GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** JLS for Andrew Altman
Director

**DATE:** September 16, 2003

**SUBJECT:** BZA Application - **17049**
SMC United Industrial LP

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**PROPOSAL**

Pursuant to 11 DCMR 3104, the applicant, SMC United Industrial Partnership requests special exception relief under § 213 to continue the use of a previously Board approved surface parking lot in an R-1-B Zone District. The parking lot at 2310, and 2320 31st Street, N.E is located in Square 4365, Lots 805 and 806 serves an adjacent facility to the existing warehouse located at 3070 V Street, N.E.

**SUMMARY RECOMMENDATION**
The Office of Planning (OP) recommends approval of the continued use of the parking lot.

**SITE DESCRIPTION**
The subject parking lot is located in the Northeast Gateway Neighborhood in Square 4365. Square 4365 is bounded by Adams Street to the north, warehouses to the south, 30th Street to the west and 31st Street to the east. The parking lot is in the R-1-B Zone District and abuts a C-M-1 District. Industrial and commercial uses are located to the south and west of the property, with residential properties to the north. An unused railroad spur and wooded area buffer the industrial from the residential uses along 30th Street.

The subject property has been used as a parking lot for forty-two years, with the first recorded Board approval issued in 1967, by Order No. 9198-9199, which granted permission to continue the parking lot for a period of five years. The most recent approval by the Board, Order No. 16164, was on November 6, 1996. This latest approval

BZA
Case No. 17049
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17049
EXHIBIT NO. 26

was modified in July 7, 1999, to allow any new tenant use of the lot without the owner having to reappear before the Board.

**ZONING REQUIREMENTS**
Section 2101.1 prescribes 1 parking space for each 3000 square foot of gross floor (GSF) area for warehouses. The existing 38,000 square foot surface parking lot provides 87 spaces for the 99,999 GSF warehouse. Therefore, the number of spaces provided is in conformance with the regulations.

Based on the applicant's submission and a review of previous decisions by the Board, OP believes that the lot meets the requirements of Section 213 of the Zoning Regulations, including:

**§ 213.2 –A parking lot shall be located in its entirety within two hundred feet (200 ft.) of an existing Commercial or Industrial district.**

The existing lot is located in its entirety within 200 feet of the industrial C-M-1 Zone District.

**§ 213.3 – A parking lot shall be continuous to or separated only by an alley from a Commercial or Industrial district.**

The parking lot is contiguous to the existing warehouse. The applicant owns both Lot 804 and the warehouse lot (Lot 32), which are zoned C-M-1.

**§ 213.4 – Provisions of Chapter 23**

The proposed parking lot will satisfy the requirements of Chapter 23 of the Zoning Regulations. §2303 requires that:

**(i) The parking lot surface be a minimum of four inches in thickness and paved with material approved by DPW as being all weather impervious;**
**(ii) No vehicle using the parking lot project over any lot line or building line; and**
**(iii) No other use be conducted on the subject site and no other structure stand on the lot except those uses or structures otherwise permitted in the R-1-B District.**

The subject parking lot meets the above requirements. Prior histories of approval by the Board, and the issuances of Certificates of Occupancy for parking purposes, are evidence of compliance with these requirements.
The parking lot also meets the other requirements of §2303. Specially, (d) there are no vehicular entrances or exits within 40 feet of a street intersection. The parking lot is not lit as required by this section (§2303 (e)) at the request of the community as stated in the previous Order.

OP's site visit observed:

- The parking lot was free of refuse and debris.
- Some attempt to landscape the entrances at the east of the lot. OP recommends that the landscaping be improved and maintained.
- Further, the parking lot is screened from all contiguous residential properties by existing green space to the northwest of the lot.

**§ 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.**

According to the applicant, the subject parking lot has not created any dangerous or otherwise objectionable traffic conditions. The Office of Planning is not aware of any existing dangerous or objectionable traffic conditions due to the continued use of the parking lot.

