

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Karen Thomas, Case Manager
Joel Lawson, Associate Director Development Review
DATE: December 9, 2014
SUBJECT: BZA Case 18881, 2631 Connecticut Ave NW.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following relief to permit a fast food establishment:

- a. **Variance Relief** from the screening and trash enclosure requirements:
- § 721.3 (j) (2) (continuous brick wall along lot line required; none proposed); and
 - § 721.3 (j) (3) (brick enclosure wall for trash required; none proposed);
- b. **Special Exception Relief** to permit a fast food establishment in the Woodley Park neighborhood Commercial Overlay District, pursuant to § 1304.1:
- § 1307.5 (fast food use); and
 - § 1302.5 ($\geq 25\%$ linear street frontage limit for restaurant, fast food establishments, 35% proposed).

Subject to the following conditions:

1. All food and drinks consumed on the premises of Nandos shall be served on/in non-disposable tableware with no exceptions;
2. Nandos 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;
3. Nandos will use the existing trash compactor at the site; *
4. Trash service at the site will be increased from four times a week to five times a week; *
5. Any future, new eating establishment proposed for this space shall be required to seek special exception relief in conformance with the applicable provisions of the Woodley Park Overlay and Zoning Regulations.*
6. The property owner and Nandos 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 assist in the coordination with other commercial users to maintain the cleanliness of the alley.

* As included in the ANC 3C's Resolution.

II. LOCATION AND SITE DESCRIPTION

Address	2631 Connecticut Avenue NW
Legal Description	Square 2204, Lot 161
Ward	3/ANC 3C
Lot Characteristics	The lot is rectangular in shape and measures 138 feet in width by 120 feet in depth, totaling 16,560 square feet in lot area. The lot fronts Connecticut Avenue to the west and an improved 15-foot 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.
Existing Development	The property is currently developed as a 2-story strip commercial center with a variety of tenants. The building occupies the full width of the lot and has a 15-foot wide rear yard and 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. APPLICATION IN BRIEF

Proposal	The application proposes that a fast food establishment would occupy an existing ground floor retail space of approximately 3,442 square feet of the building. The location previously accommodated a bank. Nandos is a “fast casual” restaurant concept where customers pay first for meals. 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, Nandos’ 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. 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 and exceed the linear street frontage limitation for restaurants fast food and prepared food shops. § 721.3(j), area variance from screening and trash enclosure requirements.

IV. ZONING REQUIREMENTS and RELIEF REQUESTED

C-2-B Zone	Regulation	Existing	Proposed	Relief
§ 721.3 (j)(2)	Continuous brick wall along lot line	None	None	Relief required
§ 721.3(j)(3)	Brick enclosure wall for trash	None	None	Relief required
§ 1302.5	Linear street frontage $\geq 25\%$	33%	35%	Relief required
§ 1307.5	NC and WP Overlay provisions	Vacant	Fast Food	Relief required

V. OFFICE OF PLANNING ANALYSIS

The application requests the following zoning relief:

1. A special exception pursuant to §§ 1302.5 and 1307.5 from the WP Overlay to establish a fast food establishment, which would exceed the linear frontage limitation. Section 1307.5 provides that “no hotel, inn, or fast food restaurant shall be permitted in the WP Overlay District.” Section 1302.5 establishes the limits on eating and drinking establishments in neighborhood commercial overlay districts. 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 trash enclosure standards.

a. Variance Relief from §§§ 721.3(j) (2) & (3) and 1302.5, Screening and trash enclosures

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:

No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a

- (1) 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;
- (2) Any trash 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
- (3) 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.

i. Exceptional Situation Resulting in a Practical Difficulty

The property exhibits exceptional conditions which result in a practical difficulty. First, the property slopes downward from west to east with an approximately 10-foot 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 external stairs (which provide access to the rear service doors for the retail) limit possible locations for new trash enclosures. Second, as one of several tenants in the building, any screening or trash enclosure should not interfere with other tenants' access to the use of the rear yard and alley. Third, the property is located along a 15-foot wide alley, which serves both commercial and residential users and the property's 15-foot wide rear yard provides additional vehicle maneuverability in the alley. The Applicant is sensitive to potential encroachment on alley access due to the variety of alley users, including service and trash trucks for the building and adjacent residents. 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-foot high and 12 inches thick wall be constructed along the lot line. The building currently has a 15' rear yard, which effectively widens the 15-foot wide alley and thus provides additional room for vehicles. 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. Therefore, to comply with the requirement, Nandos would unnecessarily impede alley access for other building tenants and interfere with alley users.

