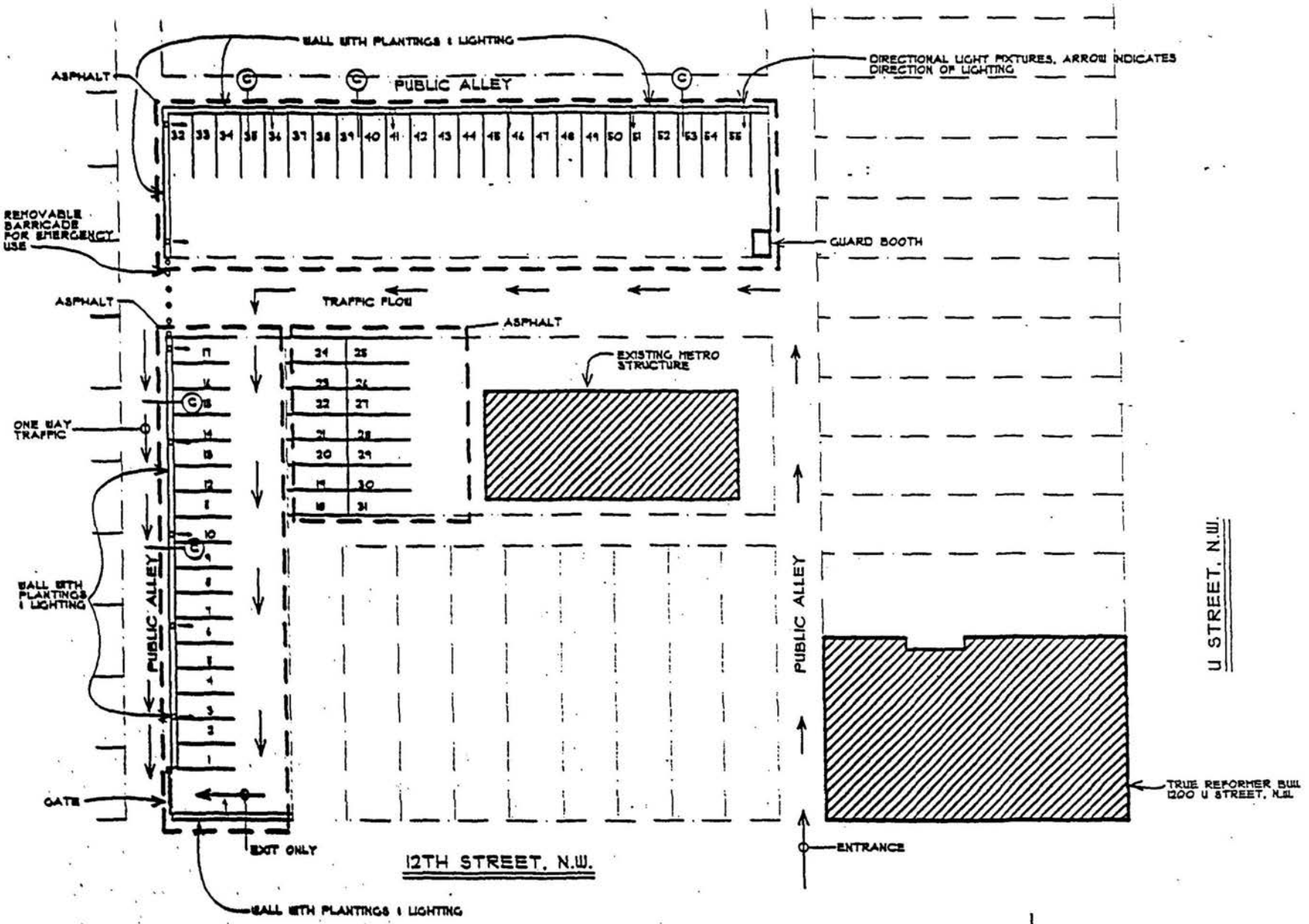
W. Norman Wood, Jr.
Central Northwest Citizens Assoc.
1815 8th Street, NW
Washington, DC 20001

Joseph G. Kisha
1907 13th Street, NW
Washington, D.C. 20009

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: _____
JERRILY R. KRESS
Director

Exhibit B



PARKING SITE PLAN
SCALE: 1" = 30'-0"

PLAN SYMBOLS:

- C = WALL WITH PLANTINGS & LIGHTING SEE DETAIL 2 / A-4
- O = NEW POLE MOUNTED LIGHT FIXTURE ON PHOTOCELL CONTROL TO BE MCPHILBEN MRC SERIES 1000 WATT HIGH PRESSURE SODIUM WITH 30' HIGH POLE.

PARKING LOT SCOPE OF WORK:

PROPERTY OWNER: JAMES PACKARD
SITE LOCATION: IN THE ALLEY BETWEEN 12TH AND 11TH STREETS N.W. AND T AND U STREETS N.W.

