



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

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

DATE: July 20, 2010

SUBJECT: BZA Case No. 18092, 606 South Carolina SE (Square 875, Lot 39)

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the special exception request to allow a home based occupation for a bakery, per the requirements of § 203.

II. AREA AND SITE DESCRIPTION

Address:	606 South Carolina Avenue SE
Legal Description:	Square 875, Lot 39
Ward:	6
Lot Characteristics:	Irregular-shaped interior lot, adjacent to a 14' wide public alley
Existing Development:	2-story brick rowhouse with a basement
Zoning:	R-4 – Row dwellings and flats permitted
Historic District:	Capitol Hill
Adjacent Properties:	2-story rowhouses abut the property on the east and west. To the north are rowhouse buildings facing 6th Street SE as well as to the south across South Carolina Avenue
Surrounding Neighborhood Character:	Low to medium density residential buildings and institutional uses. Properties to the west across 6 th Street are zoned CAP/R-4. CHC/C-2-A zones are located to the north and east along the Pennsylvania Avenue and 8 th Street commercial corridors. Both contain low density retail and mixed uses. The Eastern Market Metro stop is located a block east of the property.

III. APPLICATION IN BRIEF:

Ms. Renu Schmoyer, property and business owner, has requested zoning relief to establish a home based occupation at 606 South Carolina Avenue SE. The proposed home occupation would be a custom and wedding cake business. No physical changes are proposed for the home in order to facilitate this use.



IV. REQUESTED RELIEF

The applicant requests special exception relief to allow the establishment of a home bakery as a home occupation. A home bakery is not one of the listed permitted home occupations in § 203.7.

V. OFFICE OF PLANNING ANALYSIS

The requested special exception must satisfy the following criteria for home occupations:

§ 203 HOME OCCUPATION (R-1)

§ 203.4 *A practitioner of a home occupation, and any owner of a dwelling unit in which a home occupation is practiced, shall comply with the requirements of §§ 203.5 and 203.6, and with the following conditions and requirements:*

- (a) *A home occupation shall be clearly secondary to the use of a dwelling unit for residential purposes;*
- (b) *Except as provided in §§ 203.7(c) and 203.8(d), no more than the larger of two hundred fifty square feet (250 ft.2) or twenty-five percent (25%) of the floor area of the dwelling, excluding basement or any accessory structure, shall be utilized in the home occupation;*
- (c) *The practitioner shall store all materials or finished products within the floor area that is designated in paragraph (b) of this subsection, or in a basement or accessory structure;*
- (d) *No more than one (1) person who is not a resident of the dwelling unit shall be engaged or employed in the home occupation;*
- (e) *The dwelling unit owner and the practitioner shall maintain the residential character and appearance of the dwelling unit and lot;*
- (f) *No interior structural alteration shall be permitted if it would make it difficult to return the premises to use that is exclusively residential;*
- (g) *Neither the practitioner nor any other person shall conduct or allow any operations outside a structure, nor maintain or allow any storage or other unsightly condition outside a structure;*
- (h) *Neither the practitioner nor any other person shall use any equipment or process that creates visual or audible electrical interference in television or radio receivers outside the subject home, or that causes fluctuations in line voltage outside the subject home;*
- (i) *The use shall produce no noxious odors, vibrations, glare, or fumes that are detectable to normal sensory perception outside the subject home;*
- (j) *The use shall not produce a level of noise that exceeds the level normally associated with the category of dwelling or the immediate neighborhood;*
- (k) *No more than two (2) vehicles may be used in the practice of the home occupation;*
- (l) *Vehicular trips to the premises by visitors, customers, and delivery persons shall not exceed eight (8) trips daily on a regular and continuing basis;*
- (m) *The practitioner shall have no more than eight (8) clients or customers on the premises in any one (1) hour period; and*
- (n) *If more than one (1) home occupation is practiced in a dwelling unit, the cumulative impact of all such home occupations, considered as a whole, shall not exceed any of the standards set forth in paragraphs (a) through (m) of this subsection.*

The proposed custom and wedding cake business will be secondary to the residential use. The business will only require the use of her existing kitchen and basement refrigerator, which would be limited to approximately 14% of the total floor area. All preparation and storage of materials associated with the business will take place inside the home. The applicant is the only resident of the dwelling that will be engaged in the home occupation.

No physical changes are proposed for the exterior or interior of the home. As a result, its residential character and appearance would be maintained and the request, if granted, would not preclude its continued use for residential purposes.

The applicant has indicated she will utilize the following materials in the operation of the proposed business: range, oven, mixer, refrigerator, freezer, computer, printer, and telephone. All would be standard sized items, typical of a residential kitchen and/or home office. Therefore, the proposed home bakery and materials required for its operation should not impact adjacent properties with regard to electrical interference, odors, vibrations, glare, fumes, or noise.



View of existing home kitchen

The applicant has indicated she would not have retail customers at her home. She would take orders via the phone and internet and make all deliveries using her personal vehicle. As such, additional vehicle trips to and from the premises should be minimal. This is the only home business proposed for the subject property.

