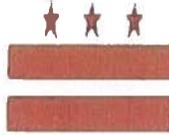


**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

March 25, 2012

Mr. Christopher H. Collins, Esquire
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Washington, DC 20006



Re: McDonald's Restaurant, 4301 Nannie Helen Burroughs Ave, NE--Square 5094, Lot 104

Dear Mr. Collins:

The purpose of this letter is to confirm the areas of zoning relief necessary for the proposed modernization and enlargement of the McDonald's restaurant building at the above-referenced location. You have provided to me the attached aerial photo of the vicinity, as well as the two aerial photos of the site showing the existing condition and the new proposed building footprint.

The property measures just over one-half acre in size, and was zoned C-M-1 when the restaurant (with the drive-through) was built as a matter of right in the early 1960's. The zoning of the site was subsequently changed to C-1 in 1978, in Zoning Commission Order No. 221. The current use of the property was classified as a "restaurant" until 1985, when the Zoning Commission adopted Order No. 440, establishing "fast food restaurant" as a zoning category. The use now meets the definition of a "fast food establishment", and is therefore a non-conforming use in the C-1 zone.

The existing one-story building measures approximately 2650 sq. ft. of gross floor area, and the proposed enlarged one-story building will measure approximately 3700 sq. ft. of gross floor area. Both appear to be conforming structures, in that the height, FAR, lot occupancy, yard and court requirements for the C-1 zone appear to be met for the existing building, and for the new proposed building. Although parking, loading and roof structure requirements are not considered in determining whether a building is conforming or non-conforming, the exhibit shows that both the existing number of parking spaces (30) and the proposed number of parking spaces (23) far exceed the minimum requirement for this use, based on the parking requirements in Section 2101.1 for a retail/service use in the C-1 zone. Both the existing and proposed buildings are below the minimum square footage for the loading requirement for a retail/service use in the C-1 zone.

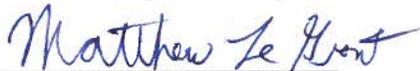
I understand that the last modernization of this McDonald's restaurant occurred almost 25 years ago, and that this proposed enlargement of the building footprint is for the purpose of modernizing the existing McDonald's restaurant to meet current standards. I understand that the repairs, modernizations and alterations will include the complete removal and replacement of the existing interior partition walls, plumbing, electrical, HVAC, and other systems, fixtures and facilities; modernization of the kitchen with new equipment and fixtures; reconfiguration and enlargement of the restrooms and the customer service and circulation area; repositioning of the

two existing drive-through customer service windows; relocation of one of the two customer entrance vestibules; relocation of the interior stairway; recladding and refenestration of the exterior walls; and repair or replacement of the existing wooden roof joists and roof with a new roof system, which is necessary to support the new rooftop equipment that will be a part of this modernization. The enlargement of this building to house a non-conforming fast food establishment will require a variance from Section 2002.5 of the Zoning Regulations.

This enlargement will not require a variance from Section 2002.4, which allows "ordinary repairs, alterations and modernizations...to a structure or portion of a structure devoted to a non-conforming use." I find that all of the modernization work listed above could be undertaken as a matter of right within the existing exterior walls of the building under Section 2002.4. "[S]uch activities are exactly the type of 'ordinary repairs, alterations and modernizations [that] may be made to a structure or portion of a structure devoted to a nonconforming use.'" See Appeal No. 17288 of Eastern Trans-Waste of Maryland, Inc., (October 25, 2005), at page 6. I do not deem any of the listed work to constitute "structural alterations". I understand that the new equipment, fixtures and facilities will take up more room within the existing building than the current layout, and that an adequately-sized dining/seating area is a necessary part of this restaurant operation. Accordingly, the owner wishes to enlarge the building in order to provide an adequately-sized dining/seating area. This enlargement will require a variance from Section 2002.5, but not from Section 2002.4.

Note also that the requirements of Section 2304 will apply to the drive-through use, and that compliance with the roof structure regulations in Sections 411 and 770.6 is also required. If these requirements are not met, BZA relief will be required.

If you have any questions, please do not hesitate to contact me.

Sincerely, 

Matthew Le Grant
Zoning Administrator

Attachments