- PAVE ALL LOTS WITH ASPHALT PAVING.
- INSTALL A STORM WATER MANAGEMENT SYSTEM AND CONNECT TO CITY SEWER.
- INSTALL CURBS AND PLANTING STRIPS.
- INSTALL TREES, SHRUBS, AND GROUND COVER.
- INSTALL POLE LIGHTS WHERE INDICATED. INSTALL UNDERGROUND WIRING AND AN ELECTRIC SERVICE.
- STRIPE PARKING SPACES.
- SLOPE ASPHALT TO ARRASAY DRAINS FOR STORM WATER MANAGEMENT SYSTEM.
- RE-GRADE SITE AS REQUIRED TO SLOPE TO STORM WATER MANAGEMENT DRAINS.

BZA 16295

55 PARKING SPA

Exhibit C

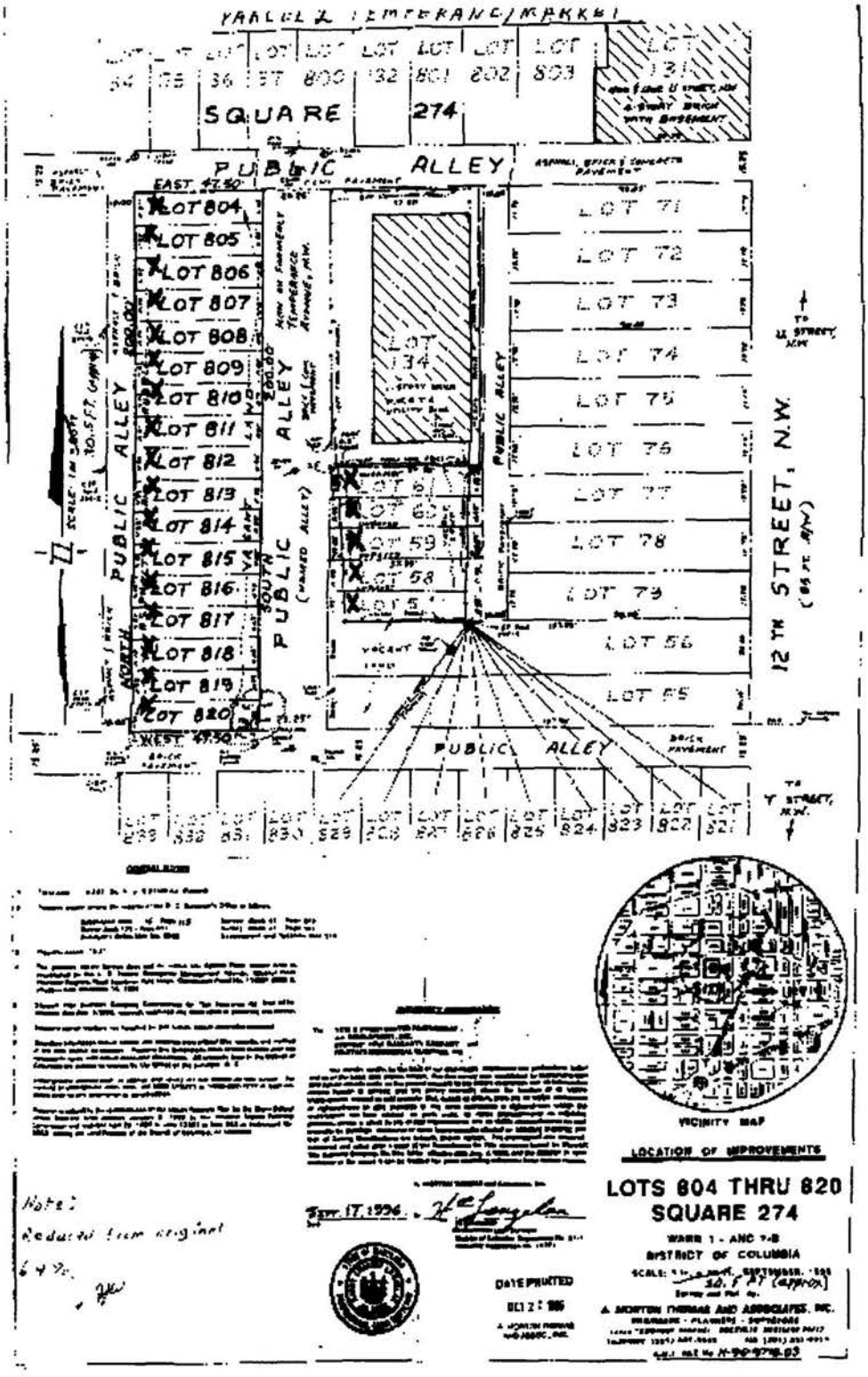
