

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** January 27, 2009

**SUBJECT:** BZA Application No. 17875, 4422 Connecticut Avenue, NW

---

**I. SUMMARY RECOMMENDATION**

The Office of Planning recommends approval of the requested special exception subject to conditions previously imposed under Order No. 17200 as modified below:

1. The application shall be approved for a period of TEN (10) YEARS (amended from four years).
2. Deliveries and trash pick-up shall be limited to the hours of 10:00 a.m. to 6:00 p.m. daily.
3. Trash pick-up shall occur at least three times per week. The number of pick-ups shall be increased if the dumpsters are overflowing on a regular basis between pick-ups. On each of the dumpsters, the side door facing the western property line shall be welded closed.
4. Two trash cans shall be maintained on the parking lot and emptied at least once per day or more often if they are overflowing with trash.
5. All parts of the lot 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, and the trees located on the Property shall be pruned at least once per year.
6. An exterminator shall perform monthly extermination services to control any rodents. In addition, the portion of the fence owned by the Applicant and located on the Property shall be reinforced underground to help prevent any rodents from entering the neighbors' properties.
7. The Applicant shall appoint a neighborhood and ANC liaison. The Applicant shall notify the ANC and all residences within 200 feet of the Property of the name, telephone number, and e-mail address of the appointed liaison. When that individual is no longer designated to act as the liaison, the Applicant shall use the same procedure to notify the neighborhood of his or her successor.
8. Existing wheel stops, signage, guardrail, and parking space striping and direction signage painted on the pavement shall be properly maintained.

## II. APPLICATION IN BRIEF

Potomac Foods, the applicant, filed this application for a special exception pursuant to § 214 of the Zoning Regulations in order to continue using an accessory parking lot on property located at 4422 Connecticut Avenue, NW (Square 1971, Lot 822). The original application did not request any changes to conditions of approval, currently in force under Order No. 17200.

## III. SITE AND AREA DESCRIPTION

The subject 9,100 square-foot (0.21-acre) property is developed with a parking lot with 16 vehicle spaces and associated landscaping. This lot is directly across a 20-foot wide north-south public alley from the rear of a Burger King restaurant which fronts Connecticut Avenue NW. Vehicular access to the parking lot is from the alley and a driveway/restaurant drive-through aisle from Connecticut Avenue.

Development surrounding the subject property consists of several parking facilities to the north and south serving residential and other commercial establishments that front Connecticut Avenue. Properties to the west are developed with two-story one-family semi-detached dwellings facing 35<sup>th</sup> Street, NW. Properties to the east, along Connecticut Avenue, are generally developed with low-rise commercial building.

The subject property and properties to the north, south and west are within a Residential (R-1-B) district. The Burger King restaurant and other properties fronting Connecticut Avenue are in a Major Business and Employment Center (C-3-A) district.

## IV. BACKGROUND

According to past Office of Planning reports, the subject property has been used as an accessory parking lot since 1982. The results of Board of Zoning Adjustment (BZA) reviews of previous applications for this site are as follows:

- On November 6, 1994, the BZA conditionally approved a special exception for a 16-space accessory parking lot on the subject property for a term of five years until 1999 (Order No. 16000);
- On March 1, 2000, a special exception was conditionally approved to continue this parking lot use for four more years until 2004 (Order No. 16541); and
- On November 5, 2004, current Order No. 17200 was conditionally approved to continue the parking lot use for another four years until 2008.

The applicant is again requesting to continue the existing accessory parking lot use.

## V. ZONING ANALYSIS

### Consistency with § 214

*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 finish grade.*

The subject property is an open area improved with a surface parking lot used by

customers of the associated Burger King restaurant across the alley. All accessory parking spaces are at grade.

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

All accessory parking spaces on the subject parking lot are within two hundred feet (200 ft.) of the referenced restaurant.

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

Existing conditions are consistent with this standard.

