



## MEMORANDUM

**TO:** District Board of Zoning Adjustment

**FROM:** Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

**DATE:** May 10, 2011

**SUBJECT:** BZA Application #18210 – Request for special relief from the Woodley Park Neighborhood Commercial Overlay District (§§ 1304.1 and 1307.5) and area variance relief from screening and enclosure requirements (§ 721.3(j)) to accommodate a fast food establishment at 2635 Connecticut 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 requiring the following relief:

- §§ 1304.1 and 1307.5, special exception to permit a fast food establishment in the Woodley Park Neighborhood Commercial Overlay District
- § 721.3(j), area variance from screening and enclosure requirements<sup>1</sup>

OP's recommended conditions, which have been proffered by the Applicant and closely reflect terms proposed by the ANC, are as follows:

1. All food and drinks consumed on the premises of Noodles & Company at 2635 Connecticut Avenue N.W., shall be served on/in non-disposable tableware with no exceptions;
2. An enclosure fence, substantially in the form shown on the attached drawing provided by the Applicant [Exhibit D herein], shall be built at the rear of the property to house all dumpsters and containers, except the trash compactor, belonging to and associated with the property;
3. Noodles & Company shall use the same waste collection company as other eating establishments in that building in order to reduce the number of trash pick-ups and trucks using the alley;
4. The property owner will install a two-yard trash compactor unit in the rear yard of the property for use by all tenants and other eating and drinking establishments within the building; and
5. The property owner and Noodles & Company will work with the ANC and the Woodley Park Community Association on a quarterly basis to resolve trash removal and rodent control issues at the property as well as to help coordinate larger efforts with other commercial users to maintain the cleanliness of the entire alley.

### **II. AREA AND SITE DESCRIPTION**

Address:	2635 Connecticut Avenue N.W.
Legal Description:	Square 2204, Lot 161 (hereinafter, the "Property")
Ward/ANC:	3/3C
Lot Characteristics:	The lot is rectangular in shape and measures 138' in width by 120' in depth, totaling 16,560 square feet in lot area. The lot fronts Connecticut Avenue to the west and an improved 15' wide public alley to the east.
Zoning:	WP/C-2-B: allows all types of urban residential use of a moderate height and density, as well as many forms of retail, although the Woodley Park Neighborhood Commercial Overlay permits "fast food" establishments only by special exception.

<sup>1</sup> More specifically, the area variances relate to §§ 721.3(j)(2)&(3).



Existing Development:	The Property is developed with a two-story commercial building with ground floor retail accommodating multiple tenants. The building spans the full width of the lot and has a 15' wide rear yard. It has a below-grade parking garage.
Historic District:	Woodley Park Historic District
Adjacent Properties:	To the Property's north is a three-story mixed-use building and to the south is a four-story mixed-use building. To the east, across the alley, are the rear yards of residential row dwellings.
Surrounding Neighborhood Character:	The western half of the Square is zoned WP/C-2-B and is characterized by commercial and institutional buildings fronting either Connecticut Avenue or Calvert Street N.W. The eastern half of the Square largely is zoned R-4 and contains residential row dwellings. More generally, the area is defined by commercial, institutional, hospitality, and high density residential uses along Connecticut Avenue. Residential row dwellings are typically half a block removed from Connecticut Avenue to the east and west. The Woodley Park-Zoo/Adams Morgan metro station is located across Connecticut Avenue from the Property and numerous bus lines, including the D.C. Circulator, serve the area.