**§213.6 – The parking lot shall be reasonably necessary and convenient to other uses in the vicinity, so that the likely result will be reduction in overspill parking on neighborhood streets.**

The lack of available parking spaces in the immediate industrial neighborhood makes the adjacent parking lot necessary to provide parking for the warehouse tenant's uses. The location and size of the lot minimizes the likelihood of overflow parking encroaching on neighborhood streets, including Adams Street and 31st Street, north of Adams Street. No commuter, fringe or public parking is permitted on site as a condition of approval in the previous BZA Order #16164.

**§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.**

The subject parking lot primarily serves the warehouse tenant's uses and its employees.

11 DCMR, Section 3104.1 authorizes the BZA to grant special exception "where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations Map; and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

Specifically, the applicant has to support the requested relief by demonstrating conformance with these requirements as follows:

**Can the requested special exceptions be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map?**

The subject site has been Board approved for parking purposes for forty years. The applicant's special exception request anticipates using the parking lot in the same manner. There is no reason to expect the continuation of parking at the subject site to result in inconsistencies with the general purpose and intent of the Zoning Regulations and Zoning Map.

**Will the granting of a special exception tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map?**

Granting the requested special exception for the parking lot will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. The parking lot is contained entirely on Lots 805 and 806. An area of green space, separating the lots from neighboring residential property, acts as a buffer between the residential and industrial uses. If the property were developed as a residential use, no buffer area would exist, resulting in traffic conflicts between commercial and residential vehicles in the immediate neighborhood. No available records indicate that the site was ever used for residential purposes.

OP recommends that previous conditions of approval outlined in Order #16164 be reiterated, to recognize the community's wishes. (Order #16164 and Modification attached.)

**COMMUNITY COMMENTS**

ANC 5B met on September 4, 2003. OP has no information on community objections or violations of recent use of the parking lot.

**RECOMMENDATION**

The Office of Planning concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3104, Section 213 for a special exception to permit the continuation of the parking lot. Based on the information provided by the applicant, OP believes that granting continuation of the use of the lot in the R-1-B Zone District would not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. Previously negotiated conditions of approval between the applicant, the ANC and the Gateway Community Association are outlined in the previous Order #16164 and modified July 7, 1999. OP has no information of any violations of the existing Order, which may prevent the continued use of the parking lot. Therefore, OP recommends approval of the continued use of the parking lot, subject to the conditions outlined and modified in Order #16164, as well as improvement and maintenance of landscaping along the parking lot's frontage.


R-1-B
Lot 806
SMC Properties
C-M-1
Feature Key
Zoning Boundaries
Square Index
Ortho-Photography was taken in 1999.
Board of Zoning Adjustment
Application No. #17049
DC Office of Planning
September 3, 2003
Scale 1:2280
Attachment 1

