

## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Karen Thomas, Case Manager  
Joel Lawson, Associate Director Development Review

**DATE:** October 29, 2013

**SUBJECT:** BZA Case 18653, Foundation Sweet Success, Inc., owner, request area variance relief from the 1.0 nonresidential FAR limit under 11DCMR § 931.2, to allow the use by its tenant Dog Tag Bakery of the entire existing bldg. (two stories and 1.86 FAR) and special exception relief under § 915 for miscellaneous use as a restaurant, retail bakery, and related office space at 3206 Grace Street NW (Sq. 1188 Lot 121).

### **I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following variance request for the proposed use of the top floor of the building at 3206 Grace Street NW:

- § 931.2, FAR (maximum 1.0 for nonresidential permitted, 1.86 proposed); and
- Special Exception relief from § 915 (miscellaneous uses).

Should the Board consider approval of the requested relief, OP has no objection to the ANC 2E's condition that a covenant be established to ensure residential use or no use of the second floor, if the applicant vacates the property.

### **II. LOCATION AND SITE DESCRIPTION**

Address	3206 Grace Street, N.W.
Legal Description	Square 1188, Lot 121
Ward/ANC	2/ANC 2E
Lot Characteristics	Rectangular (former alley) lot with a contributing historic structure
Zoning	W-1- moderate density waterfront district
Existing Development	2-story brick building built in 1900 built for commercial manufacturing.
Historic District	Georgetown Historic District
Adjacent Properties	North: C & O Canal South: commercial structures fronting on M Street; East: parking lot and bank which fronts on Wisconsin Avenue West: Apartment building.
Surrounding Neighborhood Character	Primarily a commercial district, including office, institutional and recreational uses.

### III. APPLICATION-IN-BRIEF

The existing vacant building is intended to be used by the owner's tenant, Dog Tag Bakery Inc., as a retail location for a bakery and café, including a production/baking area, a training-and-meeting room and an office space from which to manage the business. The bakery is intended to produce specialty breads and dog biscuits made by veterans, who would also be trained at this location. The site is currently nonconforming for nonresidential FAR at 1.86 FAR, and the applicant proposes to establish the proposed uses within the entire building, thus requiring an area variance from the FAR requirement.

Subsequent to filing the original application, the applicant consulted with the Zoning Administrator, regarding the proposed sales of dog biscuits, which would be ordered online and delivered via a mail carrier. The ZA advised that **special exception relief** would also be required under **Section 915 for a miscellaneous use**, as revenues from such sales are anticipated to exceed fifteen percent (15%) of total revenue<sup>1</sup>.

No additions to the building are proposed; any future additions for non-residential use would require a new BZA relief request.

### IV. ZONING REQUIREMENTS and REQUESTED RELIEF

W-1 Zone	Regulation	Existing	Proposed	Relief
Height § 930	45-foot max.	22.3 feet	22.3 feet	None required
Lot Width § 401	None prescribed	31 feet	31 feet	None required
Lot Area § 401	None prescribed	2,193 SF	2,193 SF	None required
Floor Area Ratio § 931 nonresidential - NR	1.0 max. NR 2.5 max.	1.86 (NR)	1.86 (NR)	<b>Required</b>
Lot Occupancy § 932	100% max. nonresidential	93% nonresidential	93% nonresidential	None required
Rear Yard § 933	None prescribed for nonresidential	4.9 ft.	4.9 ft.	None required
Side Yard § 934	8-foot min., if provided	13 feet	None	None required
Uses	§901-916	vacant	Bakery, café, training and office space, <b>off-site sales of biscuits.</b>	<b>Required</b>

### V. OFFICE OF PLANNING ANALYSIS

#### a. Variance Relief from § 931, Floor Area Ratio

#### ii. Exceptional Situation Resulting in a Practical Difficulty

The subject property is developed with a contributing structure in the Georgetown Historic District in excess of the maximum FAR permitted for nonresidential use. The historic use of the building as a commercial property on a former alley existed since 1900 when it was constructed as a building for manufacturing and commercial uses. Its history of uses since 1958 is evidenced through the available certificates of occupancies presented to the record. Subsequent to its last restaurant use, the building has remained vacant for the past seven years. The proposed tenant's operation would necessitate the need to

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<sup>1</sup> Derived from the ruling in BZA Appeal # 17677.

