



MEMORANDUM

2012 MAR 13 PM 2: 04

TO: District Board of Zoning Adjustment
FROM: Paul Goldstein, Case Manager
Joel Lawson, Associate Director Development Review
DATE: March 13, 2012

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18328
EXHIBIT NO. 27

SUBJECT: BZA Application #18328 – Request for special relief pursuant to §§ 733.1 and 3104 to allow a fast food establishment at 1815 Wisconsin Avenue N.W.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval, subject to conditions**, of this application for a fast food establishment (Noodles & Company) requiring the following relief:

- §§ 733.1 and 3104, special exception to permit a fast food establishment

OP's recommended conditions, which restate conditions proffered by the Applicant in discussion with the ANC, are as follows:

1. The establishment will serve dine-in customers with non-disposable plates and utensils;
2. The hours of operation will not exceed 10 am to 10 pm weekdays, and 10 am to 11 pm on Fridays and Saturdays;
3. The establishment, including its roof deck, will not produce sounds audible outside the property line of the site in which it is located; and
4. The percentage of carry-out customers will not be expected to exceed 35%.

Additionally, OP also has no objection to a final condition requested by the Applicant:

5. The Applicant shall have the flexibility to make modifications to the roof deck and other exterior elements in conformance with design guidance from the Old Georgetown Board of the Commission of Fine Arts and/or the Historic Preservation Review Board, provided that the setbacks remain substantially the same, and no new areas of zoning relief are required.

II. AREA AND SITE DESCRIPTION

Address:	1815 Wisconsin Avenue N.W.
Legal Description:	Square 1299, Lot 327 (hereinafter, the "Property")
Ward/ANC:	2/2E
Lot Characteristics:	The lot is irregular in shape and measures approximately 17,880 square feet in lot area. It fronts Wisconsin Avenue to the west and a drive aisle leading to a supermarket and parking lot to the north.
Zoning:	Split-zoned lot: C-2-A/C-1 C-2-A: Medium density community business center. The building is located entirely within the C-2-A portion of the site. C-1: Neighborhood shopping
Existing Development:	The Property is developed with a one-story multi-tenant commercial building. The building fronts Wisconsin Avenue and spans the full depth of the lot, while surface parking for 22 vehicles covers roughly the northern half of the lot.

Board of Zoning Adjustment
District of Columbia
CASE NO. 18328
EXHIBIT NO. 27

#27

Historic District:	Georgetown Historic District
Adjacent Properties:	To the Property's east is the Jelleff Community Center (hereinafter, "Jelleff"), which is zoned R-1-B. To the north is the newly reconstructed "Social Safeway." To the south (along the east side of Wisconsin Avenue) are other one-story retail/service uses. Several low scale commercial uses are located across Wisconsin Avenue to the west of the Property.
Surrounding Neighborhood Character:	The Property is located along the Wisconsin Avenue commercial corridor in north Georgetown. The nearest residential properties to the site are located along 34 th Street to the west and S Street to the south.

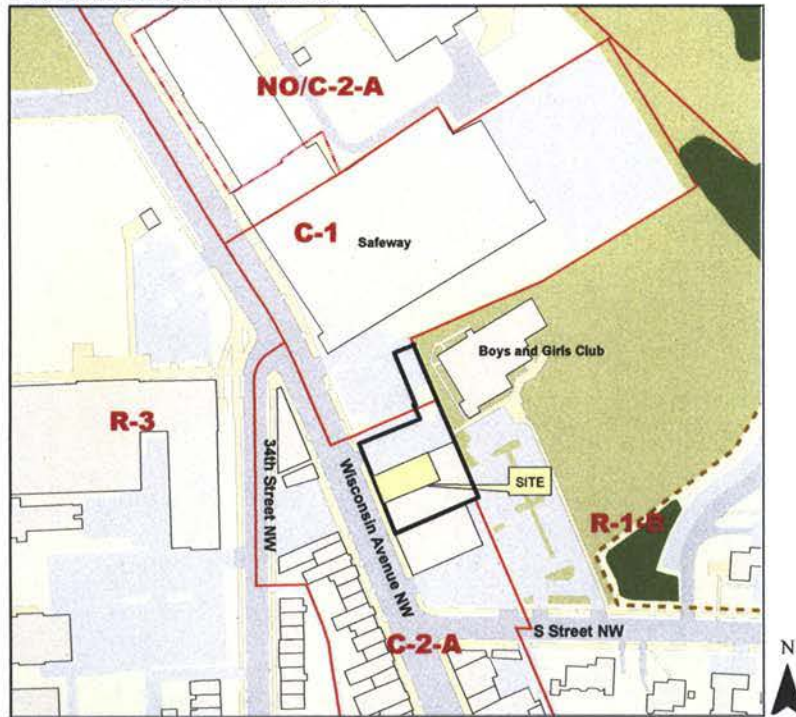
III. PROJECT DESCRIPTION IN BRIEF

Applicant:	Noodles & Company (the "Applicant" or "Noodles") ¹
Proposal:	The application proposes that Noodles would occupy an existing retail space of approximately 3,000 square feet formerly occupied by a bagel establishment. The space is located in the front two-thirds of an existing commercial building. There are two other retail spaces in the building – one located to the south of Noodle's location and one behind it. The application describes Noodles as a "fast casual" restaurant concept. Customers would use ceramic, non-disposable dishware, metal utensils, glassware and other non-disposable cups, and there is no deep frying of food. However, Noodles' policy of customers buying their meals prior to consuming their food causes it to be considered a fast food establishment under the zoning regulations and necessitates zoning relief.² The Applicant also proposes a new roof deck which would be accessible from an internal staircase and seat up to 40 customers. The roof deck would be roughly centered on the building's roof, with a 31' setback from the Wisconsin Avenue frontage and a 49' setback from the back of the building.
Relief Sought:	§§ 733.1 and 3104, special exception to permit a fast food establishment

¹ Safeway Inc., owner of the Property, authorized Noodles and Company and the law firm of Holland & Knight LLP to file and process an application to establish a fast food establishment at this location.