- 214.5 *All provisions of chapter 23 of this title regulating parking lots shall be complied with, except 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.*

Chapter 23 standards are reviewed below.

- 214.6 *It shall be deemed economically impractical 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: ...*

*(b) Restricted size of lot caused by ... substantial improvements ... on the lot; ...*

The restaurant, a three-space parking area, driveway and drive-through aisle consume the majority of the principal lot.

- 214.7 *Accessory parking spaces shall be 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 subject accessory parking lot is located at the bottom of a slope that extends from the rear yards of residential properties to the west that front 35th Street, NW. The combination of a steep slope, wooden picket fences, masonry walls of accessory garage or storage buildings in the rear yards of the residences, and mature trees, screen this parking lot from the nearby dwellings.

### **Consistency with § 2303**

- 2303.1 *A parking lot in any district shall conform to the following provisions:*

*(a) All areas devoted to driveway, access lanes, and parking areas shall be paved and maintained with bituminous concrete or black material, or a combination of these materials or other materials approved by the D.C. Department of Transportation as structurally equivalent or better, that from an all-weather impervious surface, and that are a minimum of four inches (4 in.) in thickness.*

According to previous OP reports, the subject parking lot is built in accordance with District Department of Transportation standards, and is paved with bituminous materials, which form an all-weather impervious surface that is a minimum of four inches in thickness.

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

This condition was not observed during OP site visits.

- (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 is otherwise permitted in the district in which the parking lot is located.*

OP only observed parked vehicles in the lot.

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

The vehicular entrance and exit for the parking lot is not within 40 feet of a street intersection.

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

Lights near the western property boundary shine straight down onto pavement and do not appear to shine or reflect light toward adjacent residences to the west.

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

The parking lot generally appears well maintained and landscaping consisting of a grassy area, and evergreen trees and shrubbery, covers more than 5% of the lot.

2303.2 *In addition to the requirements of §2303.1, a parking lot located in an R-1 District ... shall be screened from all contiguous residential property located in the R-1 ... District by a solid brick wall or stone wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high or by evergreen hedges or evergreen trees that are thickly planted and maintained and at least forty-two inches (42 in.) in height when planted.*

- (a) *The parking lot shall be screened from all contiguous residential property located in the R-1 R-2 or R-3 District by a solid masonry wall at least twelve inches (12 in.) thick and forty-two inches (42 in.) high.*

A combination of the brick walls, greater than 42 inches in height, for residential accessory buildings, sections of a wooden-picket fence nearly as tall, and mature trees along the western property line serve to screen the parking lot from the rear yards of the dwellings along 35<sup>th</sup> Street.

Although this is not entirely consistent with the standard, the existing trees and structures at the top of the slope, as well as the slope itself, form an effective visual screen.

- (b) *All parts of the lot not devoted to parking area, driveway, access lane, attendant's shelter, or required screening walls shall be paved or landscaped. Landscaping shall be maintained in a health growing condition, and in a neat and orderly appearance.*

All areas of the property not occupied by parking spaces, drive aisles and curb are landscaped.

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

No special treatment is recommended by OP.

OP staff visited the site on two occasions. During the first visit on December 17, 2008, current order approval conditions (refer to Exhibit 2) were reviewed with a representative of the applicant. The parking area and site were generally consistent with current conditions except:

- Condition No. 7 requires, *"A cable or chain shall be installed to close the entrance of the parking lot at times when the parking lot is not needed for operation of the restaurant."* A single metal post with a hole for a chain was installed at the parking lot exit without a second post to attach the other end of a chain.
- Condition No. 8 requires, *"The Applicant (to) appoint a neighborhood and ANC liaison (and) notify the ANC and all residences within 200 feet of the Property of the name, telephone number, and e-mail address of the appointed liaison."* It was unclear whether this condition had been met.
- Condition No. 9 requires, *"The Applicant shall provide to the ANC and the residences within 200 feet an annual report summarizing its compliance with the conditions."* Annual reports have not been filed.
- Condition No. 10 requires, *"The Applicant shall replace non-existent or misplaced wheel stops."* At least two wheel stops have been dislodged.