| Applicatio | Square | Lot | Address | Section | Hearing | Decision | Full Text | Final Action |
|---|---|---|---|---|---|---|---|---|
| 12210 | 4365 | 805, 806 | 3070 V St, NE | 3101.48 | 10/20/76 | 10/20/76 | Request for modification of BZA Order No. 11171, by deleting condition No.1 | Granted |
| 14787 | 4365 | 805, 806 | 2300, 31st, NE | 3108.1, 212 | 4/27/88 | 4/27/88 | Special exception to use premises as a parking lot. | Granted |
| 9198-99 | 4365 | 805; 806 | Rear 3070 V St., NE. . | 3101.48 | 5/17/67 | 5/22/67 | To continue parking lot for a period of 5 yrs. Eff. date: -t&e- I / @Pel 7 Hearing: 9@ //7 15;@,, | Granted |
| 11171 | 4365 | 805, 806 | 3070 V St, NE | 3101.48 | 11/29/72 | | Permission to continue a parking lot for a period of five years. | |
| 5904 | 4365 | 805 | 3070 Vee St., N.E. rear of | 3101.48 | | | Continue operation of parking lot. | Granted |
| 15425 | 4365 | 805, 806 | R-3070 V St. NE | 3108, 214 | 1/23/91 | 1/23/91 | Special exception to use premises as a general parking lot. | Granted |
| 16164 | 4365 | 805, 806 | Rear 3070 V St. NE | 3108.1, 214 | 10/16/96 | 11/6/96 | Spec exception to continue use of premises as generai parking lot for vehicles | Granted |
| 12210 | 4365 | 805, 806 | 3070 V St., N.E. | 3101.48 | 10/20/76 | 10/20/76 | Request for modification of BZA Order No.11171, by defering condition of 1 for req. to park trucks | Granted |
| 14787 | 4365 | 805, 806 | 2300 - 31st St., NE AKA rear 3070 V St., NE | 3108.1, 212 | 4/27/88 | 4/27/88 | Spec. excep. to use premises as a parking lot. | Granted |
| 9198-99 | 4365 | 805, 806 | Rear 3070 V St., NE | 3101.48 | 5/17/67 | 5/22/67 | 4365 #9198-99 Rear 3070 V St., NE. 805,806 Section 3101.48 To continue parking lot for | Granted cond |
| 11171 | 4365 | 805, 806 | 3070 V St., NE. | 3101.48 | 11/29/72 | 2/6/73 | 4365 11171 3070 V Street, N. E. 805 and 806 Section 3101.48 Permission to continue a | |
| 5904 | 4365 | 805 | 3070 V St., NE. rear of' | 3101.48 | | | f 4365 #5q1o4 3070 Vee St., N.E. rear of @ TO-5 - - Section 3101-48 Continue operation of | Granted |
| 15425 | 4365 | 805, 806 | r. 3070 V St., NE. | 3108.1, 214 | 1/23/91 | 1/23/91 | Spec. excep. to use premises as a general parking lot. | Granted |
| 16164 | 4365 | 805, 806 | Rear 3070 V St., NE. | 3108.1, 214 | 10/16/96 | 11/6/96 | Spec. excep. to continue use of premises as general parking lot for vehicles | Granted cond. |

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16164 of SMC-United Industrial Limited Partnership, as amended, pursuant to 11 DCMR 3108.1, for a special exception under Section 213 to establish a parking lot for vehicles of the U.S. Postal Service in an R-1-B District at the rear of 3070 V Street, N. E. (Square 4365, Lots 805 and 806).

**HEARING DATE:** October 16, 1996
**DECISION DATE:** November 6, 1996

## CORRECTED ORDER*

## PRELIMINARY MATTER

The application was advertised as a special exception under Section 214, to allow general parking for a parking lot established by Board's Order No. 14787 for vehicles of the U.S. Postal Service. The subject property is located at the rear of 3070 V Street, N. E., and is in a R-1-B District. At the hearing, the applicant requested that the Board consider the application under Section 213. The applicant stated that there has been some confusion within the Zoning Regulations, because the numbering in the regulations has changed. The applicant stated that it is asking for reinstatement of BZA Order No. 15425 that was granted under Section 214. The applicant stated that if the application cannot be considered as a continuation of the previous approval, that it shall be considered as an original application of the parking lot. The applicant also stated that they are prepared to present the application under either section. The applicant stated that if you look back in history, Section 214 was intended to address those situations where there is a single property, a single ownership, and a zoning line going through the property. It speaks in terms of parking that is accessory to the principal use, and is located elsewhere than on the same lot as the principal use. The applicant stated that it may be cars, jeeps, or postal vehicles, the lot is still considered as accessory to the main use. He also stated that in its case, the main use is a warehouse, and it is typical for a warehouse to have trucks.

The Board stated that Section 214 is for accessory parking spaces, that the correct Section is 213 which permits parking lots in an R-1 District if approved by the Board of Zoning Adjustment.

The applicant stated that it went to the community to address the application and that it received support from the Advisory Neighborhood Commission and Gateway Community Association.

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* The order was administratively corrected to accurately reflect the agreement with the issue of lighting. The corrections appearing on pages 5, 7, and 9 of this order are noted by asterisks.

The Office of Planning (OP) stated that its report addressed Section 214, and if the Board continued with the hearing of the application under Section 213, they would not be prepared to address the regulations in this application. The Office of Planning said it needed to look at both sections to see how similar or dissimilar they are. OP stated that it could not respond to Section 213 at this time.

