GOVERNMENT OF THE DISTRICT OF COLUMBIA

OFFICE OF PLANNING

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Office of the Director

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Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: **January 30, 2003**

SUBJECT: **Supplemental Report**: BZA Application #16938 (The Most Worshipful Prince Hall Grand Lodge) - 1902 Vermont Avenue, N.W. (Square 333, Lot 827)

The Office of Planning's previous report dated November 19, 2002 requested that the applicant provide the Office of Planning additional information to further evaluate the proposal for a reinstatement of its original order granted in 1974, with subsequent orders in 1976, 1982 and 1988 for a twenty-one (21) space accessory parking lot located at 1902 Vermont Avenue.

APPLICATION

The applicant's previous request pertained to lot 827 and an adjacent lot 833, which was included in the application for nine (9) additional spaces to be considered as part of the accessory parking lot. However, the applicant has subsequently amended the request to continue operation of the parking lot on the original lot, lot 827, as an accessory parking lot for the Prince Hall Grand Lodge located at 1000 U Street, N.W. Therefore, the application now reads as follows:

- The application by The Most Worshipful Prince Hall Grand Lodge requests, pursuant to 11 DCMR §3104.1, for a special exception to allow twenty (21) accessory parking spaces located other than on the same lot as the main use under Section 214. The applicant further requests, pursuant to 11 DCMR 3103.2, a variance from the distance (§214.3) and proximity (§214.4) requirements.

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends approval of the continued operation of the parking lot subject to the conditions A through G of the previous order, 13675 and the additional conditions:

A. Approval shall be for a period of FIVE years subject to renewal by the discretion of the Board upon filing of a proper application.

BZA
Case No. 16938
Exhibit No. 49

Board of Zoning Adjustment
District of Columbia
CASE NO.16938
EXHIBIT NO.49

B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all weather impervious surface.
C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
D. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
E. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
F. 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
G. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.
H. The parking lot is for use by tenants of the building and members of the lodge only; spaces may not be used for commercial purposes.
I. All spaces shall meet code standards with respect to size and location of parking spaces as required by sections 2115 and 2116.
J. The applicant shall implement the landscaping plan as submitted.
K. The parking lot shall be limited to lot 827 with 20 parking spaces.

ANALYSIS

The subject lot is located near the northwest corner of the intersection of Vermont Avenue, N.W., T Street, N.W., and 10th Street, N.W. Up until the 1960s, all lots in this square were used for residential purposes. At some point, the residential uses were discontinued and the lots remained vacant for some time. In 1974, this Board approved the applicant's request to use Square 333, Lot 800 (now Lot 827) for accessory parking and that use continues today. The current lot is paved, completely fenced, lighted, and used primarily between the hours of 7:00 p.m. and 10:00 p.m., Monday through Friday and Saturdays, by the members of the Most Worshipful Prince Hall Grand Lodge. The only access to the lot is on Vermont Avenue. The applicant is currently using Lot 827 for accessory parking. No additional spaces are being requested in the amended application.

Section 214

The standard by which the BZA should approve a special exception to provide accessory parking spaces as set forth in §214. The following demonstrates how these standards are met:

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

The proposed parking lot is an open air, surface parking lot and it appears that no portion will extend above the level of the adjacent finished grade.

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

The accessory parking lot is not located in their entirety within 200 feet from the subject site. The applicant has requested a variance from this requirement because it is physically impossible for the lot to be within 200 feet from the main premises. Further, according to the applicant, the building occupies 89% of the lot thereby preventing the applicant from providing accessory parking on the same lot with the principal use. (See variance test)

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

The proposed parking lot is not contiguous to or separated only by an alley from the use to which it will be accessory. On Vermont Avenue, the lots are separated from the main premises by numerous row houses, the metro station and the African American Civil War Memorial. (See variance test).

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

Based on the applicant's recent submission, it appears that the parking lot will comply with the requirements outlined in §2303, as it will be paved, fenced, striped, and adequately lighted. The property has been re-striped to accommodate 20 spaces. The applicant will maintain access to the lot from Vermont Avenue, N.W. The applicant has indicated on the site plan that the open spaces will be screened from all contiguous residential property, including the property to the west (a brick rowhouse), by a solid brick wall at least twelve (12) inches thick and forty-two (42) inches high. The property to the north is not contiguous to this lot. However, OP recommends shrubbery to be planted along this property line to enhance the appearance of the lot in the residential neighborhood. In addition, the applicant has indicated that:

- All areas devoted to driveways, access lanes, and parking shall be maintained with a paving material forming an all weather impervious surface as required by section 2303;
- All spaces shall meet the requirements of §2117 with respect to access, maintenance, and operation. A minimum of 5% landscaping (380 square feet) of the total area (5,226 square feet) will be devoted to parking.