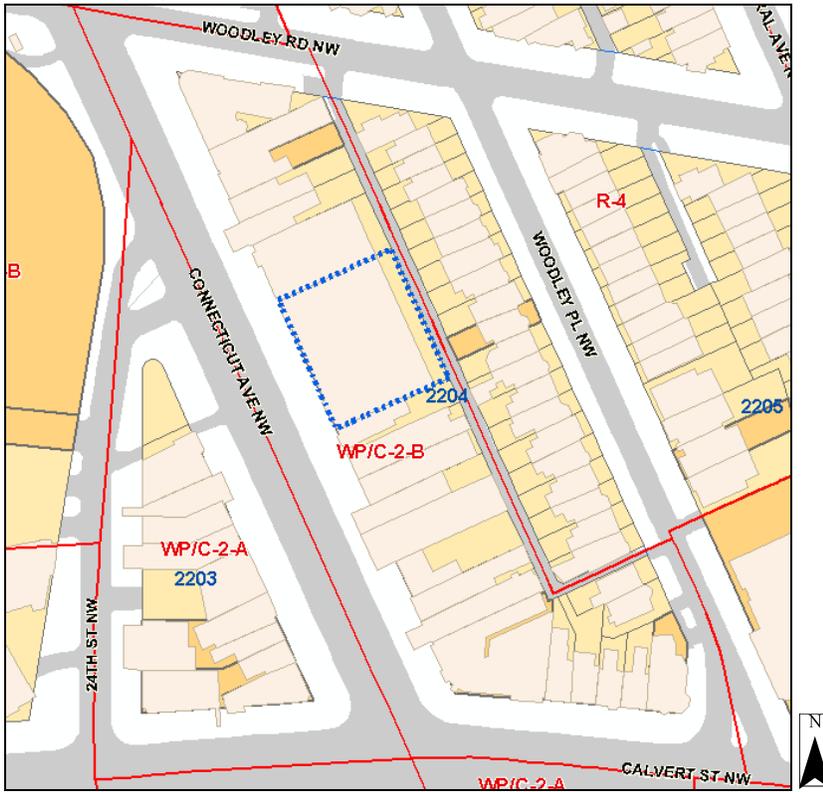
### III. PROJECT DESCRIPTION IN BRIEF

Applicant:	Noodles & Company (the "Applicant" or "Noodles") <sup>2</sup>
Proposal:	The application proposes that a fast food establishment would occupy an existing ground floor retail space of approximately 2,800 square feet. The location previously housed a restaurant (Sake Club) before it closed in May 2010. According to the application, Noodles is 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. While restaurants are permitted by right in WP/C-2-B zones, Noodles' policy of customers buying their meals prior to consuming their food causes the Applicant to be considered a fast food establishment under the zoning regulations and necessitates zoning relief. The Applicant would employ a total of 20 to 30 employees, with approximately 8 to 13 employees at the location during any one shift. There are 61 striped parking spaces in the building's public garage. Loading for the building occurs from the rear alley. No drive-through use is proposed.
Relief Sought:	§ 1304.1 and 1307.5, special exception to permit a fast food establishment § 721.3(j), area variance from screening and enclosure requirements <sup>3</sup>

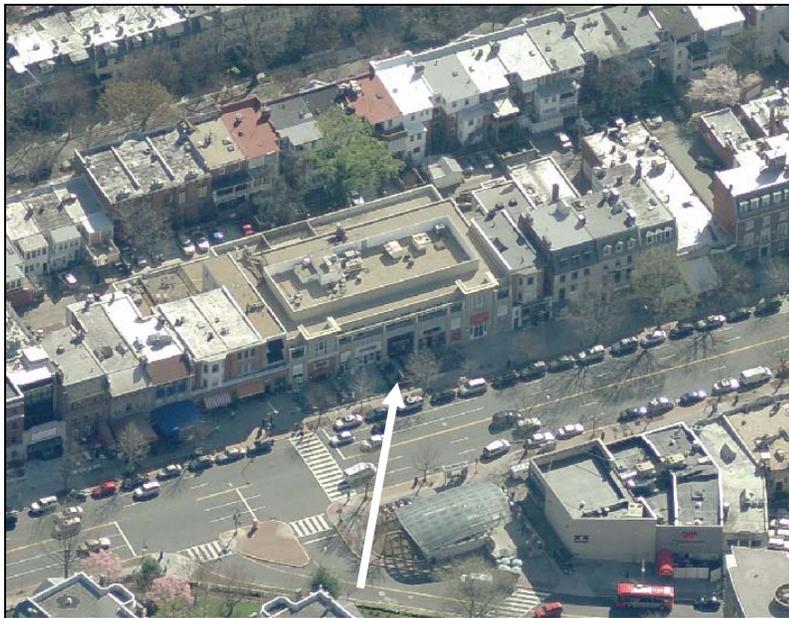
<sup>2</sup> Grosvenor Urban Retail LP, owner of the Property, authorized Noodles and Company and the law firm of Holland & Knight LLP to file and process an application to establish a fast food establishment at this location.

<sup>3</sup> The Applicant has indicated that relief from § 1302.5 would not be needed because the proposed eating establishment use is a grandfathered use based on the previous restaurant tenant's certificate of occupancy.

