

February 23, 2022

Office of Zoning
Government of the District of Columbia
Suite 210 South
441 4th Street, NW
Washington, DC 20001

Re: **Amended Burden of Proof**
§901.2- Special Exception for Fast Food Establishment Use
Address: 5504 Connecticut Avenue NW, Washington DC
Square, Suffix, Lot: Square 1859, Lot 0086
Zoning District: MU-3A

Applicant Mamma Lucia's of Chevy Chase ("Mamma Lucia's") hereby amends its previously filed application for a Special Use Variance for the approval of a Fast Food Establishment Use exception for the retail premises located at 5504 Connecticut Avenue, N.W., Washington, DC, Square 1859, Lot 0086, Zoning District MU-3A ("Premises") and hereby respectfully requests that the Board of Zoning Adjustment issue a Special Exception pursuant to §U-511.1(e).

As previously stated in its original application, Mamma Lucia's is a popular, locally owned Italian sit-down and take-out restaurant that currently operates six (6) other locations in the State of Maryland, primarily in Montgomery County, Maryland. Mamma Lucia's has entered into a lease agreement for the operation of a Mamma Lucia's restaurant at the Premises. The Premises consists of approximately 900 square feet and is located in a pedestrian heavy, mixed use neighborhood that borders Chevy Chase, Maryland.

Mamma Lucia's intends to have approximately ten (10) customer seats for indoor dining and will predominately rely on carry-out and delivery sales. In its plans to perform certain interior alterations to the Premises, it was determined that Mamma Lucia's was required to obtain a Fast Food Establishment Use Variance as the Premises falls within MU-3A zoning district which does not permit a fast food establishment use. The prior occupant of the Premises, Pumpnickels Bagelry & Delicatessen, apparently obtained a Fast Food Establishment-A-2 Variance and operated a similar use business as Mamma Lucia's seeks.

Instead of requesting a Fast Food Establishment Use Variance, however, Mamma Lucia's now seeks the Zoning Commission's approval of a Special Exception that allows fast food establishments in the MU-3 zone if certain criteria are met. See U-511.1(e). U-511.1 states as follows:

§511.1 The following uses in this section shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section.

(e) Fast food establishment, subject to the following conditions:

1. The establishment shall be located within a multi-tenant building or shopping center; it shall not be located in a single-tenant detached building;
2. No more than thirty percent (30%) of the total gross floor area of the multi-tenant building or shopping center shall be occupied by fast food establishments;
3. Any refuse dumpster used by the fast food use 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 nor be within ten feet (10 ft.) of a R, RF, or RA zone;
4. The use shall not include a drive-through;
5. 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;
6. The use shall provide sufficient off-street parking, but not less than that required by Subtitle C, Chapter 7, to accommodate the needs of patrons and employees;
7. The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions; and
8. The Board of Zoning Adjustment 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;

Mamma Lucia's satisfies the burden of proof necessary to obtain a Special Use Exception for its business operations at the Premises.

1. The establishment shall be located within a multi-tenant building or shopping center; it shall not be located in a single-tenant detached building

Mamma Lucia's is located in a multi-tenant, attached strip center that contains multiple other businesses including Starbucks, the Parthenon restaurant, a hair salon, a cleaners, a reflexology business and a private practice physician's office. The Premises is not located in a single-tenant detached building.

2. No more than thirty percent (30%) of the total gross floor area of the multi-tenant building or shopping center shall be occupied by fast food establishments

Upon information and belief, Mamma Lucia's, which occupies only approximately 900 square feet of the entire multi-tenant strip center, would constitute the only fast food establishment. Mamma Lucia's does not occupy more than thirty percent (30%) of the entire multi-tenant building or shopping center.

3. Any refuse dumpster used by the fast food use 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 nor be within ten feet (10 ft.) of a R, RF, or RA zone

Mamma Lucia's respectfully requests that it be granted a waiver of this condition. The owner of the building provides all of its tenants with multiple dumpsters for their common use. The dumpsters are located in an alleyway behind the shopping center on property that is not leased by or controlled by Mamma Lucia's. The owner of the Premises provides trash collection services to all of its tenants and Mamma Lucia's shares in the cost. In the event Mamma Lucia's was required to enclose the dumpster as set forth in this subparagraph 3, Mamma Lucia's would

have to obtain the approval of the owner of the property and would be constructing, at substantial cost, the brick enclosure for the use and benefit of all of the other tenants in the multi-tenant building. The enclosure would not be located on or within Mamma Lucia's Premises and Mamma Lucia's would be responsible to maintain the enclosure on behalf of all the other tenants. Such a result would be inequitable and burdensome to Mamma Lucia's.

4. The use shall not include a drive-through

There is no drive-through at the Premises.

5. 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

Since Mamma Lucia's opened for business at the Premises, there have been no complaints regarding the noise, sounds, odors, lights, hours of operation, or any other conditions with regard to the operation of the business. The restaurant provides a substantial benefit to the community and meets the day-to-day dining needs of the neighborhood, particularly in light of the COVID-19 pandemic. There will be no negative impact whatsoever on the neighborhood if the Board were to approve Mamma Lucia's request for a Special Exception. Mamma Lucia's is an asset to the community and has significantly enhanced the community's dining and take-out options. Mamma Lucia's operation of the business in the Premises as a Fast Food Establishment Use will have virtually no impact on the traffic, noise or trash load in the surrounding neighborhood.

6. The use shall provide sufficient off-street parking, but not less than that required by Subtitle C, Chapter 7, to accommodate the needs of patrons and employees

There is more than sufficient off-street parking available to Mamma Lucia's customers and employees along both directions on Connecticut Avenue and multiple side streets.

Furthermore, as Mamma Lucia's consists of only approximately 900 square feet, it is not required to have 1.33 parking spaces per 1,000 square feet in excess of 3,000 square feet under Table C, §701.5.

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


As a result of Covid-19, Mamma Lucia's relies predominately on pedestrian to-go orders and third-party delivery service although indoor dining is available to its customers. Mamma Lucia's is a neighborhood centric business that draws foot traffic customers from the surrounding neighborhoods and businesses. It has not created and will not create any dangerous or otherwise objectionable traffic conditions.

Finally, Mamma Lucia's request for a Special Exception, is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and the Special Exception Review Standards set forth in §901.2. Mamma Lucia's operation as a Fast Food establishment in the Premises is consistent with the Zoning Regulations promotion of public health, safety, morals, convenience, order, prosperity and general welfare as established under Title 11, Chapter 1, §101.1. In that regard, the granting to Mamma Lucia's of a Special Exception will not adversely impact, in any manner, any of the conditions and concerns set forth in §101.1(a)-(c). In addition, a Special Exception to Mamma Lucia's will have no adverse impact on any use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. The concerns set forth in §101.2 will be unaffected by the Board of Zoning Adjustment's grant of a Special Exception to Mamma Lucia's.

Respectfully submitted,

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