

February 7, 2023

Delivered by email only to Patrick.Smith3@dc.gov

Mr. Patrick Pendleton Smith
Development Manager
Deputy Mayor for Planning and Economic Development
Office of the Mayor
Washington, D.C.

**Re: Truxton Circle
1514 N. Capitol Street, N.W.
Development Project of Cycle House**

Dear Mr. Smith:

This firm represents Shannon Boyle, SEB, Inc. t/a Uncle Chip's, and Barnes & Boyle, LLC, being the owner and tenant at 1514 N. Capitol Street, N.W., Washington, D.C. (herein "1514"). I respond to the email you send to Ms. Boyle this past Thursday, February 1, 2023.

Thank you for taking the time to fully research the situation and respond with such detail. The Developer of Cycle House has not been forthcoming with information and much of the information you provided was of first impression to us, notwithstanding many requests in the past.

Our first suggestion is to better communication between the neighbors and Cyle House. It is clear from the tenor and content of his emails that, while he may be an accomplished developer, his relationship with the neighbors is strained, at best. Information he may relay, while almost non-existent, is laced with acrimony that is difficult to get beyond. If the neighbors experience a problem with access or if there is delay in construction, the neighbors need to know how to report and remedy the situation to a responsive person with authority – and all goals would be best served if that individual were not Mr. James.

Addressing points raised in your email:

1. **Fire egress:** You are correct in your assumption that we believed that the Mr. Chip's retail food operation needed two means of Fire Egress. During construction in 2017 at 1514 my client met with DCRA and DC Fire officials who required the two means of egress. That seemed intuitive because there is a commercial kitchen at the rear of the premises and it

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was reasonable to conclude that there needed to be two escape routes in the event of an emergency. We understand from your email that DOB is now taking a contrary position per Mr. Bailey, Deputy Chief Building Official at DOB. Notwithstanding whether two means of egress may be required by law, it still seems like a prudent *status quo* to maintain and we would like to keep it in the discussion – simply by ensuring that the rear exit from the building is not impeded in case someone needs to exit during an urgent fire or similar calamity.

2. **Business van parking:** Thank you for the Visitor Parking Permit.

3. **Loading in the rear:** You are correct that 1514 needs to load from the rear of the building. The door at the rear is extra wide and my client’s van backs up to the door to offload and unload materials and deliveries. In 2023 there were a total of 1,744 loads handled in that manner. You can imagine how crucial the loads are to running the business. Note that the delivery van is 90” wide with mirrors, 188” long, and 74” high. That is what needs to be accommodated when considering the loading area.

You indicate that we have assurance that the demolition of the existing parking area will take no longer than 4 to 8 consecutive days and that, apart from that, the Developer will “ensure that [my client has] loading access to the rear of [1514] and a smooth hard surface suitable for hand trucks and wheeled dumpsters during the entirety of construction.” My client is anxious to accommodate the development, but some planning is required because of previously scheduled and recurring deliveries. We would like to know, in as far as advance as possible, when this interruption in access will occur and, most importantly, how to address a situation where the interruption extends beyond the 8 days. Would access be blocked entirely or would there still be a footpath available?

4. **Blocking of alley during loading:** You offer the comforting words that “there are alternative entrances/egresses for all vehicular traffic at all times even if a large delivery truck temporarily blocks the alley in front of Uncle Chip’s. Do we have similar insurance from DDOT/DMV that its agents will not issue tickets in this situation?”

We had trouble understanding this sentence of your email: “Once the concrete pad is complete, you will be able to load directly from your back door to your van again as shown on the “Demolition, Stormwater installation and concrete Parking Pad Plan”, noting that the six month period after concrete cure and easement includes ensuring you have access directly to your back door for loading and unloading as well as space for keeping the 36” deep dumpsters off-street and on the concrete pad.” [underlining added]. Can you explain the reference to “six month”?

We may follow up on your invitation to contact DDOT’s Curbside Manager, David Lipscomb, about the loading zone, but, as mentioned before, loading from the front of the premises is problematic.

5. **Timing of notifications:** We are almost never given specific written or email notice by the Developer. There has been some verbal contact from Developer's agents or employees on-site, but most of that information has not been specific. We need the 48-hour (business hours) notice delivered to shannon@unclechips.com so my client can adjust and notify vendors and trash service.

6. **Access to and storage of trash dumpsters:**

a) **Access.** My client needs to be able to move trash bins around their delivery vehicle, all in a 9.97' space. There is no margin for error. My client's current trash provider does not have containers that are 36" deep. If the developer can provide cans that are no deeper than 36" (at the deepest¹) for the short periods of time discussed, that could work.

b) **Storage of Existing Trash Containers.** During the 4-8 days of construction of the pad, it is proposed that my client use the 36" deep trash containers. We would need someplace to store the current 42" containers while they are not being used.

7. **Stormwater management system:** As long as, after construction, the access afforded by the Easement Agreement is not compromised, this will not be an issue.

8. **Maintenance of stormwater system.** Now that we have a copy of the Demolition, Stormwater Installation, and Concrete Parking Pad Plan" we can see that the obligation to maintain rests with the Developer. I am not sure if the plans are to create condominiums. If so, once the condominium units are sold, and the declarant/developer is out of the picture, who will be saddled with that maintenance responsibility? Is the condominium association to be the successor in interest to the Developer and assume that responsibility. The manhole cover that is on the 1514 property is separate from the proposed Stormwater system and no access should be needed to it. Further, the area needs to have a surface that i) drains water away from the rear of the buildings, and ii) free of trip hazards, and iii) have a surface that can withstand salt which is traditionally applied in Winter to prevent staff from slipping on the surface.

9. **Temporary restrictions of access across the easement:** As stated above, as long as we can address deterrents for extending beyond the 8-day interruption (plus a second period of 2-3 days for the pouring and curing of concrete, that will be manageable. Just to be clear, we are speaking of two periods of time (one 4-8 day period and one 2-3 day period), correct?

¹ Out of an abundance of caution, I emphasize "at the deepest". Trash containers often vary in depth from the top of the container to the bottom. There would be no room for a container that exceeds 36" at any point.

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Likewise, we appreciate that the Developer has now committed to moving the Truxton Circle Project's long-term staging and storage to another location so that my client's parking is available as soon as the concrete pad has cured to load bearing ability.

10. **Roll-up doors:** We welcome the Developer's new consideration of the possibility of dispensing with roll-up doors.

11. **Access to 1514 Private Property:** If the Developer needs access to my client's property to construct the pad on the property (as opposed to the easement area), such access is not necessary because my client does not need any parking pad construction on her property. If access is needed for any other reason, please let me know.

I trust the foregoing is responsive to the issues you raised.

Thank you.

Sincerely yours,

JACKSON & CAMPBELL, P.C.

A handwritten signature in black ink, appearing to read "Roy L. Kaufmann", with a long horizontal stroke extending to the right.

Roy L. Kaufmann

RLK:dmp

cc: *(via email only)*
Ms. Boyle