**IV. IMAGES AND MAPS**



**Aerial view of the Property (highlighted)**



**View of the subject block looking east across Connecticut Avenue (Property identified)**



Picture of rear of subject Property

## V. RELIEF REQUESTED

The application requests the following zoning relief:

1. A special exception pursuant to §§ 1304.1 and 1307.5 from the WP Overlay to establish a fast food establishment. Section 1307.5 provides that “no hotel, inn, or fast food restaurant shall be permitted in the WP Overlay District.” Section 1304.1, however, allows the BZA to grant special exception relief from provisions of the WP Overlay subject to certain requirements.
2. Area variance relief pursuant to § 721.3(j)(2) from screening requirements and § 721.3(j)(3) from refuse enclosure standards.

### Special Exception (§§ 1304.1 and 1307.5)

Section 1304.1 provides that exceptions to the requirements of the WP Overlay are permitted by special exception subject to the following requirements:

- (a) **The excepted use, building, or feature at the size, intensity, and location proposed will substantially advance the stated purposes of the NC Overlay District and the particular NC Overlay District, and will not adversely affect the neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;**

The proposed fast food establishment would advance the purposes of the NC Overlay District. In general, the NC Overlay was “established to preserve and enhance neighborhood shopping areas, by providing the scale of development and range of uses that are appropriate for neighborhood shopping and services.”<sup>4</sup> Further, it aims to “[e]ncourage retention and establishment of a variety of retail, entertainment, and personal service establishments, predominantly in a continuous pattern at ground level, so as to meet the needs of the surrounding area’s residents, workers, and visitors.”<sup>5</sup> The proposed fast food establishment would occupy a ground floor space which previously housed a restaurant. The application states that Noodles would contribute to the building’s mix of neighborhood serving retail and service functions. Presently, the subject building

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<sup>4</sup> See § 1300.1.

<sup>5</sup> See § 1300.3(b).

includes a restaurant, bank, dry cleaners, and yoga studio, among other tenants. The proposed fast food establishment is anticipated to cater to nearby residents, workers, and visitors.

The WP Overlay District, which is the particular NC Overlay District at issue, seeks to “provide for safe and efficient pedestrian movement by reducing conflicts between pedestrian and vehicular traffic so as to improve access to retail services, the Metrorail station, and other uses in the area.”<sup>6</sup> The proposed use would occupy a former restaurant space and would be located along a commercial corridor with convenient access to Metrorail, Metrobus, D.C. Circulator, and Capital Bikeshare, among other transportation options.

The proposed use should not adversely affect neighboring property nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity. The “fast casual” use would be located along a lively commercial stretch of Connecticut Avenue and be neighborhood serving. In fact, the proposal likely would improve conditions for neighboring properties located along the adjacent alley. The Applicant (and building owner) and ANC 3C have agreed to a series of conditions related to trash and traffic along the alley which would address impacts related to the entire building’s, not just Noodle’s, alley presence. Such conditions include consolidating solid waste services for the entire property and installing a trash compactor to reduce the number of waste collection vehicle trips to the site.

**(b) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the exception or waiver;**

Exceptional circumstances exist which justify the waiver. The Woodley Park commercial corridor has seen substantial retail instability in this difficult economic climate. Multiple empty retail storefronts have detracted from the character of the streetscape and Woodley Park business environment. More specifically, the application describes the challenges that the Property’s landlord has faced over the past year in locating a financially viable tenant for its vacant retail space. The application provides that Noodles represents the “only potential tenant with the financial ability to guarantee a multiple year lease to ensure the long-term occupancy of the space and ultimately the economic stability of the building and the Woodley Park commercial corridor.” In fact, while the application has been pending, a second tenant of the subject building, Café International, has closed. As such, Noodles could bring needed stability to both the building and, more broadly, the Woodley Park commercial corridor.

**(c) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and**

The proposed fast food establishment should not create a dangerous or otherwise objectionable traffic condition. It would occupy a retail space in an existing mixed-use building. Parking and loading is located off the rear alley and therefore should create no conflicts with Connecticut Avenue pedestrian and vehicle flow.

**(d) The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the NC Overlay District and the particular overlay district.**

OP recommends that the Board impose the conditions noted in the OP recommendation, which largely relate to trash issues. Any modifications to the façade would be reviewed by the Historic Preservation Review Board.

Area Variances (§§ 721.3(j)(2)&(3))

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<sup>6</sup> See § 1307.2.

Fast-food establishments in C-2-B zones are permitted subject to the following requirements:

§ 721.3(j) Fast food establishment or food delivery service, only in a C-2-B or C-2-C District; provided:

- (1) 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;
- (2) 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;
- (3) 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
- (4) The use shall not include a drive-through. Subparagraphs (1) and (2) shall not apply to a fast food establishment located in Square 5912.

