



October 20, 2017

Bell Bank
c/o Sandra Gandel, Paralegal
Briggs & Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2157

Re: Zoning letter – 9624 Lyndale Avenue South (Property) - PID# 16-027-24-14-0013

To whom it may concern:

This letter amends the zoning letter dated October 14, 2017 that responded to a request from Sandra Gandel, Paralegal, requesting zoning and land use verification and information for the Property, please be advised of the following as of the date hereof:

1) Zoning and Comprehensive Land Use Plan Designation:

The property is zoned B-2 General Commercial and is subject to the applicable Bloomington City Code performance standards. The Comprehensive Plan Land Use Plan designation is Community Commercial. The Zoning and Comprehensive Land Use Plan maps can be viewed at <https://www.bloomingtonmn.gov/plan/zoning-and-guide-plan-maps>.

The adjoining property use, zoning and Comprehensive Plan designations are:

| Direction | Use | Zoning | Comprehensive Plan |
|-----------|------------------------|--------|----------------------|
| North | Restaurant | B-2 | Community Commercial |
| South | Auto sales and service | | |
| East | Financial institution | | |
| West | Office /Warehouse | I-3 | |

2) Conformance with Current Zoning Requirements:

The Property use as restaurant with a drive thru is a Conditional Use in the B-2 Zoning District (City Code 21.209). The project was before the Planning Commission and City Council for variances, final site and building plans and a Conditional Use Permit for a Wendy's Restaurant in 1994. The variance requests reduced the landscaped yard from 20 feet to 9 feet on the west and increase the number of allowable signs from 2 signs to 4 signs, not to exceed 188 square feet. The approved Conditional Use Permit was a 119 seat restaurant with drive-thru. All the applications were approved subject to conditions. I have

attached the agenda packet, applicable minutes and letter of transmittal for your review. Providing the building remains in compliance with the conditions of approval, the use of the property is in conformance with the current zoning codes.

The City was provided an as built survey to verify the 40 spaces were provided as approved in 1994. This was for the 119 seat restaurant. No floor plan details were provided to verify the seat count is 119 seats or less. Although the survey shows the property to be in violation of the setbacks on the north and south sides which are requires a five foot setback for parking and to the west where the setback is as little as 7.5 feet where the variance was approved to reduce the yard from 20 feet to 9 feet.

Considering materials and records on file, I cannot determine the level of City Code development performance standard compliance. To complete an in depth review, which includes a site visit and review of plans (if-provided) including but not limited to as-built surveys, any floor plans, use details, or other information is not included in this letter, that level of detail requires \$124 for the full analysis plus \$52 per hour for each hour over 2 hours. The building permit record retention schedule is 15 years and there are no building related plans on file.

In 1996, the City Council approved a parking lot and security ordinance which required full compliance with the City Code at a future date. Currently, the City Code required compliance by December 31, 2020. This site may require upgrades to the parking lot and building entry's to comply with these minimum requirements.

The applicable City Code (zoning) sections applicable include but not limited to:

- Section 19.51 – Refuse handling and storage
- Section 19.52 – Landscaping and screening
- Section 19.52.01 –Screening of roof mounted equipment
- Section 19.63.01 – Exterior Materials
- Section 19.113 – Signs
- Section 21.204.02 – General Commercial (B-2) District
- Section 21.209 – Use Tables
- Section 21.301.01 – Development Intensity and Site Characteristics
- Section 21.301.02 – Structure Placement
- Section 21.301.03 – Structure Design
- Section 21.301.04 – Sidewalks
- Section 21.301.06 – Parking and Loading
- Section 21.301.07 – Exterior Lighting
- Section 21.301.10 – Height
- Section 21.501.01 – Final Site and Building Plans
- Section 21.501.04 – Conditional Use Permit
- Section 21.504 – Nonconformity

NOTE: To review a City Code Section, type www.code.blm.mn/ followed by the City Code Section number.
(For example www.code.blm.mn/21.301.07 is lighting)

3) Utilities serving the property:

According to the City of Bloomington Public Works Division records, the property is served by water, sanitary sewer and storm sewer. All other utilities are provided by non-City providers. Please contact the appropriate provider for detailed information on other services to the property.

4) Right to Rebuild Following Casualty:

The 119 seat restaurant with drive thru services in the B-2 Zoning District may continue following casualty, in accordance with the 1994 approval, unless the use ceases for 365 consecutive days. If the use ceases for 365 days, then any restaurant would must obtain a Conditional use Permit and comply with the performance standards at the time it is developed.

City records show no open enforcement orders against the property at this time. This statement does not mean that the property is free of violations or is in full compliance with federal, state and local applicable codes. The City has issued a food license for this address. The Bloomington Environmental Health Division conducts routine inspections related to these licenses. Copies of the inspection reports, if needed, are available through Mark Stangenes at 952-563-8980.

5) No Further Approvals or Licenses Required:

The current use by its present owners for 119 seat restaurant with drive thru services in the B-2 Zoning District is allowed to continue under the Zoning Ordinance without necessity of any rezoning, special exceptions, use permit, variance or other approval, subject to compliance with the 1994 conditions. I am not aware of any other permit or license required by this jurisdiction that a purchaser must obtain before it may acquire the Property or before the Property may continue to be used in the manner in which it is presently being used.

6) Compliance with Subdivision Regulations:

The Property complies with subdivision regulations as lot 2, Block 1 of Hollenback and Nelson 1st Addition.

7) No Application(s) Pending:

No application for rezoning, for a special or conditional use permit or a variance in connection with the Property, is now pending. No proceeding to challenge zoning or other governmental approval or use of the Property is pending, or to the best of my knowledge, overtly threatened.

8) Certificate of Occupancy:

I am unable to locate a certificate of occupancy for the Property. I have no reason to believe, given the history described above, one was not properly issued. In the absence of a Certificate of Occupancy would not give rise to any enforcement action affecting the

Property. It is not necessary for a new purchaser to obtain either a new Certificate of Occupancy or an amendment to the existing Certificate of Occupancy in order continue use and occupancy of the Property which it is approved.

9) Violations Outstanding or Development Related Fees Paid:

City staff was provided a survey that shows the parking lot and access setbacks are in violation on the north, south and west. I am unaware of any other active or alleged violations to any zoning, subdivision, building or similar ordinances or regulations applicable to the Property within the past three years.

This statement does not mean that the property is free of additional violations or is in full compliance with federal, state and local applicable codes. All required fees have been paid in connection with the development and use of the Property, including any impact-related fees, have been paid, and no such fees which would have applicability to the Property are otherwise pending or known at this time.

10) Flood Zone Designation:

The Property is not located in a Flood Hazard Overlay Zoning District. The Flood Insurance Rate Map (FIRM) for the City of Bloomington designates the Property as Zone X on Panel Number 2753C0458F dated November 4, 2016.

This information was researched by the person signing this letter on behalf of the City of Bloomington as a service. The undersigned certifies the above information is believed to be accurate based on or relating to the information supplied in the request for this zoning verification and the information on file with the City of Bloomington. The City assumes no liability for errors or omissions. All information was obtained from public records which may be inspected during regular business hours.

Please contact me at (952) 563-8926 or lpease@BloomingtonMN.gov for any questions.

Sincerely,



Londell Pease, Senior Planner
Community Development – Planning Division