- § 721.3(j)(3) (*brick enclosure wall for trash containers*): The provision requires that trash dumpsters be housed in a 3-sided brick enclosure equal in height to the dumpster or 6', whichever is greater (among other requirements). Enclosure of the trash dumpster would need to be approximately 8 feet wide by 8 feet deep by 6 inches tall, and doing so 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 such an enclosure would be impractical at this location given the existing width of the alley and ingress and egress into the below-grade garage.

ii. No Substantial Detriment to the Public Good

Relief can be granted without substantial detriment to the public good. The Applicant proposes to abide with the conditions of the previous BZA Order 18210, issued for a related fast food tenant operating within the commercial building. The order stipulated utilizing the screened trash containers below the stairs, (as seen in the submitted photos), and the existing trash compactor, which was installed to help reduce the number of collection vehicles to the building.

iii. No Substantial Harm to the Zoning Regulations

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

b. Special Exception relief from §§ 1302.5 and 1307.5 - Fast Food Establishments, Linear Frontage Limitation, pursuant to § 1304.1.

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;*

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.”¹ 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.”² The proposed fast food establishment would occupy a ground floor space, which previously housed a bank, which vacated the space in 2013. Presently, the subject building includes a restaurant, dry cleaners, and other tenants on the upper level. The proposed establishment is anticipated to cater to nearby residents, workers, and visitors.

¹ See § 1300.1.

² See § 1300.3(b).

The WP Overlay District, which is one of the NC Overlay areas, 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.” The proposed use 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. The Applicant would use the compactor at the rear, which consolidates solid waste services for the entire property. This trash compactor was a condition of BZA Order 18210, (of Noodles and Co.) in an effort to reduce the number of trash 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;

The applicant has demonstrated that the Woodley Park commercial corridor has been subject to retail instability in a difficult economic climate for small businesses. 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 and indicates that Nandos is “a potential tenant with the financial ability to guarantee a multiple year lease to ensure the long-term occupancy of the space.” The applicant documented its efforts to market the space to other financial institutions, as it would have required little to no build-out to occupy the space. However, due to the prevalence of online banking and automation in banking through ATM’s, the need for brick and mortar locations for these institutions have been substantially reduced. The space was also marketed to businesses that could be accommodated as a matter-of-right.

(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 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 some of the conditions of Order 18210 be included into an approved Order for this application, which largely relate to trash issues. Any modifications to the façade would be reviewed by the Historic Preservation Review Board.