The Board left the record open for OP to prepare a supplemental report.

The Board stated that under Section 213 of the Zoning Regulations a parking lot must be contiguous to or separated only by an alley from a Commercial or Industrial district.

The applicant stated that the subject parking lot (Lots 805 and 806) is in fact contiguous to the warehouse property Lots (Lots 804 and 32). They also stated that a railroad spur crosses Lot 804 that is owned by the applicant, but it is still a part of the warehouse site.

The Office of Planning stated that when the Board approved the application for a special exception, the application was valid, but the applicant did not obtain a certificate of occupancy (C of O). OP also stated that the use was discontinued because the applicant lacked a valid C of O, and three years had lapsed. OP stated that the applicant should be seeking a use variance and not a special exception.

The applicant testified that they lost the certificate of occupancy, that they reapplied for the C of O, and that they have been involved in this process for twelve months.

The application was amended accordingly, and the Board proceeded to hear the application under Section 213 as a special exception to establish a parking lot for vehicles of the U.S. Postal Service.

## SUMMARY OF EVIDENCE

The subject property is located at the rear of 3070 V Street, N. E. The site is located in the Northeast Gateway neighborhood. The boundaries of the property are Adams Street to the north, V Street to the south, 30th Street to the west, and 31st Street to the east.

The site is a triangular-shaped piece of property that consists of two contiguous lots (lots 805 and 806). Lot 805 contains 47,297 square feet of land area, and Lot 806 contains 44,880 square feet of land area. Both lots combined have a total land area of 92,177 square feet. The parking lot surface occupies approximately 38,000 square feet of the subject property. A chain link fence topped with barbed wire surrounds the property. Egress and ingress is electronically controlled. The parking lot is divided into three sections. The northern portion of the lot is used for parking the United States Postal Service (USPS) employee/carrier vehicles, and employee vehicles, the central portion of the lot is used for private cars, and the southern portion of the lot is used for tractor trailers.

The site is located in an R-1-B District. The R-1-B District permits matter-of-right development of single-family residential uses for detached dwellings. The R-1-B District also permits parking lots, if approved by the Board of Zoning Adjustment.

The subject property abuts a C-M-1 District. There are industrial and commercial uses located to the south and west of the property, whereas residential uses are located to the north. The C-M-1 and C-2-A zoned areas along V Street and Bladensburg Road contain warehouses, wholesale businesses, transportation services, automotive repair garages, fast food restaurants, and other types of businesses. An unused railroad spur and a wooded area divide the industrial uses from the residential uses along V Street.

The applicant is requesting zoning relief from Section 213 and Subsection 3108.1 of the Zoning Regulations to reinstate BZA Order No. 15425 of SMC-United Industrial Limited Partnership.

## ISSUES AND ARGUMENTS

**I. Subsection 213.1** states that use as a parking lot shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment in accordance with conditions specified in Section 3108 of Chapter 31 of this title, subject to the provisions of this section as stated below:

> The Board is authorized to grant special exceptions, as provided in this title where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map.

**Adversely Affect Neighboring Property, Zoning Regulations and Map.** The applicant stated that the lot has continued in existence as a necessary adjunct to the industrial uses along V Street for over 40 years. The site and area description sections on the site plan demonstrate that the utilization of the subject premises as a parking lot will be in harmony with the existing neighboring properties. The applicant proposes to continue the parking lot use as previously approved by the Board.

The Office of Planning in its report dated October 8, 1996, stated that the site has been used as a parking lot for over 30 years. OP stated that the site serves as a buffer between two distinctly different uses, industrial and residential. Although the site is zoned for low-density residential development, the record in this case does not indicate that the site was ever used for housing. The parking lot is a functional way of using the site for much-needed parking spaces for the industrial businesses and, simultaneously, screening the nearby residential dwellings from the industrial uses. The applicant's proposal is not in disharmony with the general purpose and intent of the Zoning Regulations and Map. Further, if the recommendations suggested by the Office of Planning accompany approval of this application, the accessory parking lot would not affect adversely the use of neighboring properties.

