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Manatt, Phelps & Phillips, LLP
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January 25, 2005

Via Hand Delivery

Board of Zoning Adjustment
District of Columbia Office of Zoning
One Judiciary Square, Suite 210 South
441 Fourth Street N.W.
Washington, D.C. 20001

RECEIVED
D.C. OFFICE OF ZONING
2005 JAN 25 PM 1:37

RE: BZA Application No. 17282
Supplemental Submission

Dear Members of the Board:

This constitutes the Supplemental Submission of the Applicant, DAG Real Estate Holding Company LLC, whose managing member is Mr. Eyob "Joe" Mamo, in BZA Application No. 17282. The application is for Special Exceptions for enlargement of the gasoline service station at 3101-3103 Rhode Island Avenue NE, and for use of the additional space as a fast food restaurant.

1. General Update.

The photographs attached as Exhibit A show the gasoline service station and the proposed enlargement as it appeared on Friday, January 21, 2005. The photos illustrate the progress that has been made toward completion of the gasoline service station since December 7, 2004, when the application was filed with photographs of the site as it existed then. The Exhibit A photos also show that no work has been done on the proposed enlargement, demonstrating the Applicant's continuing compliance with the Stop Work Order issued by the Department of Consumer and Regulatory Affairs on August 19, 2004.

Gasoline service station work completed since December 7 includes the following:

- The pumps have been installed, canopies have been erected, and the exterior surface has been paved;
- Exterior renovation of the gasoline service station building has been completed, and the building's front exterior trim and west side wall have been painted white to lighten and brighten its appearance against the landscape; and
- The Applicant has completed trimming the trees and shrubbery at the rear of the property as required by the BZA in Order No. 16439, dated April 7, 1999, approving the special exception for the gasoline service station;

BZA
Case No. 17282
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17282
EXHIBIT NO. 26

2. The Metropolitan Police Department Work Station.

The Applicant received notice January 24, 2005, that the Metropolitan Police Department ("MPD") has rejected the offer to establish an MPD work station on the gas station premises, as requested by the ANC 5A11 Commissioner in 1999 and incorporated in the BZA Order at that time. MPD Fifth District Commander Jennifer Greene wrote:

"The Chief of Police has indicated, when other members of the community have tried to establish workstations, that he is not in favor of MPD having workstations. He wants more police visibility, and establishing workstations inside of any establishment prevents officers from being on the street. Mr. Mamo may have indicated in a community meeting that he would like to establish a workstation, when I was informed, I told the PSA lieutenant to inform Mr. Mamo of the COP's position. Again, thanks for the offer, but I must decline."

Commander Greene's statement was in a e-mail message to Ms. Tina Ang of Manatt Phelps & Phillips who had requested MPD's written response to Mr. Mamo's offer. ***See*** Exhibit B.

3. Office of Planning Comments.

The Applicant met on January 18, 2005, with Office of Planning representatives David McGettigan, a Development Review Specialist, and Deborah Crain, the Ward 5 Planner. In response to their comments, the Applicant agreed to:

- Improve the attractiveness of the rear wall of the proposed addition by painting it in a color compatible with the brick exterior of the rear wall of the main gasoline service station building;
- Construct a brick wall "at least six feet (6 ft) high and twelve inches (12 in.) thick" (as stated at 11 DCMR 733.3) along the small north-south portion of the rear lot line, perpendicular to Newton Street, that is not covered by the east-west rear wall of the building; and
- Provide a landscaping plan showing aesthetically-appealing plantings around the front and sides of the building. Due to weather-related work interruptions, the Applicant's architect was unable to complete the landscaping plan in time to include with this submission; it will be submitted as soon as we receive it from the architect.

The Office of Planning representatives also inquired about the status of the Gas Station Advisory Board review of the proposed addition. Although this is a matter separate from BZA review, the Applicant agreed to proceed with an inquiry to the GSAB. The Applicant's inquiry letter is attached as Exhibit C.

4. Community Comments.

At the invitation of ANC 5A11 Commissioner Franklyn Malone, Mr. Mamo and I made a presentation about the project and the BZA application at the SMD 5A11 meeting Monday evening, January 24. Approximately 30 persons attended.

Of those who spoke during the meeting, virtually all objected to the MPD rejection of a police workstation on the gasoline service station premises, citing widespread concerns about drug trafficking and prostitution in the general vicinity of Rhode Island Avenue NE extending toward Mount Rainier, Maryland.

Otherwise, the individuals who spoke were about equally divided between those who expressed favorable and unfavorable views. Those who expressed unfavorable views objected to the increased lighting of the service station premises (the lighting requirements were established by the BZA's 1999 Order, incorporating the ANC 5A11 request at that time), the prospect of increased traffic on Newton Street (the Applicant's closing of the Newton Street curb cut will prevent motor vehicle access from the service station premises), and general opposition to gasoline service station use at this location (Commissioner Malone reminded the group that the BZA has already approved the gasoline service station use).