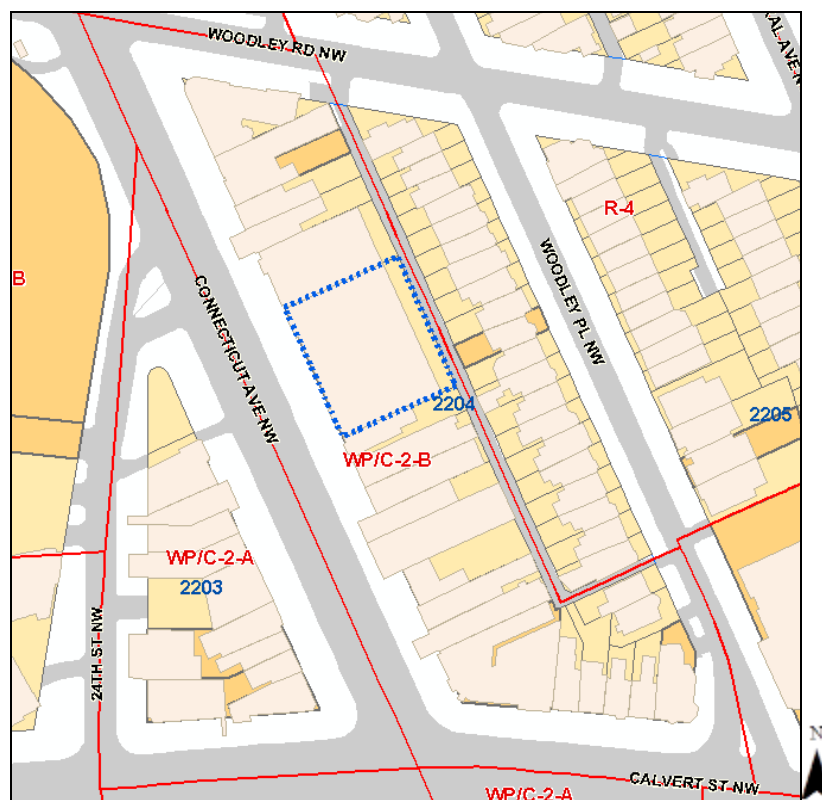
VI. COMMENTS OF OTHER DISTRICT AGENCIES

No other District agency has provided comments to the record, at the date of this report.

VII. COMMUNITY COMMENTS

The ANC voted to support the application at its regularly scheduled meeting on November 17, 2014 (Exhibit 28). The Woodley Park Community Association (WPCA) is opposed to the applicant's request and voted against the expansion of the overlay's 25% commercial requirement. Ward 3 Councilmember, Mary Cheh also submitted a letter to the record in support of the WPCA's position (Exhibit 27).

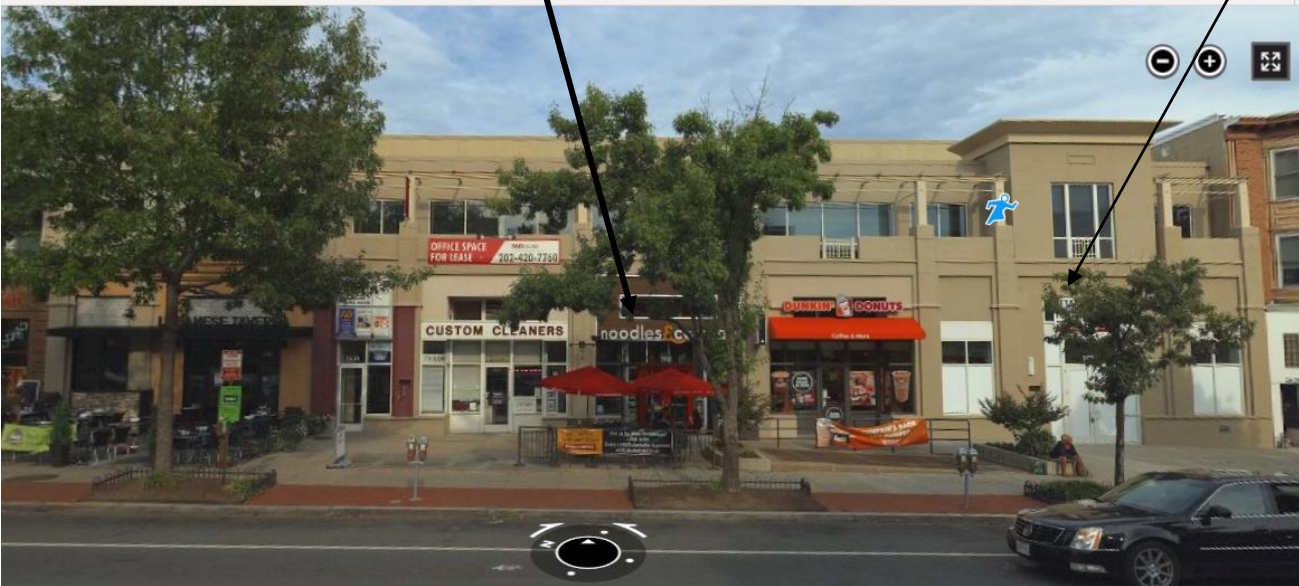
Attachment: Location and Zoning Map



LOCATION and ZONING MAP

BZA 18210

Subject location



2631-2641 Connecticut Avenue