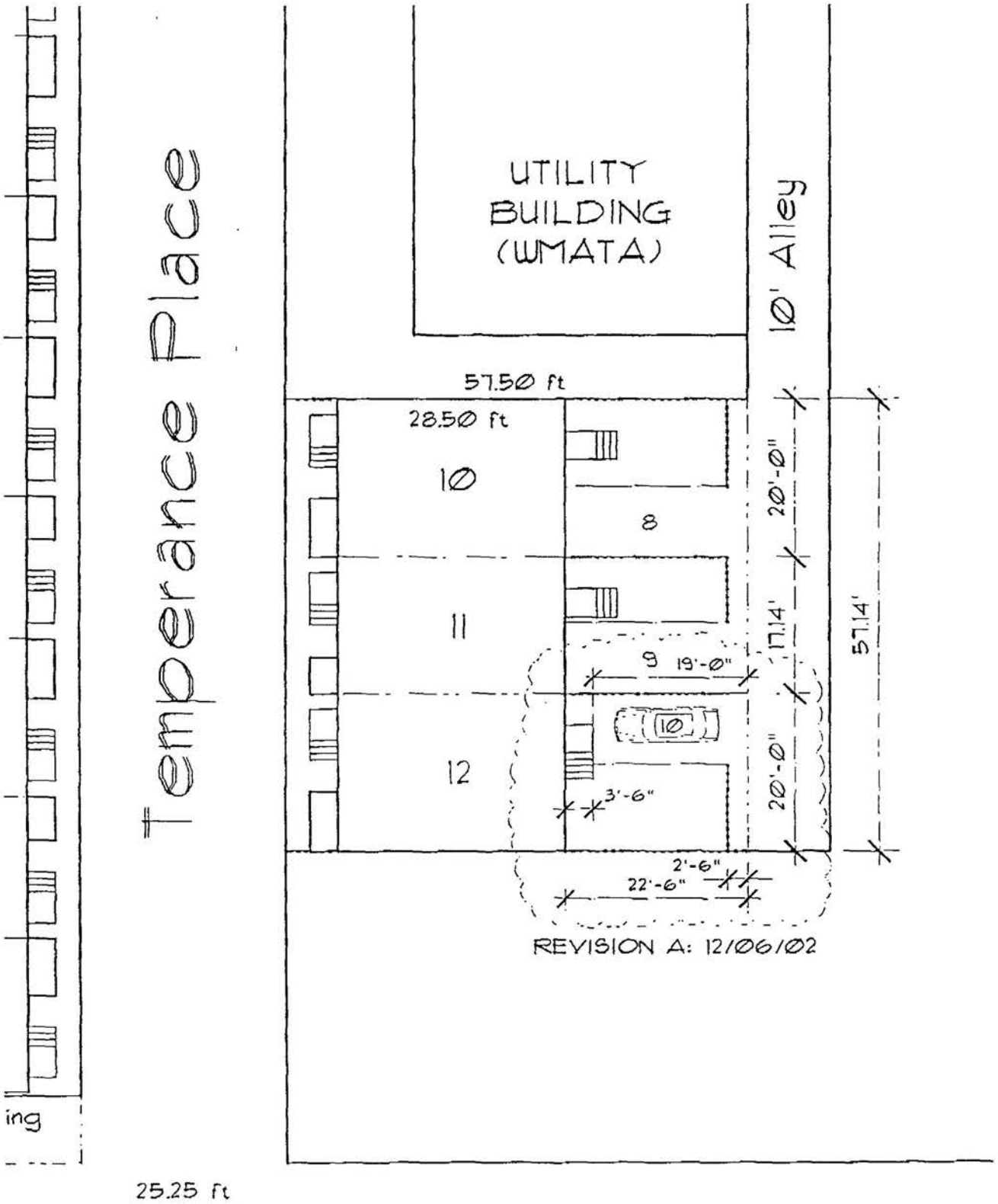

SQUARE 274
PUBLIC ALLEY
LOT 804
LOT 805
LOT 806
LOT 807
LOT 808
LOT 809
LOT 810
LOT 811
LOT 812
LOT 813
LOT 814
LOT 815
LOT 816
LOT 817
LOT 818
LOT 819
LOT 820
LOT 71
LOT 72
LOT 73
LOT 74
LOT 75
LOT 76
LOT 77
LOT 78
LOT 79
LOT 56
LOT 55
LOT 134
12TH STREET, N.W.
VICINITY MAP
LOCATION OF IMPROVEMENTS
LOTS 804 THRU 820
SQUARE 274
WARD 1 - ANC 1-B
DISTRICT OF COLUMBIA
DATE PRINTED
Note:
Reduced from original
64%

Exhibit D



Applicant's Revised Site Plan
For Parking, Lots 10-12