§ 203.5 A sign on a dwelling or building in which a home occupation is practiced shall be permitted, subject to the following conditions:...

The applicant has indicated that no signage will be displayed on the exterior of the building.

§ 203.6 Sales shall be permitted, subject to the following conditions:

- (a) A practitioner may make sales by telephone;*
- (b) A practitioner may perform and be paid for a service, even if the service results in the creation of a product;*
- (c) During a twelve-month (12-month) period, as many as five (5) sales in the nature of yard sales, garage sales, or home sales parties may be held at a dwelling; and*
- (d) During a twelve-month (12-month) period, a person with a home occupation permit may hold six (6) or more sales in the nature of yard sales, garage sales, or home sale parties at a dwelling, if approved by the Board of Zoning Adjustment pursuant to § 203.10.*

The applicant has indicated that all sales will take place over the phone or via the internet and payment will occur upon delivery of the cake. The applicant does not plan to conduct yard sales, garage sales, or home sales parties as part of the proposed cake business.

§ 203.7 The following uses shall be allowed as home occupations; provided, that the conditions specified in §§ 203.4 through 203.6 are met at the time of the establishment of the home occupation, and maintained on a continuing basis. The uses listed under this subsection shall include similar uses in each category:

- (a) Computer programming;*
- (b) Cosmetologist, hair stylist, or barber;*
- (c) Dressmaking, sewing, and tailoring;*
- (d) Home crafts, such as model-making, rug weaving, and lapidary work;*

- (e) *Home office of a businessperson, sales person, or manufacturer's representative; provided, that the dwelling is not used as a gathering point for workers who are on the way to another work site;*
- (f) *Home office of a physician or dentist; provided, that the physician or dentist may not also establish an accessory use pursuant to § 202;*
- (g) *Home office of a scientist, clergyman, inventor, academician, licensed health care professional other than one provided for in paragraph (k) of this subsection, or other professional person;*
- (h) *Mail order business;*
- (i) *Painting, sculpturing, writing, composing, photography, or other fine arts occupations practiced by an individual in a home studio; provided, that no more than sixty percent (60%) of the floor area of the dwelling unit may be devoted to the studio;*
- (j) *Telephone answering service and sales by telephone;*
- (k) *Tutoring of not more than five (5) students at any one time; and*
- (l) *Typing or word processing service.*

The requested home bakery is not a listed use in 203.7 and therefore requires special exception review and approval by the Board of Zoning Adjustment.

§ 203.9 *Except as explicitly permitted by §§ 203.6 through 203.8, the following uses are prohibited as home occupations:*

- (a) *Any retail service or other use specified in §§ 701.1, 701.4, 721.2, 721.3, 741.2, 741.3, 751.2(b), and 801.7; and*
- (b) *Any use prohibited in § 902.1.*

A bakery is a listed retail use in § 701.4 and therefore prohibited as-of-right.

§ 203.10 *A home occupation that is not permitted or prohibited in this section may be permitted as a special exception by the Board of Zoning Adjustment under § 3104; provided:*

- (a) *The proposed use and related conditions shall be consistent with the purposes set forth in § 203.1 and shall generally comply with the requirements of §§ 203.4 through 203.8, subject to specific findings and conditions of the Board in each case;*
- (b) *An applicant for a home occupation that is permitted by §§ 203.6 through 203.8 may request the Board to modify no more than two (2) of the conditions enumerated in §§ 203.4 through 203.8; provided that the general purposes and intent of this section are complied with;*
- (c) *In no case shall more than two (2) persons who are not residents of the subject home be permitted as employees of the home occupation, and those persons shall not be co-practitioners of the profession;*
- (d) *Any request to modify more than two (2) of the requirements found in §§ 203.4 through 203.8 shall be deemed a request for a variance. However, a person with a demonstrated physical handicap may be permitted special consideration by the Board, and a request for more than two (2) modifications of the Home Occupation requirements shall be considered in this instance as a special exception governed by this subsection; and*
- (e) *In considering any request for approval under this subsection, the Board may impose conditions relating to operating conditions of the home occupation, parking, screening, or other requirements as it deems necessary to protect adjacent and nearby properties consistent with the general purpose and intent of this section.*

The requested special exception to allow a home based bakery would be compatible with the residential neighborhood in which the subject property is located. The business would provide custom designed special occasion and wedding cakes but would not function as a typical retail bakery. The business would operate within the existing residential kitchen and be secondary in nature to the residential use of the structure. As a result, it is not expected to have any adverse

impacts on adjacent properties. As indicated above, the request meets the requirements and conditions found in §§ 203.4 – 203.8 and the applicant is not requesting any modifications to these conditions.

§203.11 If the Zoning Administrator determines that an application for a Home Occupation Permit appears to meet the conditions of §§ 203.4 through 203.8, but to be inconsistent with the general purpose and intent of this section, the Zoning Administrator may certify the application to be decided as an appeal by the applicant to the Board of Zoning Adjustment.