The proposal does not satisfy subsections (2) and (3) and therefore requires area variance relief.

**1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The Property exhibits exceptional conditions. First, the Property slopes downward from west to east with an approximately 10' drop. As a result, the building has an existing external stairway connecting the building's ground floor to the rear alley level. Presently most of the building's trash receptacles and dumpsters for current tenants are located under the rear stairs adjacent to the building's rear façade. The existing trash locations and the external stairs (which provide access to the rear service doors for the retail) limit possible locations for new trash enclosures. Second, the Applicant is one of several tenants in the building. As such, any screening or trash enclosure strategies must not interfere with other tenants' access to the use of the rear yard and alley. Third, the Property is located along a 15' wide alley which serves both commercial and residential users. Currently, the Property has a 15' wide rear yard which provides additional vehicle maneuverability in the alley. Due to the variety of alley users, including service and trash trucks for the building and adjacent residents, the Applicant must be sensitive to measures that could encroach on alley access and maneuverability. Finally, although Noodles may be more akin to a restaurant than a fast food establishment, the fact that customers pay for their food prior to eating causes it to be considered a fast food establishment. This sole difference subjects Noodles to additional screening and enclosure requirements that restaurants otherwise avoid.

**2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

The exceptional conditions impose a practical difficulty which is unnecessarily burdensome to the Applicant, as follows:

- § 721.3(j)(2) (*continuous brick wall along lot line requirement*): The provision requires that a 6' high and 12" thick wall be constructed along the lot line. The building currently has a 15' rear yard, which effectively widens the 15' wide alley and thus provides additional room for vehicles. To comply with the requirement, Noodles would unnecessarily impede alley access for other building tenants and interfere with alley users. A rear wall would force building loading and unloading

activities into the alley and consequently obstruct other commercial and residential vehicles. Further, a wall likely would constrain maneuverability for residential tenants accessing adjacent rear garages and parking pads.

- § 721.3(j)(3) (*brick enclosure wall for refuse containers*): The provision requires that refuse dumpsters be housed in a 3-sided brick enclosure equal in height to the dumpster or 6', whichever is greater (among other requirements). The application provides that to enclose the refuse dumpster and recycling bins, the enclosure would need to be approximately 8' wide by 8' deep by 6' tall. According to the application, possible locations for the enclosure would either: (1) impede fire egress out of the retail and service space; (2) block access to trash receptacles located beneath the rear stairs which are used by other tenants; or (3) be located at too great a distance from the source of the trash and disposal location. As a result, the application proposes an alternative design that would comprehensively address the building's trash conditions.

**3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Relief can be granted without substantial detriment to the public good. As an alternative to strict compliance with the zoning regulations, the Applicant proposes, with ANC 3C support, a different screening and trash strategy. The alternative proposal is illustrated in the May 3, 2011 Applicant submission Exhibit D. An enclosure fence would be constructed adjacent to the stairs to screen the refuse containers. A trash compactor also would be installed for use by building tenants to help reduce the number of collection vehicles.

The proposal also should not substantially impair the intent, purpose and integrity of the Zoning Regulations and Map, as the Applicant otherwise adheres to all other requirements of the zoning regulations for fast food establishments.

**VI. ANC/COMMUNITY COMMENTS**

ANC 3C voted unanimously to oppose the application unless the following conditions were adopted (which the Applicant has agreed to):

1. All food and drinks consumed on the premises of Noodles & Company at 2635 Connecticut Avenue, NW shall be served on/in non-disposable tableware with no exceptions;
2. An enclosure, substantially depicted on the attached drawing shall be built at the rear of the property to house all dumpsters and containers belonging to and associated with the property, with the exception of a trash compactor unit;
3. Noodles & Company shall use the same waste collection company as other eating establishments in that building in order to reduce the number of trash pick-ups and trucks using the alley;
4. The landlord (Grosvenor Urban Retail) will install a 2 yard trash compactor unit in the rear yard of the property for use by all tenants and other eating and drinking establishments within the building;
5. The landlord and Noodles & Company will work with the ANC and the Woodley Park Community Association on a quarterly basis to resolve trash removal and rodent control issues at the property as well as to help coordinate larger efforts with other commercial users to maintain the cleanliness of the entire alley.

The application also states that the Woodley Park Community Association worked with the ANC to develop the conditions. To date, OP has not received any other submissions from neighbors.