meet ADA requirements for disabled users who would be trained on-site. The building's floor size and interior layout would make it difficult for the owner's tenant to occupy only the lower level for its commercial and training operation, which are permitted uses in this district. Thus, the building's history of commercial and manufacturing uses in combination, create a practical difficulty for the owner of the building in leasing the long-standing vacant property for both residential and commercial use, as prescribed by the Zoning Regulations

**iii. No Substantial Detriment to the Public Good**

Approval of the variance would not result in substantial detriment to the public good. It would permit the continued use of the structure within the existing low-to-moderate density commercial area for commercial purposes, as it was so designed. Commercial uses including manufacturing have existed at this location without detriment to the surrounding commercial and revitalized residential sections of this former industrial area of the city. The applicant has received several letters of support from the residents and commercial interests of the Cherry Hill Neighborhood of Georgetown.

**iv. No Substantial Harm to the Zoning Regulations**

There would be no substantial harm to the Zoning Regulations. The proposed variance would permit the commercial use of the existing commercial building. No changes are proposed to the building including additions to the structure, which would increase the FAR beyond what has existed since the property was developed. The FAR is an existing nonconformity well below the permitted FAR for the zone district and the property owner has proposed a use consistent with former uses within the building. Therefore, no substantial harm would accrue to the Zoning Regulations.

**b. Special Exception Relief pursuant to § 915 – Miscellaneous Uses (W-1)**

*915.1 If the Board of Zoning Adjustment considers that they are appropriate in furthering the objectives of the Waterfront District, other uses not specified in §§ 902, 906 through 914, and 916 shall be permitted as special exceptions in the W-1, W-2, and W-3 Districts when authorized by the Board under § 3104, subject to the provisions of this section.*

The Zoning Administrator has advised the applicant that the sale of dog biscuits would be a permitted general retail use within the W-1 District. However, in an abundance of caution, if mail-order sales were to exceed fifteen percent (15%) of the total bakery revenue, relief would be required for a miscellaneous use as it would no longer be considered accessory to the principal bakery use.

*915.2 The facility shall be designed to enhance the visual and recreational opportunities offered by the Waterfront.*

This criterion is not applicable. The existing building is not located within the area where recreational opportunities are offered, but along a former alley, off Wisconsin Avenue. No changes would be made to the building's exterior to impact the historic character of the neighborhood.

*915.3 The use shall not adversely affect the present character or future development of the neighborhood.* The primary proposed use is permitted as a matter-of right in the W-1 District. As proposed the uses will not adversely impact the present character of the neighborhood, since it is compatible with the variety of surrounding commercial uses.

915.4 *No dangerous or otherwise objectionable traffic conditions shall result from the establishment of the use.*

The proposed use as a restaurant/café and bakery for local residents is not intended to have a regional draw of clients who would arrive by car to that location. Potential pick-ups for off-site sale of dog-biscuits would be occasional and typical of pick-ups and deliveries of small businesses in the Georgetown commercial district. As a historic resource, in a former light industrial district, no on-site parking is provided, nor is it required.

915.5 *The Board may impose requirements pertaining to the design, appearance, and screening, and other requirements as it deems necessary for the protection of neighboring or adjacent property.*

No screening is recommended.

915.6 *Before taking final action on an application for the use, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report. The report shall include the recommendations of all appropriate District agencies.*

The application was received by the Office of Planning and the District Department of Transportation (DDOT).

**Is the proposal in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps?**

The proposal would be in harmony with the intent and purpose of the Regulations, since it is a use anticipated under the regulations.

**Would the proposal appear to tend to affect adversely, the use of neighboring property?**

No adverse impacts to neighboring property are anticipated due to traffic, noise or to the light and air available to neighboring properties. No addition is proposed to the building and the proposed use would be less intense than past uses. The applicant informed OP that proposed hours of operation would be consistent with nearby retail commercial operations. Trash would be stored in the rear of the building which would be secured by a gate as shown in submitted plans. Therefore, OP does not anticipate that the proposed use of the building by Dog Tag Bakery would adversely affect the use of neighboring property.

## **VI. COMMUNITY COMMENTS**

ANC 2E, at its regularly scheduled meeting of September 30, 2013, voted unanimously to approve the application, on condition that a covenant be established to ensure residential use or no use of the second floor, if the applicant vacates the property. The ANC's letter would be submitted to the record under separate cover.

The applicant presented its proposal to the Old Georgetown Board at its meeting on October 22, 2013. That report would be submitted under separate cover.

## **VII. COMMENTS OF OTHER DISTRICT AGENCIES**

No comments were received from other District agencies.

**Attachment: Location Map**