At the end of the visit, staff encouraged the representative to make sure all current conditions are met.

Subsequent to our meeting, the applicant informed OP that conditions No. 10 and 11 have been met and sought support from the ANC Single District representative for the following changes to the approval conditions in a letter dated January 12, 2009:

- Extending the new approval period to ten years or for an indefinite period;
- Deleting condition no. 7 because, given the current restaurant hours of operation, the parking lot is in use twenty-four hours a day so there is no need to "close" the lot by chaining it; and
- Deleting the annual report requirement in condition no. 9 because the ANC liaison could immediately address any concerns raised by the ANC or neighboring residents.

During a second site visit on January 15, 2009, OP confirmed that all wheel stops and the pavement direction arrow were in place in accordance with condition nos. 10 and 11. Staff also noted a posted sign stating the lot is for private parking only and others are subject to being towed.

A longer duration of approval is reasonable given the current state of the lot after four years. OP agrees that the other conditions are not necessary for the reasons stated. OP further recommends combining and restating conditions No. 10 and 11 as follows in a new condition no. 8 for the sake of clarity:

8. Existing wheel stops, guardrail, signage, and parking space striping and direction signage painted on the pavement shall be properly maintained.

## **VI. COMMUNITY COMMENTS**

To date no final recommendation from Advisory Neighborhood Commission (ANC) 3F has been added to the record file.