Advisory Neighborhood Commission 5A submitted a report to the record dated October 7, 1996. In the report, the ANC stated that it met with a representative from the Postal Service and the Gateway Community Association to discuss the application. The ANCs in its report stated, no one voiced opposition to the request at the meeting, but citizens expressed concerns about not receiving a copy of the occupancy permit. The citizens wanted to know if there would be a change in the use of the property. The ANCs and the Gateway Community Association agreed

to approve the application contingent upon the applicant complying with certain conditions and making an agreement in written form. The representative of Single Member District 5A-11 testified at the hearing representing 5A-11 and ANC 5A. She reiterated the concerns expressed in the report.

Gateway Community Association (SMC) submitted a report to the record stating that it voted to oppose the application if certain conditions are not met in the future. The community association stated that, in the past, it had to continually make telephone calls to the applicant requesting resolutions to these issues. The conditions that SMC did not comply with in the Board's previous order are listed below:

1. The applicant did not install signs to direct existing traffic to flow south towards V Street;

2. None of the lots were kept free of debris and refuse; and the lots were not maintained with landscaping in a healthy growing condition or orderly appearance;

3. Over the years, the lots were used for storage of disabled vehicles and were open to public use for abandoned vehicles and refuse dumping.

ANC 5A, ANC Single Member District 5A-11 and the Gateway Community Association reached an agreement with SMC United Limited Partnership to approve the application with the following conditions:

a. All tractor trailers, contractor office trailers and other large commercial vehicles should be restricted to the southern portion of the lot. This includes no more than 10 tractor- trailer vehicles parked on the site at any given time.

b. U.S. Postal Service delivery vehicles must be restricted to the northern portion of the facility.

c. U.S. Postal Service employee passenger vehicles must be restricted to the central portion of the facility.

d. No commuter parking or public parking use will be permitted at this facility at any time.

e. No vehicle maintenance, storage of equipment or dumping of trash or other refuses and debris will be permitted on site.

f. 24-hour controlled parking by electronic access or attendant access must be provided.

g. The lots should be monitored or patrolled when unattended.

h. Any lots not used for parking must be chained and locked.

i. Lighting must be provided for all areas of the facility and shall be arranged so that all direct rays of such lighting are confined to the surface of the facilities.

j. The two lots numbered 28 and 29 located to the north of the facility will remain as a vacant landscaped buffer area between the residential and commercial land use.

*The applicant testified that they entered into an agreement with the neighbors on the issue of lighting. The original agreement, which was signed, indicated that lighting would be provided. However, the applicant testified that they subsequently agreed not to provide lighting (or electricity) on the lot because the lot would not be used in the evenings. The applicant indicated that the change in the agreement was made that morning, prior to the hearing and the statement about lighting should have been crossed out on the document. The ANC Commissioner who testified at the hearing offered to initial the copy of the agreement that the Board members had, but the Board declined to require initialing, stating that the testimony was sufficient.

The applicant stated that there are quite a few owners of warehouses nearby that have requested permission to use the lot for parking. The applicant stated that the drivers who work at other warehouses in the vicinity, park on residential streets that abut its property. The applicant also stated that with the permission of ANC 5A and the Gateway Civic Association, it agreed to allow the drivers to use the lot to park. The applicant testified that it has not decided whether to charge the other drivers who work at some of the other warehouses in the vicinity, but if a decision is made, it will make an offer to the neighborhood to use that money to keep the areas clean.

II. **Subsection 213.2** states that a parking lot shall be located in its entirety within two hundred feet of an existing commercial district.

In its brief to the Board dated September 24, 1996 and in its testimony at the hearing, the applicant stated that it met this test because the parking lot is located within 200 feet of industrially (C-M-1) zoned property to the east and south.

The Office of Planning in its supplemental report dated October 23, 1996, stated that the existing parking lot is located in its entirety within 200 feet of an industrial district. Approximately 50 feet separate both uses.