214.6 It shall be economically impracticable or unsafe to locate accessory parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:
(a) Strip zoning or shallow zoning depth;

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

It is both economically and physically impossible to locate any parking spaces on the subject property because the lot is fully occupied by existing buildings and there are no vacant lots in the vicinity of the applicant's main use. Although the applicant owns the building, there are several other tenants in the building. OP does not have any structural information to determine whether the applicant can include a parking lot in the basement of the building, as recommended by the community members in opposition to the surface lot. However, DDOT reports a curb cut would not be permitted due to close proximity to the 11th and U Street intersection.

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

The applicant's existing 21-space parking lot owned and operated by the applicant is currently operated without a valid BZA Order. The previous order expired in 1987. There is a significant amount of opposition to the continued use of the existing lot by the community. The community would like the property redeveloped as residential and believes that the current use provides no benefit to the community. In addition, the community has cited numerous instances of non-compliance with previous BZA Orders and DC law. The lot was illegally expanded to another lot to accommodate up to 29 spaces and not the 21 spaces approved by the Board. OP acknowledges the community's concern that the applicant has continued to use the lot despite its expired order. OP is encouraged that the applicant has considered its non-compliance and supports actions to correct the lapse in the special exception, bring the existing lot into compliance with §214 and to reduce the number of spaces to 20.

OP notes the community's observation that the lot has been littered at times and has become objectionable to the community in this regard. In addition, at nighttime, the lights from cars entering or exiting the lot affect the neighbors in the immediate vicinity of the lot.

OP recommends that the applicant implement a regular maintenance schedule to rid the lot of trash and debris, as well as to include a landscaping contract to determine the type of shrubbery, which may be able to screen the headlight glare from neighboring property.
While OP acknowledges the community's wish for another use for the site, an accessory parking lot is a presumed compatible use within the R-4 zone District, subject to special exception review. In three previous approvals by the Board, including 1988, the lot was deemed compatible with the neighborhood. OP's current observation of the lot at peak usage including nights and weekends concluded that the absence of parking, in light of the on-going commercial

revitalization of the nearby U Street corridor, would inflict more on-street parking and negative traffic related issues on the immediate surrounding neighborhood.

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

OP referred the application to the District Division of Transportation (DDOT) and requested a recommendation on the application. DDOT's report dated July 23, 2002 recommended that the applicant re-submit plans to show the design of the parking lot, including the scaled site plan showing dimensions of the spaces, drive aisles, entrances and drainage. DDOT's site visit revealed that the site was well maintained, and parking spaces were clearly striped and referenced the proximity of Metro and the location of three surface parking lots. DDOT also recommended that the applicant encourage the use of public transportation, on-street parking and use of the nearby available private parking lots.

The applicant has submitted that while some patrons use public transportation, others use their parking lot because of age, poor health and the lack of available public transportation during later hours. Many of the events at the Lodge end after Metro's service hours, which do not accommodate the most senior members and patrons of the Lodge. In addition, OP's observation of the lot at times of heavy usage, including nights and weekend events, concluded that absence of the parking lot would cause spillover parking into the surrounding neighborhood.

The applicant has commissioned a traffic/parking study by an independent agency for submittal to DDOT. DDOT will review the submission and present another report. To date, OP has not received this study, or DDOT's latest comments.

Section 3103

The applicant requires variance relief from the provisions of §§214.3 and 214.8:

> ***214.3 Accessory parking spaces shall be located in their entirety within two hundred feet (200 ft.) of the area to which they are accessory.***
>
> ***214.8 Accessory parking spaces shall be contiguous to or separated only by an alley from the use to which they are accessory.***

The standard by which the BZA should approve a variance is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

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

The accessory parking lot is not located in their entirety within 200 feet from the subject site. The applicant has requested a variance from this requirement because it is physically impossible

for the lot to be within 200 feet from the main premises and the main premises have an existing structure that prohibits parking on site. This presents an exceptional practical difficulty, since the applicant does not own any other property within a two hundred foot radius that may be used as a parking lot for patrons of the Lodge.

Additionally, the proposed parking lot is not contiguous to, or separated only by an alley from the use to which it will be accessory. On Vermont Avenue, the lots are separated from the main premises by row houses, the metro station and the African American Civil War Memorial. The applicant has requested a variance from this requirement because it is physically impossible to accommodate parking within 200 feet, with or without an alley. Again, this presents another exceptional practical difficulty for the applicant in meeting the parking lot requirements as regulated by §214 of the Zoning Regulations, since it is impractical to remove the existing structures contiguous to the Lodge and they do not own any other lot contiguous to their property which can be used as accessory parking.

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

The subject lot is approximately 254 feet away from the Lodge on U Street. The applicant has submitted that the location of their lot in relation to the location of the Lodge's Hall presents a practical difficulty, since it is physically impossible for them to locate the parking facility either on-site or within 200 feet of their property at 1000 U Street. They own the lot at 1902 Vermont Avenue, which is within walking distance to the Lodge. OP concludes that a practical difficulty exists for the applicant to comply with the requirements of §§214.3 and 214.8

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

The applicant has provided surface parking on lot 827, since 1974. Three BZA Orders on record, until 1988 have approved the use of the lot as an accessory parking lot. However, the applicant has failed since 1988 to have the order reinstated. In an effort to comply with the Zoning Regulations, the applicant is now requesting the required Board approval. OP does not believe that the reinstatement of the order to allow the subject lot to continue providing accessory parking for the Lodge will cause substantial detriment to the public good, nor will it impair the intent, purpose and integrity of the Zoning Regulations.