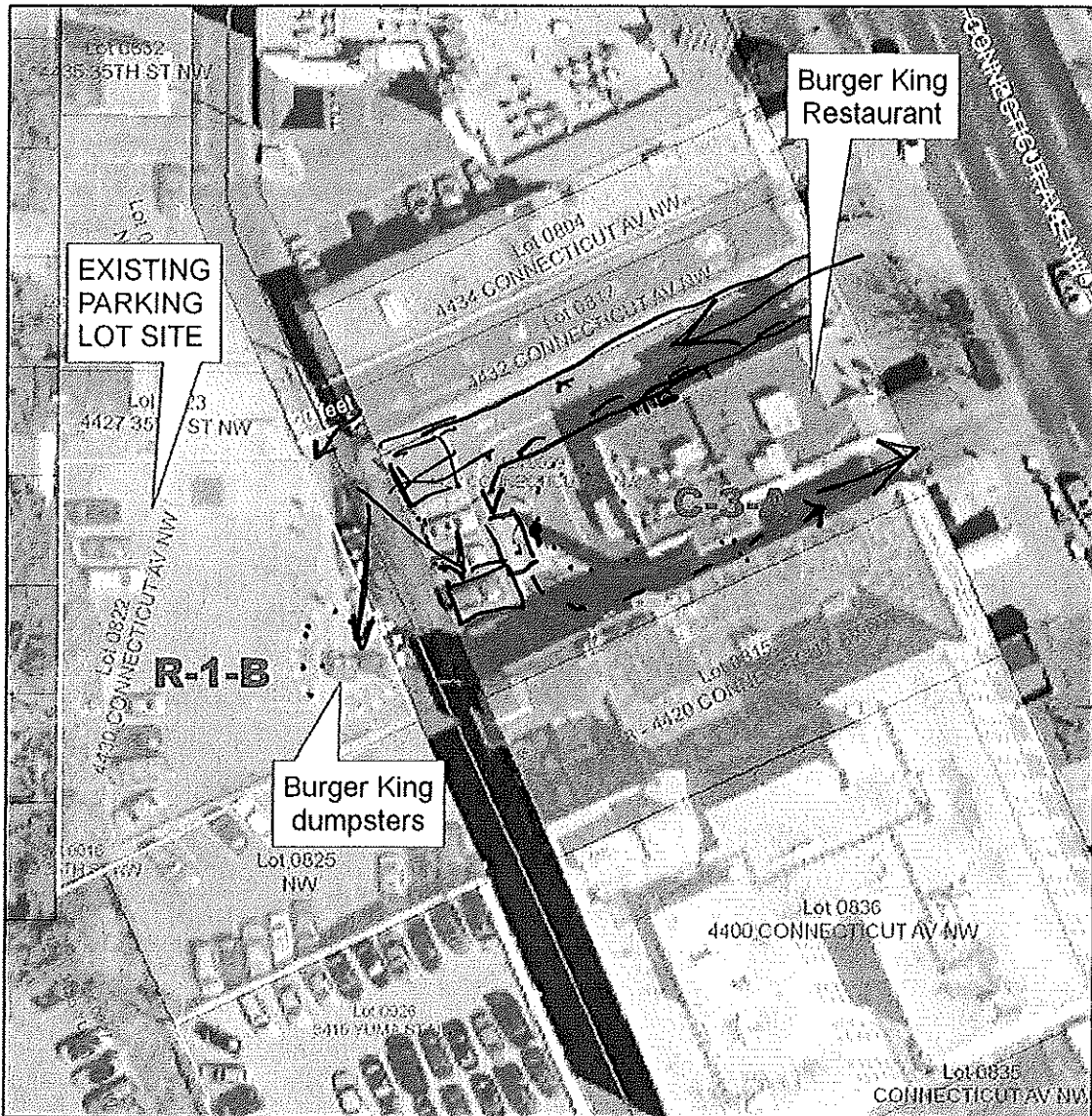
## **VII. RECOMMENDATION**

Subject to the current conditions as modified, this application meets the standards for special exception approval. OP therefore recommends extending the special exception term from four to ten years and retention the current approval conditions as modified above.

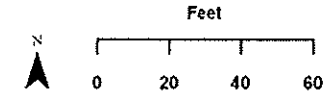
JS/afj

Arthur Jackson, Case Manager

Attachment:   Exhibit 1   Site Aerial Including Zoning  
                  Exhibit 2   Order 17200 Approval Conditions



**BZA Application No. 17875  
Accessory Parking Lot for Burger King at  
4422 Connecticut Avenue, NW**



\*\*\* Government of the District of Columbia  
Adrian M. Fenty, Mayor

Office of Planning ~ December 15, 2008  
This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

- LEGEND**
- Metro Bus Routes
  - Street Centerlines
  - Water
  - Parks

Order 17200 Approval Conditions

1. The application shall be approved for a period of FOUR (4) YEARS.
2. Deliveries and trash pick-up shall be limited to the hours of 10:00 a.m. to 6:00 p.m. daily.
3. Trash pick-up shall occur at least three times per week. The number of pick-ups shall be increased if the dumpsters are overflowing on a regular basis between pick-ups. On each of the dumpsters, the side door facing the western property line: shall be welded closed.
4. Two trash cans shall be maintained on the parking lot and emptied at least once per day or more often if they are overflowing with trash.
5. All parts of the lot 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, and the trees located on the Property shall be pruned at least once per year.
6. An exterminator shall perform monthly extermination services to control any rodents. In addition, the portion of the fence owned by the Applicant and located on the Property shall be reinforced underground to help prevent any rodents from entering the neighbors' properties.
7. A cable or chain shall be installed to close the entrance of the parking lot at times when the parking lot is not needed for operation of the restaurant.
8. The Applicant shall appoint a neighborhood and ANC liaison. The Applicant shall notify the ANC and all residences within 200 feet of the Property of the name, telephone number, and e-mail address of the appointed liaison. When that individual is no longer designated to act as the liaison, the Applicant shall use the same procedure to notify the neighborhood of his or her successor.
9. The Applicant shall provide to the ANC and the residences within 200 feet an annual report summarizing its compliance with the conditions.
10. The Applicant shall replace non-existent or misplaced wheel stops.
11. The Applicant shall repaint and maintain the entrance and exit directional arrows on the surface of the parking lot.