

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



December 6, 2017

Holland & Knight LLP
800 17th Street, N.W., Suite 1100
Washington, D.C. 20006

Attn: Leila M. Jackson Batties, Esq.

RE: Children's National Medical Center at Walter Reed / Lot 808, Square 2950

Dear Ms. Batties:

This letter serves as a follow up to our meeting on October 5, 2017 regarding that certain 11.85-acre parcel of land with improvements (being the former Armed Forces Institute of Pathology on the former Walter Reed Army Medical Center Campus, known as Lots 808, Square 2950 (the "Property"). The Property was conveyed to Children's National at Walter Reed, LLC, a wholly owned non-profit subsidiary of Children's Hospital ("Children's") by the federal government on November 17, 2016. The Property includes three buildings – Buildings 54, 53 and 52, and a parking garage with 1,135 parking spaces.

You seek confirmation that Children's can obtain permits to renovate and upgrade the existing buildings and parking garage and resume the research, clinical and ancillary uses that occupied the structures prior to the Walter Reed Army Medical Center Campus closing in 2011.

Background on Property

An aerial view of the Property is attached. The Property is currently improved with four structures: Building 54, Building 53, Building 52, and a parking garage/Building 3. Following is a description of each structure and the previous use(s) for each:

Building 54: Building 54 was purpose built in 1955 as the home of the Armed Forces Institute of Pathology. It served as the clinical and research laboratories for the Army Pathology Group, which involved analyzing and categorizing tumors and other pathological samples. Building 54 housed a large historic and working collection of tissue slides. Other laboratory research on the site included the discovery and testing of Kevlar. The building also served as the administrative offices of the Army's Pathology Research Group. In 1972, a wing was added to Building 54 that housed the Military Medical Museum. The museum included public display areas and a theater for showing informational films. The laboratory and office spaces for the Army Pathology Group were expanded onto the floors above the museum. There are approximately 180 laboratory units within the building.

Building 53: Building 53 was the original Walter Reed Post Theater. It was converted to a lecture hall for the Uniformed Services Medical School during the 1970s. There was also a small outpatient dispensary in the building, for which the shelves remain.

Building 52: According to a report from EHT Tracerics, Building 52 was constructed as a hospital ward, housing wards on all three levels of the building. The ground floor of the building was also used for storage starting around 2003. A copy of the EHT Tracerics report is attached for reference.

Building 3: Building 3 is a parking garage with 1,135 parking space.

Proposed Improvements and Use of Structures

The existing buildings are in fairly good condition and suitable for the continued use of the Property for research and laboratory facilities, office/administrative space, and clinical activities. Specifically, Children's seeks to make repairs, renovate and upgrade these structures in order to house outpatient clinical and research uses in Buildings 52 and 54; reactivate Building 53 as a lecture hall and meeting facility that may also be available to the broader community for other meetings; and utilize the parking garage for Children's employees and patients. As discussed in detail below, the existing structures and prior uses are legal nonconformities. Ordinary repairs, alterations or modernizations may be made to a structure or portion of a structure devoted to a nonconforming use. 11-C DCMR § 204.7.

Zoning District

Via attestation dated September 22, 2011, the Office of Zoning certified that the Property is zoned R-1-B. Under the 1958 Zoning Regulations, the R-1 District was designed to protect quiet residential areas not developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes. 11 DCMR § 2000.1. Under the current Zoning Regulations, the R-1-B District is intended to provide for areas predominately developed with detached houses on moderately sized lots. 11- DCMR § 300.3.

Non-Conforming Status

The outpatient clinical, research and ancillary uses proposed for the Property by Children's are not permitted in the R-1-B District as a matter of right. However, since the buildings and these uses existed on the Property prior to Zoning Regulations taking effect, the buildings and uses are deemed legal non-conformities.

A non-conforming use of land or structure shall not be extended in land area, gross floor area, or use intensity; and shall not be extended to portions of a structure not devoted to that non-conforming use. 11-C DCMR §204.1.

Also, the discontinuance of a nonconforming use, except where governmental action impedes access to the premises, for any period of more than three years, shall be construed as *prima facie* evidence of no intention to resume active operation as a nonconforming use. 11-C DCMR §204.4. This presumption may only be rebutted by objective proof of a continuing use or affirmative steps taken to resume the use during the period of time identified by the Zoning


Administrator when revoking an existing certificate of occupancy or denying an application for a replacement certificate of occupancy. 11-C DCMR §204.5.

In this case, the federal government closed the Walter Reed campus in 2011, and Children's did not have access to the Property until it was conveyed to Children's from the federal government on November 17, 2016. Therefore, the three-year time frame for the discontinuance of the non-conforming use of the Property commenced on November 17, 2016. Children's will have to resume the proposed non-conforming uses for the Property within three years of this date or demonstrate that during this three-year period, it took steps toward obtaining approvals/permits for the renovation and reuse of the Property.

Conclusion

The Property is zoned R-1-B. Although the existing structures and the prior clinical and research uses are not permitted in the R-1-B District, they are deemed legal nonconformities under the Zoning Regulations. The District may issue building permits for the ordinary repairs, alterations, and modernization of these structures in order to resume the prior uses on the Property. Children's proposal to resume the prior clinical, research and ancillary uses on the Property would be permitted so long as the non-conforming uses are not extended in land area, gross floor area, or use intensity; and are not extended to portions of the buildings/structures currently not devoted to a non-conforming use. Further, Children's will have to resume the non-conforming uses on the Property no later than November 17, 2019, or demonstrate that it has taken steps to obtain approvals for the renovation and reuse of the structures on the Property by said date. Sufficient evidence includes, but is not limited to, application to the Historic Preservation Office and/or DCRA for building permits.

Please do not hesitate to contact me, if you have any further questions on this matter.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments - Aerial View of WRMAC Areas
DCOZ Zoning Certification
EHT Traceries Report