III. **Subsection 213.3** states that a parking shall be contiguous to or separated only by an alley from a Commercial or Industrial district.

The applicant stated that the subject parking lot is contiguous to industrially zoned property on its south and east sides.

The Office of Planning in its report stated that the parking lot is not contiguous to or separated by an alley from the U.S. Postal Service Warehouse. An unused railroad spur separates the two uses. According to OP, the applicant stated at the hearing that, along with owning the site, the partnership owns the railroad spur (Lot 804) and the USPS Warehouse (Lot 32).

IV. **Subsection 213.4** provides that all provisions of chapter 23 of this title shall be complied with.

The Office of Planning testified at the hearing that the applicant's site plan does not identify any lighting that may be used at the site at night. Also, the site plan does not identify any

on-site landscaping. OP stated that the Zoning Regulations require that five percent of the parking lot's total land area, at a minimum, shall be landscaped. OP also stated that the site plan that was submitted with the application was the same site plan that was submitted with the last application and that it needs to be revised. OP stated that the resurfaced area had not yet been striped and that it is difficult to ascertain the correct number of parking spaces that would be available at the site. In addition, OP stated that the site plan does not indicate the number of vehicles that would be parked on the northern and southern portions of the site.

The applicant testified that it concurs with the Office of Planning's recommendation, that the site plan must be updated because there are a number of things that are not shown.

The Board recommended that the applicant submit revised site plans into the record.

**V. Subsection 213.5** provides that 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 applicant testified that the continued operation of the parking lot would not result in dangerous or otherwise objectionable traffic conditions. The applicant stated that they have demonstrated by its nearly 40 years existence, and previous BZA approvals, that the continuation of the parking lot will not adversely affect the character of future development of the neighborhood.

The Office of Planning in its report stated that to alleviate the potential of having industrial-related traffic from the site traveling into the adjacent residential neighborhood, the applicant has agreed to install a sign directing all vehicles exiting the lot to use V Street. OP stated that they are not aware of any existing dangerous or objectionable traffic conditions that prevent the continued use of the site as a parking lot.

The application was referred to the Department of Public Works. At the time of the hearing the Board had not received a report, nor was there a representative at the hearing.

**VI. Subsection 213.6** states that the parking lot must be reasonably necessary and convenient to other uses in the vicinity

The applicant stated that the lot shall be used by the U.S. Postal Service and other warehouses in the vicinity. The applicant also stated that this use has minimized the demand for overflow parking on neighborhood streets, that there is no spillover parking from the parking lot.

The Office of Planning stated that as proposed, the site would be used exclusively to provide parking for the warehouse located at 3070 V Street, N. E. The warehouse property is 100 percent developed. The site has a long history of being used to provide for the warehouse, and prevents spillover parking onto nearby residential streets.

**VII. Subsection 213.7** states 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.

The applicant testified at the hearing that it intends to allow parking short-term during the day, that there will be no parking allowed at night.

The Office of Planning in its report stated that none of the parking spaces would be used for residential purposes, however, the applicant stated that the lot would be used for short-term parking. The lot will be used for employees and visitor parking during daytime hours. The tractor trailers and other commercial vehicles that would be using the site would be in use regularly and not parked for long periods of time. The site would not be used for the storage of vehicles.

**VIII. Subsection 213.8** states that 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 application was referred to the D.C. Department of Public Works.

The Office of Planning submitted a supplemental report dated October 23, 1996. In that report, OP stated that the applicant submitted a revised site plan that addresses the concerns identified at the public hearing. That the site plan depicts existing landscaping, how the site is to be striped, and the number of parking spaces that will be made available for both passenger and commercial vehicles. OP also stated that the applicant testified that the property will not be artificially illuminated. The Office of Planning recommended approval of the application with conditions in their supplemental report. The Department of Public works did not submit a report.

## FINDINGS OF FACT

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

1. The application was incorrectly advertised under Section 214. The Board amended the application and proceeded to hear it under Section 213 as a special exception to establish a parking lot.