Those who expressed favorable views spoke of:

- The value of economic development along a stretch of Rhode Island Avenue that has become blighted with vacant buildings that attract crime,
- The consumer benefits of having a nearby service station so residents will not have to cross into Maryland to buy gas,
- The cost savings of having a Shell-branded station (one neighborhood resident said that in her experience, Shell stations keep prices lower than other national brands),
- The importance of Mr. Mamo's commitment to give first preference in hiring to residents of ANC 5A11, and second preference to other residents of the District of Columbia, and
- Mr. Mamo's long record of cooperating with the community and supporting community needs.

Following the discussion, Commissioner Malone called for a show of hands to guide him in the position he should take in presenting the matter to the full membership of ANC 5A. With only two in dissent, the group voted in favor of cooperating with Mr. Mamo to allow the project to go forward on the condition that he continues to cooperate with community residents to address their concerns and try to bring the retail businesses the community wants into the proposed new retail spaces at the site. Mr. Mamo pledged to do so, and invited community support to help him attract the businesses that community residents prefer.

Thank you for your assistance. Should you have questions or need additional information, please contact me at any time at (202) 585-6565 or by e-mail at jray@manatt.com.

Sincerely,

John Ray
Manatt Phelps & Phillips
Counsel to DAG Real Estate
Holding Company LLC

Attachments:

Exhibit A – Current Site Photographs

Exhibit B – E-mail message exchange between MPD 5th District Commander Greene and Tina Ang of Manatt Phelps & Phillips

Exhibit C – Applicant's Letter of Inquiry to the Gas Station Advisory Board

EXHIBIT A: Site Photographs, January 21, 2005






PARKING
7AM-12MIDNIGHT
MONDAY-SATURDAY
17282

EXHIBIT B: Metropolitan Police Department Correspondence

From: Greene, Jennifer (MPD) [mailto:jennifer.greene@dc.gov]
Sent: Monday, January 24, 2005 12:58 AM
To: Ang, Tina
Subject: RE: 5thmpdworkstation.DOC

Ms. Ang,

The Chief of Police has indicated, when other members of the community have tried to establish workstations, that he is not in favor of MPD having workstations. He wants more police visibility and establishing workstations inside of any establishment prevents officers from being on the street. Mr. Mamo may have indicated in a community meeting that he would like to establish a workstation, when I was informed, I told the PSA lieutenant to inform Mr. Mamo of the COP's position. Again, thanks for the offer, but I must decline.

Commander Jennifer Greene
Fifth District
1805 Bladensburg Road NE
Washington, DC 20018
(202) 727-4503

From: Ang, Tina [mailto:TAng@manatt.com]
Sent: Fri 1/21/2005 3:19 PM
To: Greene, Jennifer (MPD)
Subject: 5thmpdworkstation.DOC

Hi Commander Greene,
My client, Mr. Joe Mamo is proposing a workstation for MPD 5th D at his gas station/food store establishment at 3101 to 3103 Rhode Island Avenue, NE. We would like to submit a letter of cooperation from MPD to the Board of Zoning Adjustment as soon as possible. I understand Mr. Mamo has notified MPD of his intent to set up the police workstation when the facility opens for business.
We would appreciate if you can review the draft letter and comment? Please contact me at 202-585-6567 if you have any questions. I thank you for your prompt attention to this matter and look forward to your letter of support.

--Tina Ang
Legislative Advisor
Manatt Phelps & Phillips
700 12th Street, NW, Suite 1100
Washington, DC 20005
Tel: 202-585-6567
Fax: 202-585-6600

EXHIBIT C: Applicant's Letter of Inquiry to the Gas Station Advisory Board

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January 24, 2005

Mr. Ralph O. McMillan
Chairman, Gas Station Advisory Board
D.C. Energy Office
Reeves Municipal Center, Third Floor/East
2000 14th Street N.W.
Washington, D.C. 20009

Dear Mr. McMillan:

On behalf of my client, DAG Real Estate Holding Company LLC ("DAG"), I write to share information with the Gas Station Advisory Board ("GSAB") about DAG's proposed addition to its existing gasoline service station at 3101-3103 Rhode Island Avenue N.E. DAG is a District of Columbia corporation whose managing member is Eyob (Joe) Mamo, who resides at 4124 Fessenden Street NW, Washington, DC 20016.

DAG has applied to the Board of Zoning Adjustment for special exceptions to construct a one-story addition to the gasoline service station for retail space and to use the additional space as a fast-food restaurant. The attached photo shows the location of the proposed retail space in relation to the gasoline service station.

Although the proposed addition has no connection to the service station business, other than its common party wall with the service station structure, the Department of Consumer and Regulatory Affairs ("DCRA") directed DAG to seek BZA approval of the plans as an "enlargement" of the gasoline service station, and to inform the GSAB about the proposed addition. Because the proposed addition has no bearing on the gas station conversions under your purview, we believe fullscale GSAB review is unnecessary. We would appreciate receiving a letter from you to this effect.

If you have questions or need additional information, please contact me at (202) 585-6565 or by e-mail at jray@manatt.com. Thank you for your assistance.

Sincerely,

John Ray
Manatt Phelps & Phillips LLP
Counsel to DAG Real Estate
Holding Company LLC

Attachment: Site photograph


PROPOSED RETAIL SPACE ADDITION