

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



October 11, 2011

Norman M. Glasgow, Jr.
Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W. - Suite 100
Washington, DC 20006

Re: McGogney School - Wheeler Road, S.E.

Gentlemen:

This is to follow-up on our discussion on Wednesday, September 14, 2011, concerning the above-referenced property (Square 5934, Lot 802) located at the northeast corner of the intersection of Wheeler Road and Mississippi Avenue, S.E. The property is zoned R-5-A. The property is a former District public school building which is now to be used by the Eagle Academy, which is a public charter school. By definition, a charter school is considered to be a public school under the Zoning Regulations and is permitted as a matter-of-right in R-1 and less restrictive zones.

This letter is a follow-up to my previous confirmation letter, dated November 23, 2010, concerning Eagle Academy and its intention to construct an addition which would increase the total gross floor area of the building to approximately 100,000 square feet. You advised that approximately 18,000 square feet of the building is proposed to be used by Howard University Hospital as a medical clinic which can provide services to the children at the school but also can serve the medical needs of the larger community. To the extent that the facility is serving the school children, because the facility would occupy less than twenty percent of the gross floor area of the building, I advised that the facility would be considered as accessory ("customarily incidental and subordinate") to the school use.

You advised that refinements to the design had resulted in some changes to the total gross floor area and the gross floor area to be devoted to the clinic use. The building will now have a total gross floor area of 104,380 square feet and the Howard University space would occupy 20,300 square feet of gross floor area, or 19.44% of the total. Since the clinic space is still less than twenty percent of the total, and given the way it will function to serve children in the school as well as the larger community, I reaffirm that the clinic is considered to be an accessory use to the school.

The maximum height of a building in an R-5-A District is normally 40 feet, pursuant to §400.1 of the Zoning Regulations. However, pursuant to §400.11, a public school may be erected to a height not exceeding 90 feet. Since the principal use of the building is to house a

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public school, I conclude that the maximum height of the building may be 90 feet, measured from the curb opposite the middle of the front of the building to the highest point of the roof or parapet. The elevation we reviewed showed that the actual height of the building measured as described above would be approximately 52 feet, 6 inches, well below the maximum permitted.

You also showed me a plan in which a new wing is being constructed to be attached to an existing portion of the building. There will be small notches in both facades where the new wing meets the existing building. These notches meet the literal definition and the requirements for a court niche and would be treated as such under the Regulations. A court niche is defined in §199.1 of the Regulations as "an indentation, recess or decorative architectural treatment of the exterior wall of a building, not a court, which opens onto a street, yard, alley or court." The architects have advised that the purpose of the court niche is to provide a visual break point where the old and new wings of the building connect and that the purpose is decorative. The court niche will be approximately nine feet wide by eleven feet deep. There will be no required openings for light and ventilation on the court niche (§406.2) and the court niche is never less than 3 feet wide (§406.3)

Accordingly, for the portions of the Regulations discussed above, I conclude that you may construct the building as proposed. A final determination as to zoning compliance will be made upon a full review of the plans and computations submitted as part of the application for a building permit.

Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator