

From: LeGrant, Matt (DCRA) [<mailto:matt.legrant@dc.gov>]
Sent: Monday, December 09, 2013 2:38 PM
To: Martin Sullivan
Cc: me@guggan.com
Subject: RE: Follow up on 411 and 413 H Street, NW

Marty Sullivan-

Thanks for this summary. By means of this response I confirm that I agree with your analysis and conclusions that the proposed establishment of a restaurant use will not result in a parking requirement, provided that the existing buildings are not razed.

Best Regards,

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From: Martin Sullivan [<mailto:msullivan@sullivanbarros.com>]
Sent: Monday, December 09, 2013 2:25 PM
To: LeGrant, Matt (DCRA)
Cc: me@guggan.com
Subject: Follow up on 411 and 413 H Street, NW

Hi Matt,

I am following up on our meeting last week with Mr. Guggan Datta, owner of 411 and 413 H Street NE.

The properties include two adjacent row structures, one of which was most recently a laundry (411 H) on the first floor and residential on the second, the other of which (413 H) was an office use on the first floor and a currently unknown use on the second floor.

Mr. Datta intends to restore the two long-vacant buildings and use them to lease to a restaurant; at this point – Nando's. There is some question about whether or not Nando's operation will be fast food or restaurant. We will work that out with Nando's to either have them fit their operations within the restaurant category, or apply for special exception relief for fast-food, accordingly.

Regarding the parking requirement, as we discussed, it is likely that the commercial uses on these properties did not have a parking requirement, as they would both be under the minimum threshold for a parking requirement for a laundry or an office space. So the parking requirement credit may be one space; or two if we can find evidence of residential use on the second floor of 413 H, as we have for 411 H.

The owner is proposing a change of use, but only to a restaurant or fast food restaurant, both of which have the same parking requirement as did the laundry, and a lesser parking requirement than the office

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and the residential uses upstairs. As part of the restoration of the property, the owner will combine 411 and 413, and build and addition resulting in a space of approximately 4,500 sf.

If this were completely new construction, then there would be a parking requirement of five spaces, or one for every 300 sf over 3000 sf.

Our position is that Section 2100.4 does not apply to increase the parking requirement here above what it was before as retail, service, or office uses. Section 2100.4 provides that the parking requirement kicks in only when there is “a change to another use that requires more parking spaces than required for the use existing immediately prior to the change.” This language does not apply to the 411-13 situation, in which the change is not to another use which requires more parking. Rather, the change is to a similar use, which actually has a slightly lesser parking requirement.

It is rather the combining of the two lots, along with the addition, that increases the proposed space to 4500 square feet. So we think that the combining of the two lots is more appropriately included along with the addition in the category covered by 2100.6 for an increase in the intensity of a use of a building or structure.

Joining the buildings, and doing an addition, is not a change of use to a use with a greater parking requirement; it is an increase in the intensity of the use which is covered by 2100.6 and 2100.7. And on that point, since our increase in the intensity of use goes from 3,728 square feet to 4,500 square feet, or twenty-two percent (22%), an increase which is below the twenty-five percent (25%) threshold under 2100.7, “Parking spaces shall not be required for the addition.”

The exact situation of combining two buildings is not directly addressed in 2100. But I believe that that type of situation simply does not fit within the language of 2100.4 (a change to a use that requires more parking – which this is not; it is a change to a use that has the same or a lesser parking requirement). It more appropriately fits into 2100.6 and 2100.7 – a change in the increase in the intensity of a use (and it falls below the 25% threshold in this instance).

I hope you agree with this, and can confirm that the proposed work will not result in a parking requirement (provided we do not do a full demolition). Please let me know if you have any questions or would like to discuss further.

Thanks,
Marty

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