



## MEMORANDUM

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Karen Thomas, Case Manager  
 Joel Lawson, Associate Director Development Review  
**DATE:** November 8, 2011  
**SUBJECT:** BZA Case No.18274, 1221 Massachusetts Ave., NW

### I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following use variance relief:

- § 350.4 (delicatessen proposed on the ground floor, not permitted in the R-5-E District).

### II. AREA AND SITE DESCRIPTION

<b>Address</b>	1221 Massachusetts Ave., NW
<b>Legal Description</b>	Square 282, Lot 0044
<b>Ward/ANC</b>	2 /ANC 2F
<b>Zoning</b>	DD/R-5-E
<b>Lot Characteristics</b>	Irregularly shaped corner lot at 13 <sup>th</sup> Street and Massachusetts Avenue.
<b>Adjacent Properties</b>	To the east: St Agnes Church properties. To the west: 13 <sup>th</sup> Street NW. To the north: the property abuts a 15-foot wide alley system.  Across Massachusetts Avenue, primarily commercial buildings in the DD/C-2-C District.
<b>Neighborhood Character</b>	Several apartment buildings and offices consistent with the development pattern of the Downtown Development district.
<b>Historic Preservation:</b>	Shaw Historic District

### III. APPLICATION IN BRIEF

The applicant wishes to continue the commercial use of 400-square foot of currently unused space by converting it into the proposed delicatessen use. This would not increase the existing non-residential FAR which was originally permitted to accommodate office and other commercial uses on the first floor of the apartment building since 1964.

#### Background

In June 1964, the Board, granted permission to erect the apartment building with office space on the first floor and basement for professional occupancy (Appeal No. 7669) in the SP District. The Board subsequently approved the establishment of the offices in application 14985 (April 1989) for “...an



*international organization, non-profit organization, labor union, architect, dentist, doctor, engineer, lawyer...*” on the first floor of the building in an SP-2 District. The property was rezoned to the DD/R-5-E District.

The applicant has stated that the Zoning Administrator determined that within the past eight to ten years, certificates of occupancy have been issued twice for a delicatessen or delicatessen grocery use on the first/lobby floor of the building within a 2,000 square-foot space. However, the ZA further stated that since the current request was not for the same location within the building, variance relief for the use would be required. The current 400-square foot space resulted from the surrender of some unwanted office and storage space by the existing optometrist office about two years ago. Thus, the space has been vacant since that time. Subsequently, the tenants requested that management lease the space to a deli for their convenience. The proposed delicatessen is a direct response to the tenant’s request.

#### **IV. ZONING REQUIREMENTS and REQUESTED RELIEF**

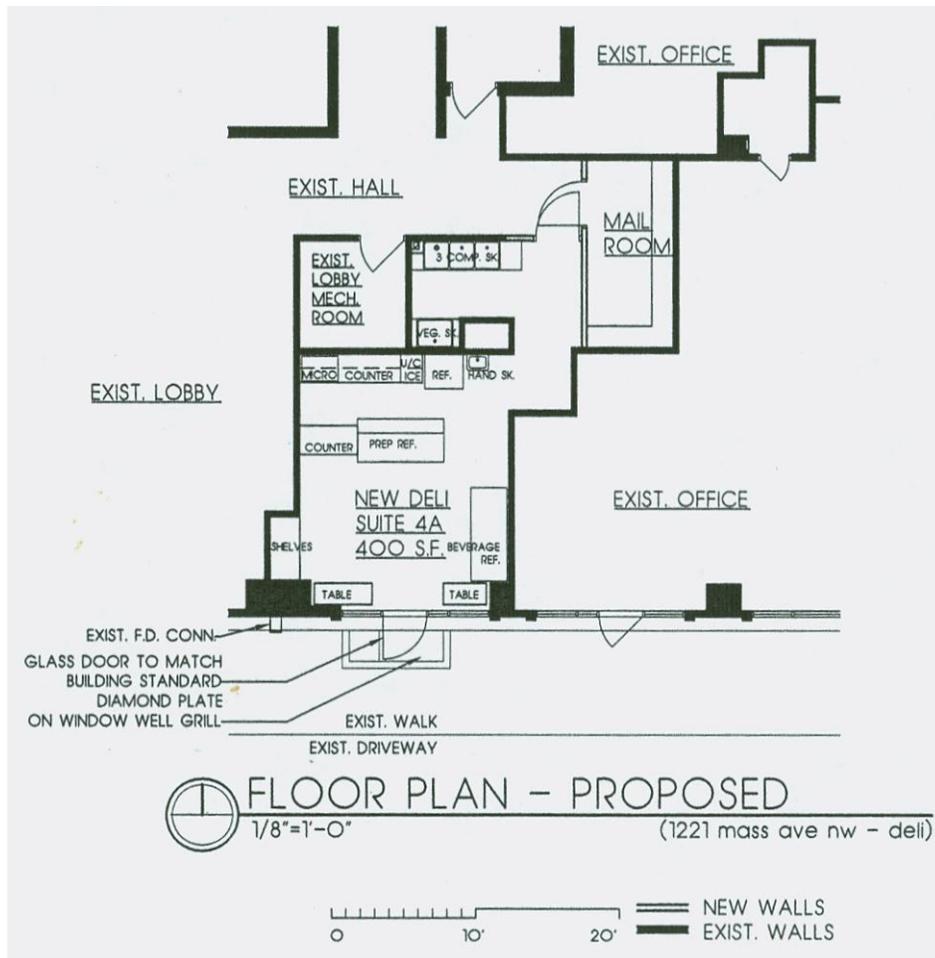
The proposal aims to allow a delicatessen within an existing 400-square foot vacant space in a portion of the first floor of a residential apartment building in the DD/R-5-E District. The anticipated hours of operation would be between 6:30 am to 6:30 pm.