2. The applicant does not have a certificate of occupancy for previous approval of the parking lot. The applicant did at one time have a C of O, but it was lost or misplaced. The applicant did reapply for the certificate of occupancy.

3. The lots are contiguous, but they are separated by a railroad spur that is owned by the applicant.

4. There will be no change in use of the property.

5. The conditions imposed by the Board will be adequate to alleviate the concerns expressed by neighbors.

*6. The applicant and the community agreed that lighting would not be provided.

## CONCLUSIONS OF LAW AND OPINION

Based on the evidence of record, the Board concludes that the applicant is seeking a special exception to establish a parking lot for vehicles of the U.S. Postal Service in an R-1-B District. The granting of such a special exception requires a showing through substantial evidence 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 Zoning Regulations and Map. The applicant must also meet the requirements of 11 DCMR 213 regulating parking lots in R-1 Districts.

The Board concludes that the applicant has met the burden of proof. The Board also concludes that the application is in harmony with the general purpose and intent of the Zoning Regulations and that the use will not tend to adversely affect the use of neighboring property.

The Board concludes that it has accorded ANC 5A the "great weight" to which it is entitled. In light of the foregoing, the Board **ORDERS** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

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

2. The layout of the site shall be in accordance with the revised site plan marked as Exhibit No. 32 of the record.

3. Use of the lot shall be restricted as follows:

   a. All tractor trailers, contractor office trailers and other large commercial vehicles shall be restricted to the southern portion of the lot. No more than 10 tractor trailer vehicles parked on the site at any given time.

   b. U.S. Postal Service delivery vehicles shall be restricted to the northern portion of the facility.

   c. U.S. Postal Service employee passenger vehicles shall be restricted to the central portion of the facility.

   d. No commuter, fringe or public parking use, except by employees of neighboring properties, shall be permitted at this facility at any time.

   e. No vehicle maintenance, storage of equipment or dumping of trash or other refuse and debris shall be permitted on site.

   f. Twenty-four hour controlled parking by chain and padlock or attendant access shall be provided.

   g. The lots shall be monitored or patrolled when unattended.

   h. Any lots not used for parking shall be chained and locked.

h. Any lots not used for parking shall be chained and locked.

4. *Lighting shall not be provided at the site in accordance with the agreement between the applicant and the community.

5. Lot 28 and 29 located to the north of the facility, shall remain as a vacant landscaped buffer area between the residential and commercial land use. This area shall be maintained in a neat and orderly condition.

6. The applicant shall install signage on the lot directing all vehicles exiting the lot to turn right on 31st Street, heading south toward V Street.

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

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

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

10. No other use shall be conducted from or upon the premises and no structure other that 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.

**VOTE:** 4-0 (Laura M. Richards, John G. Parsons and Sheila Cross Reid to grant; Susan Morgan Hinton to grant by absentee vote; Angel F. Clarens not present, not voting).

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

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

**FINAL DATE OF ORDER:** APR 14 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,

h. Any lots not used for parking shall be chained and locked.

4. *Lighting shall not be provided at the site in accordance with the agreement between the applicant and the community.

5. Lot 28 and 29 located to the north of the facility, shall remain as a vacant landscaped buffer area between the residential and commercial land use. This area shall be maintained in a neat and orderly condition.

6. The applicant shall install signage on the lot directing all vehicles exiting the lot to turn right on 31st Street, heading south toward V Street.

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

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

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

10. No other use shall be conducted from or upon the premises and no structure other that 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.

**VOTE:** 4-0 (Laura M. Richards, John G. Parsons and Sheila Cross Reid to grant; Susan Morgan Hinton to grant by absentee vote; Angel F. Clarens not present, not voting).

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

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

**FINAL DATE OF ORDER:** APR 14 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 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 TWO YEARS 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.

cord16164/BJW/bjw

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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**Application No. 16164 of SMC-United Industrial Limited Partnership,** as amended, pursuant to 11DCMR 3108.1 (new section 3104.1), for a special exception under Section 213 to establish a parking lot in an R-1-B District at the rear of 3070 V Street, N.E. (Square 4365, Lots 805 and 806).