² See Zoning Regulations, § 199.

IV. IMAGES AND MAPS



Aerial view of the Property (highlighted), Noodles location shown in yellow.

V. RELIEF REQUESTED

Fast food establishments are permitted in C-2-A Districts as a special exception if approved by the BZA under § 3104, subject to the provisions of § 733.1 *et. seq.* Additionally, an Applicant may request a modification to the conditions listed in §§ 733.2 to 773.4 provided that “the general purposes and intent of this section are complied with.”

Special Exception (§§ 733.1 and 3104)

- 733.2 No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley;**

Since the Property is not separated by a street or alley from the neighboring residential district to the east, the Applicant requests a modification of this condition. Although no such separation exists, the retail space itself would not abut the residential district based on its proposed location within the existing building. It would be separated from the lot boundary by another retail space. Additionally, the adjacent residentially zoned property contains the gymnasium, trash dumpsters, and parking lot of Jelleff rather than residential dwellings. Noodles also operates more akin to a restaurant than a fast food establishment, save for patrons paying for meals before consuming them, and there would be no deep fry oil waste. Moreover, a modification would be consistent with the general purposes and intent of the fast food establishment regulations which generally seek to protect neighboring properties from adverse impacts.

- 733.3 If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot;**

The Applicant also requests to modify this provision. The rear wall of the building, as well as a nearly continuous existing brick wall, separates the Property from Jelleff. The Applicant estimates that the existing brick wall is approximately 6' tall and 12" thick. However, it is not continuous due to an approximately 5' wide gap which allows access between Jelleff and the Wisconsin Avenue retail stores. A modification to this provision would be consistent with the general purposes and intent of the fast food establishment regulations.

733.4 Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a residence District; and

The refuse dumpster would be located on the adjacent Lot 326 (which is under common ownership) and within close proximity to the proposed Noodles location. The dumpster would be shared with other commercial establishments. It would be placed in a three-sided enclosure, but the application does not indicate whether it would have an opaque gate. The Applicant should address the design of the gate and request a modification to this provision if necessary.

733.5 The use shall not include a drive-through.

The use would not include a drive-through.

733.6 There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.

No customer entrance would be located in a portion of the building facing a street or alley containing a zone district boundary line for a residence district.

733.7 The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.

The proposed fast food use should not become objectionable to neighboring properties. It would operate similarly to other restaurants along Wisconsin Avenue other than the timing of payment. Hours of operations would not extend beyond 10 am to 10 pm weekdays, and 10 am to 11 pm on Fridays and Saturdays.

733.8 The use shall provide sufficient off-street parking, but not less than that required by § 2101.1, to accommodate the needs of patrons and employees.

The proposed use would generate a parking requirement of 15 spaces.³ The application indicates that 22 surface spaces would be located proximate to the use as well as about 260 spaces in the Safeway parking lot next door should they be needed. As such, there should be sufficient off-street parking.

733.9 The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.

The building where Noodles would locate is a part of a larger renovation project of the Safeway site. The renovation includes a reconfiguration of the existing parking lot and a second entry/exit point to the adjacent Safeway drive aisle to supplement direct access from Wisconsin Avenue. The proposed use should not cause a dangerous or objectionable traffic condition.

³ Section 2101 of the Zoning Regulations provides that "[i]n excess of 1,500 ft.², 1 for each additional 100 ft.² of gross floor area and cellar floor area.

- 733.10 There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.**

The use should not obstruct public right-of-ways or parking spaces, aisles, or driveways. The reconfigured parking lot and multiple access points should facilitate truck deliveries and trash collection.

- 733.11 The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.**

The application indicates that the Old Georgetown Board reviewed the project at its meeting on February 2, 2012 and has requested refinements to the details and the signage scheme in anticipation of an April 5, 2012. OP does not suggest any additional conditions beyond those listed as conditions of OP approval.

VI. ANC/COMMUNITY COMMENTS

ANC 2E, as detailed in a letter dated February 28, 2012, voted unanimously to approve the application subject to the following conditions (which the Applicant has agreed to):

1. the establishment will serve dine-in customers with non-disposable plates and utensils;
2. the hours operation will not exceed 10 am to 10 pm weekdays and 10 am to 11 pm on Fridays and Saturdays;
3. the establishment, including its roof deck, will not produce sounds audible outside the property line of the site in which it is located; and
4. the percentage of carryout customers will not be expected to exceed 35%.

To date, OP has not received any other submissions from neighbors.

VII. OTHER AGENCIES

DDOT, by letter dated March 5, 2012, expressed no objection to the application.

VIII. HISTORIC PRESERVATION

The Applicant expects to return to the Old Georgetown Board on April 5, 2012.

JLS/pg
Paul Goldstein, case manager