Section 3104.1

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

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

The proposed accessory parking lot is a permitted use in the R-4 District subject to the requirements of §214. OP believes that the applicant has met the requirements for variance relief from §§ 214.3 and 214.4. As such, OP concludes that the parking lot has met the requirements of §214 for the reasons discussed above.

OP believes that grant of the special exception is in harmony with the general intent and purpose of the Zoning Regulations. The special exception request is not a new use for the site. Rather, the parking lot has been in existence since 1974 and the neighborhood has evolved around the parking lot. OP is concerned that the absence of the lot would present a greater adverse effect on the use of neighboring property with resulting overflow parking along the U Street corridor. The provision of the lot provides a place for members and other patrons to park, thereby reducing demand for on-street parking within the neighborhood.

Opposition to the continued existence of the lot has stated that the applicant has not exhausted other means of transportation for its patrons or approached other existing parking lots in the U Street corridor to rent available spaces. OP has no information about the number of available spaces that could be rented by the applicant, or whether these spaces, if available were to satisfy the times the applicant and their patrons would need those spaces.

COMMUNITY COMMENTS

The subject property is within ANC-1B. The ANC has voted not to support the application. Nearby property owners and neighborhood associations including the Westminster Neighborhood Association have organized strong opposition to the application and has sought party status. The applicant has informed OP that the Lodge intends to request a meeting with the various opposition members, including the neighborhood associations and the ANC during the week of February 3, 2003 to discuss their concerns pertaining to litter, landscaping of the lot and traffic in the neighborhood.

SUMMARY AND RECOMMENDATION

OP attempted to research past BZA transcripts pertaining to the previous approvals granted by the Board. However, the Board's determination focused on the lot maintenance and landscaping requirements, which complimented the residential characteristic of the neighborhood. Based on previous decisions, OP has determined that the use of the lot was deemed compatible with the

neighborhood and the lack thereof would present an adverse effect on the neighborhood with respect to the spill-over parking encroaching into the residential neighborhood.

While the character of the neighborhood has indeed changed since the parking lot was approved, and continues to change with the current revitalization of the Shaw and U Street/Cardozo neighborhood Districts, OP believes the changes will encourage more vehicular and pedestrian traffic through both commercial and residential areas, which abut each other. OP believes that the parking lot should be maintained in a manner, which enhances the residential character of the neighborhood through maintenance and improved landscaping. Therefore, the Office of Planning recommends approval of the subject parking lot subject to the following conditions:

A. Approval shall be for a period of FIVE years subject to renewal by the discretion of the Board upon filing of a proper application.
B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all weather impervious surface.
C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
D. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
E. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
F. 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
G. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.
H. The parking lot is for use by tenants of the building and members of the lodge only; spaces may not be used for commercial purposes.
I. All spaces shall meet code standards with respect to size and location of parking spaces as required by sections 2115 and 2116.
J. The applicant shall implement the landscaping plan as submitted.
K. The parking lot shall be limited to lot 827 with 20 parking spaces

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14732 of the Most Worshipful Prince Hall Grand Lodge, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 213 to continue the use of an accessory parking lot, and a variance to allow accessory parking spaces to be located more than 200 feet from the area to which they are accessory (Sub-section 213.3) and a variance to allow accessory parking spaces that are not contiguous to or separated only by an alley from the use to which they are accessory (Sub-section 213.4) to continue to operate a 21 space private parking lot in an R-4 District at premises 1902 Vermont Avenue, N.W., (Square 333, Lot 800).

HEARING DATE: July 13, 1988
DECISION DATE: July 13, 1988 (Bench Decision)

SUMMARY ORDER

The Board duly provided timely notice of the public hearing on this application, by publication in the D.C. Register, and by mail to ANC 1B and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission (ANC) 1B. ANC 1B, which is automatically a party to the application, did not file a written statement of issues and concerns.

As directed by 11 DCMR 3324.2, the Board has 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 213 and for a variance from the strict application of 11 DCMR 213.3 and 213.4. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in opposition to this proceeding. 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 3108 and 3107, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with said Regulations and Map. It is therefore

ORDERED that the application is granted, subject to the following CONDITIONS:

A. Approval shall be for a period of five years from the date of expiration of the previous certificate of occupancy, namely from June 4, 1987.

B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.

C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.

D. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

E. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

F. 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 such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

G. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 4-0 (William F. McIntosh, Paula L. Jewell, Charles R. Norris and Carrie L. Thornhill to grant and waive the Rules; John G. Parsons not present, not voting).)

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: SEP 9 1988

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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 14732

As Acting Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated SEP 9 1988, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Fate Kearney, Chairman
Board of Trustees
Most Worshipful Prince Grand Lodge
1000 U St., NW
Washington, DC 20001

EDWARD L. CURRY
Executive Director

DATE: SEP 9 1988