The current request was referred to the BZA by the Zoning Administrator on March 26, 2010.

VI. AGENCY COMMENTS

No agency comments have been received to date.

VII. COMMUNITY COMMENTS

At their regular June 8, 2010 meeting, ANC 6B voted 7-0 to unanimously support this request. The applicant has also submitted letters of support from several neighbors, including those immediately adjacent to the subject property.

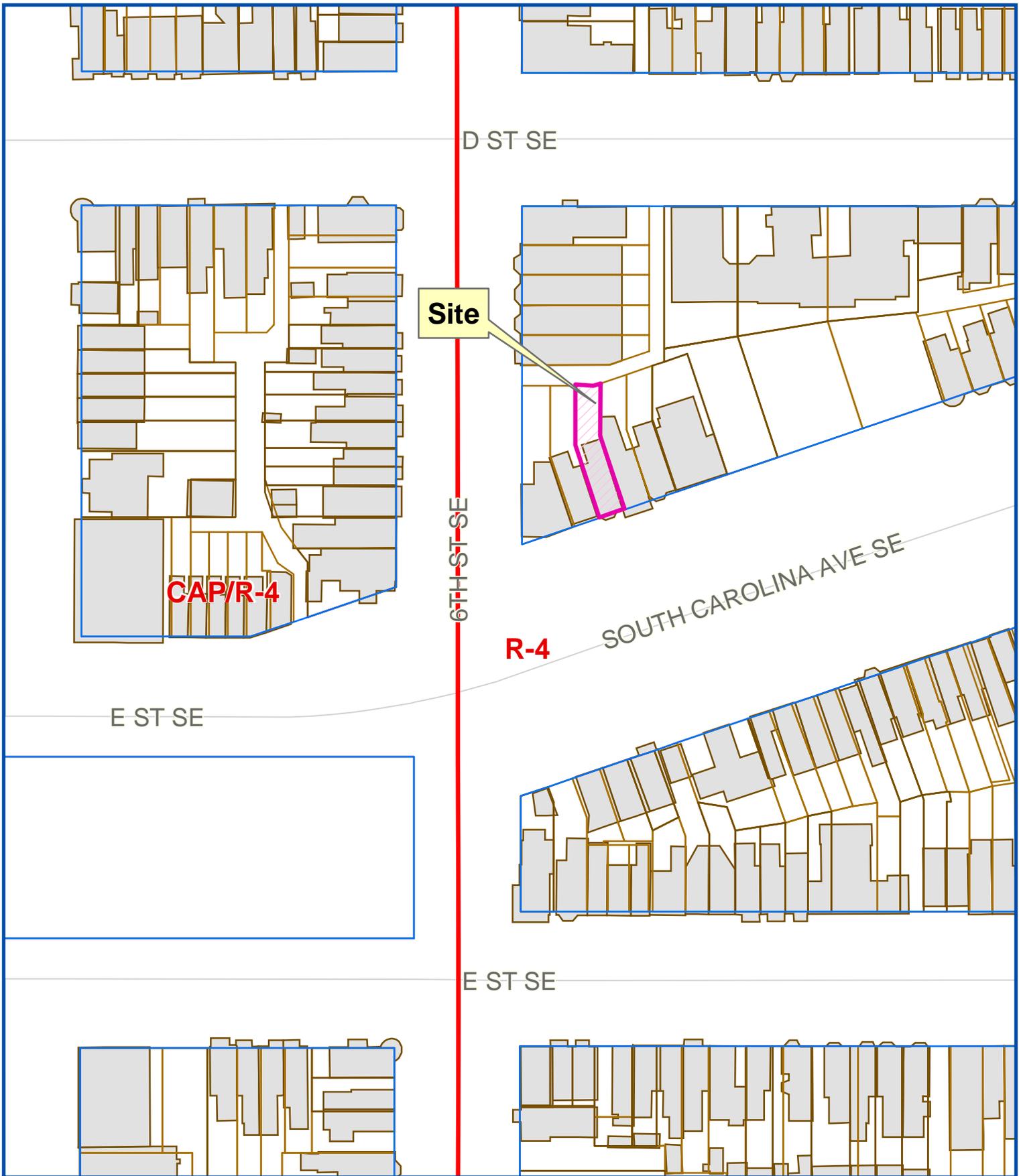
VIII. CONCLUSION AND RECOMMENDATION

OP recommends **approval** of the requested special exception to allow a home bakery as a home occupation. The requested use is consistent with the intent of the regulations governing home occupations, meets all the standards for their operation, and should not have a negative impact on surrounding properties.

JS/ayj
Arlova Jackson, Project Manager

Attachments:

1. Location map
2. Aerial photograph



Legend

- Zoning Districts
- Property Squares
- Tax Lots
- Record Lots
- Buildings
- Street Centerlines

BZA 18092- 606 South Carolina Ave SE
Exhibit 1 - Lot Map

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.
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**BZA 18092- 606 South Carolina Ave SE
Exhibit 2 - Aerial Photograph (2009)**

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.
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