**HEARING DATE:** October 16, 1996
**DECISION DATE(S):** November 6, 1996, and July 7, 1999

**MODIFICATION ORDER**

**REQUEST FOR MINOR MODIFICATION OF APPROVED PLANS**

This application was approved by the Board pursuant to Order No. 16164, dated January 2, 1998, as corrected by Order No. 16164, dated April 14, 1998. The Applicant, SMC United Industrial Limited Partnership, by letter dated June 25, 1999, in accordance with the provisions of Section 3335 of the Zoning Regulations, requested approval of minor modifications to the approved site plan (Exhibit No. 32, in the record) in BZA Order No. 16164, dated April 14, 1998. The Applicant stated that the requested minor modifications do not change the material facts the Board relied upon in approving the application.

The Board in the subject case approved a special exception for continued use of the parking lot at the subject site for the adjacent warehouse use. The parking lot had a history of use by the U.S. Postal Service for its vehicles. The Postal Service will be vacating the property and would be removing its vehicles by October, 1999. The Applicant is presently in lease negotiations with the Metropolitan Police Department, which will lease the adjacent warehouse building and will use the subject lot for the parking of its vehicles. The Applicant therefore requests permission to modify the approved site plan to delete the references made to the use of the lot by the U.S. Postal Service. In conjunction with the above change to the site plan, the Applicant proposed that Conditions 3.b. and 3.c. of the Modification Order should be changed to read:

3.b. Service vehicles for the tenant of the adjacent building shall be restricted to the northern portion of the facility.

3.c. Employee passenger vehicles for the tenant of the adjacent building shall be restricted to the central portion of the facility.

The above modification will allow future users (new tenants) of the parking lot to do so without having to reappear before the Board. The Applicant stated that all of the other conditions of the Order would remain in full force and effect.

**CONCLUSION OF LAW AND OPINION:**

Based on the evidence of record, the Board concluded at its regularly scheduled public meeting on July 7, 1999, that the modification sought by the Applicant in the subject matter is minor in nature, and does not change the material facts the Board relied upon in approving the application. The modification to Condition Nos. 3.b. and 3c. of Order 16164, dated April 14, 1998, will eliminate the need for the Applicant to return to the Board each time a new tenant wishes to use the parking lot.

In light of the foregoing, the Board **ORDERS** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Amend Conditions 3.b. and 3.c. in Order No. 16164, dated April 14, 1998, to read as follows:

   3.b. Service vehicles for the tenant of the adjacent building shall be restricted to the northern portion of the facility.

   3.c. Employee passenger vehicles for the tenant of the adjacent building shall be restricted to the central portion of the facility.

2. The layout of the site shall be in accordance with the revised site plan attached to the Applicant's June 25, 1999, letter and marked as "Proposed Modifications".

**VOTE:** **4-0** (Betty King, John Parsons, Jerry H. Gilreath and Sheila Cross Reid to grant).

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

**ATTESTED BY:** _____
**JERRILY R. KRESS, FAIA**
**Director**

**Final Date of Order:** MAY 18 2000

Ord16164/PH

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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**BZA MODIFICATION ORDER NO. 16164**

As Director of the Office of Zoning, I certify and attest that on MAY 18 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 this matter, and who is listed below:

Mr. Fred Farshey
SMC United Limited Partnership
7220 Wisconsin Avenue, N.W.
Suite 210
Bethesda, MD. 20814

Mr. Richard Nero, Jr.
Wilkes, Artis, Hedrick & Lane
1666 K Street, N.W.
Washington, D.C. 20006

Ms. Mozelle E. Watkins
ANC 5A-11, Single Member District
3225 Walnut Street, N.E.
Washington, D.C. 20018

Ms. Leslie C. Bournes
Gateway Community Association
P.O. Box 41476
Washington, D. C. 20018-0876

Ms. Annie M. Dawkins
2330 31st Street, N.E.
Washington, D.C. 20018

**Attested by:** _____
**JERRILY R. KRESS, FAIA**
**Director**

**DATE:** MAY 18 2000