



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Arthur Jackson, Case Manager
Joel Lawson, Associate Director Development Review

DATE: January 17, 2012

SUBJECT: **BZA Case 18304** - Request for special exception relief for 5001 Georgia Avenue NW

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of special exception relief requested pursuant to § 733 to continue a fast food establishment use in the lease space on the subject property, contingent on the property owner placing a gated enclosure use around the trash facilities in the parking lot. With this condition, OP would support approval of this special exception with no expiration date.

II. LOCATION AND SITE DESCRIPTION:

Address:	5001 Georgia Avenue NW
Legal Description:	Square 3007 Lot 0067
Ward:	4D
Lot Characteristics:	The generally rectangular corner lot has an area of 8,450 square feet (0.19 acre) and fronts Georgia Avenue to the west and Farragut Street to the south. Adjacent to the eastern (rear) property boundary is an alley 15 feet wide that is not accessible from the property because it is at a higher elevation.
Zoning:	C-2-A – fast food establishments are allowed by special exception.
Existing Development:	A former gasoline service station on the property has been converted to a small strip retail center that continued to sell gasoline. This rectangular building is located against the rear (eastern) boundary and public alley, and divided into four lease spaces including the one occupied by the applicant. The property is paved between this building and the adjacent streets, and nine concrete wheel-stops in the front of the building designate onsite parking spaces. Several commercial and grease recycling/collection dumpsters line the northern property boundary, and curb cuts along Farragut Street and Georgia Avenue allow vehicular access into the site (refer to Figure 1).
Historic District:	None
Adjacent Properties:	A vehicle collision repair center on the adjacent property to the north that is surrounded by a seven-foot tall metal picket fence, a five-story multiple-dwelling to the south across Farragut Street, two-story row dwellings along the same Farragut Street frontage to the east across the alley and a triangle public park to the west across Georgia Avenue NW.



Surrounding Neighborhood Character:	Moderate residential to the east in an R-3 district; and moderate density commercial, medium density residential and a public park, respectively, to the north, south and west in the C-2-A district.
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III. PROJECT DESCRIPTION IN BRIEF

Applicant: Rui E. Lu, business owner

Proposal: To continue operation of the existing “Andy’s Carry Out” fast food establishment on the subject property. No changes are proposed to the existing building or use.

According to copies of Certificates of Occupancy (CO’s) in the applicant’s submission, a delicatessen or delicatessen/carry-out use has been in this lease space since 1989. However, when the new owner applied for a Certificate of Occupancy (CO) for the existing use, the application was denied. In a letter to the applicant dated September 14, 2011, the Zoning Administrator (ZA) explained that a fast food establishment use in a C-2-A district requires approval of a special exception pursuant to § 733. A temporary CO for the existing use was issued pending review of a special exception application by the Board of Zoning Adjustment. The ZA’s letter stated that a new CO would be issued upon approval of the required special exception.

This is a family business (mother, father and son) with no employees. They arrive in one vehicle that is initially parked in front of the store and gone most of the time running errands. Customers who drive and vendors park at wheel stops in front of the building. Hours of operation would continue to be 11 AM to 1AM from Sunday through Thursday, and 11 AM to 4 AM on Friday and Saturday. All food is prepared onsite for consumption elsewhere.

Trash collection facilities for all tenants are lined up along the northern property line and the metal picket fence on the neighboring property. Onsite, a retaining wall approximately five-feet tall screens these facilities from the rear yards of residential properties to the east. This wall continues south from northeast property corner and behind the building. Off-site, a seven-foot tall wooden stockade fence around the rear yard of the closest residence to the east effectively blocks the view. The only landscaping onsite is a large evergreen tree in the southeast corner of the lot.

Relief and Zoning: In accordance with the ZA letter, the applicant requested special exception approval for the existing use in accordance with § 733.

IV. OP ANALYSIS

Consistency with § 733

733.2 *No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.*

The R-3 district east of the subject property is across the 15-foot wide alley.

733.3 *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. The brick wall shall not be required in the case of a building that extends for the full width of its lot.*

The strip center building and the referenced retaining wall extend across most of the lot width. The seven-foot tall fence around the rear yard of the nearest residence across the alley also screens all the rear yards beyond.

733.4 *Any refuse dumpster 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.*

Trash and grease collection dumpsters in the parking lot are neither enclosed nor screened from the adjacent street frontages.

733.5 *The use shall not include a drive-through.*

No drive-through is associated with the existing use and none is proposed.

733.6 *There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District.*

The only customer and service entrance on the western building façade faces Georgia Avenue and the C-2-A district.

733.7 *The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions.*

Neighboring lease spaces in the strip center are occupied by other retail and service uses. Since no business is conducted on the eastern side of the building, the use does not appear to create any objectionable conditions in the abutting R-3 district. No objections have been voiced about the hours of operation, and the site and lobby for this use appear clean and well maintained.

733.8 *The use shall provide sufficient off-street parking, but not less than required by Sec.2101.1 to accommodate the needs of patrons and employees.*

The available onsite parking is shared by customers of all the tenants.

733.9 *The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.*

Customers arrive on foot or drive and park onsite in front of the building. The application indicates that delivery and service vehicles also park and unload in parking lot. The use therefore does not contribute to any dangerous traffic conditions.

733.10 *There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site.*

There is no evidence that vehicles obstruct the public right-of-way while servicing the trash area.

733.11 *The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property.*

OP recommends a condition of approval that the property owner be required to place a gated enclosure around the trash facilities in a manner consistent with § 733.4. With this condition, OP would support placing no expiration date on this special exception.

733.12 *An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733.2 through 733.4; provided that the general purposes and intent of this section are complied with.*

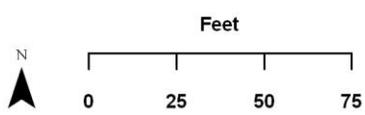
OP thinks waiver of § 733.3 would not be detrimental to neighboring properties and would be consistent with the general purpose and intent of this section.

IV. COMMUNITY COMMENTS

To date no formal recommendation from Advisory Neighborhood Commission (ANC) 4D has been added to the case record file.



OPID0021045



BZA Application No. 18304



Government of the District of Columbia
Office of Planning ~ January 5, 2012

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