#### Use Variance (§ 350.4)

##### **i. Exceptional Situation Resulting in a Hardship**

The property has an established history of office and commercial use on its first floor. These uses were permitted through special exception relief when the property was zoned SP-2. Thus the mixed-use nature of the building which predates the current DD/R-5-E District creates an exceptional situation affecting the property’s uses in accordance with the existing R-5-E regulations.

The applicant’s plans show that only 400 square feet of available space exists on the first floor between the lobby and existing office space to its left and right. It also abuts the mechanical room at the rear. The current plans and layout of the lobby floor suggests that it would be impractical to accommodate the residential requirement amongst the non-residential uses that currently exist within the building, including an optometrist office and store, a dental office, a photo studio and a fitness center. Thus, without any proposed action to convert the existing offices and other commercial spaces to a residential use, or other permitted uses within the zone which would incorporate the small space, this space would continue to remain vacant. This would create a hardship for the applicant if the resulting small space could not be put to productive use.



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

No substantial detriment to the public good is anticipated. The property's demonstrated history since 1964 has not shown a history of residential use within the first floor and lobby of the building. The Zoning Administrator has also stated that a delicatessen use had previously existed on the property under prior certificates of occupancy for a much larger area. Thus, the commercial use of the small space would not result in the loss of a housing unit or any other permitted use. The surrounding properties are also mixed-uses among residential properties, so the character of the immediate neighborhood would not be adversely affected.

The proposed delicatessen is not anticipated to be an area attraction which would draw vehicular traffic to the site. The use is intended primarily to serve the existing building tenants and others within walking distance of the building's location. Trash generation is not anticipated to be excessive since the majority of purchases would be taken away by customers. There are only two small tables for customers who may wish to consume their purchases on-site. There are adequate on-site trash disposals for existing businesses located at the rear of the property.

The District Department of Transportation (DDOT) determined that there would be no adverse impact to the transportation system and the property has on-site loading facilities if and when loading is necessary.

### **iii. No Substantial Harm to the Zoning Regulations**

The space is not currently used. No addition to the building is anticipated which increases the permitted commercial FAR or adversely impacts the potential for a residential use as anticipated by the R-5-E District. No other permitted use was viable for such a small space, as it has remained vacant for approximately two years. The existing Downtown Overlay also supports ground floor retail use for new construction or an altered building (§1703.3). However, this apartment building and the establishment of office and commercial uses on its ground floor predate the establishment of the overlay district.

Therefore, OP does not anticipate substantial harm to the Zoning Regulations due to the delicatessen's use of the small space on the first floor.

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

The District Department of Transportation's report dated October 25, 2011 was submitted to the Board under separate cover.

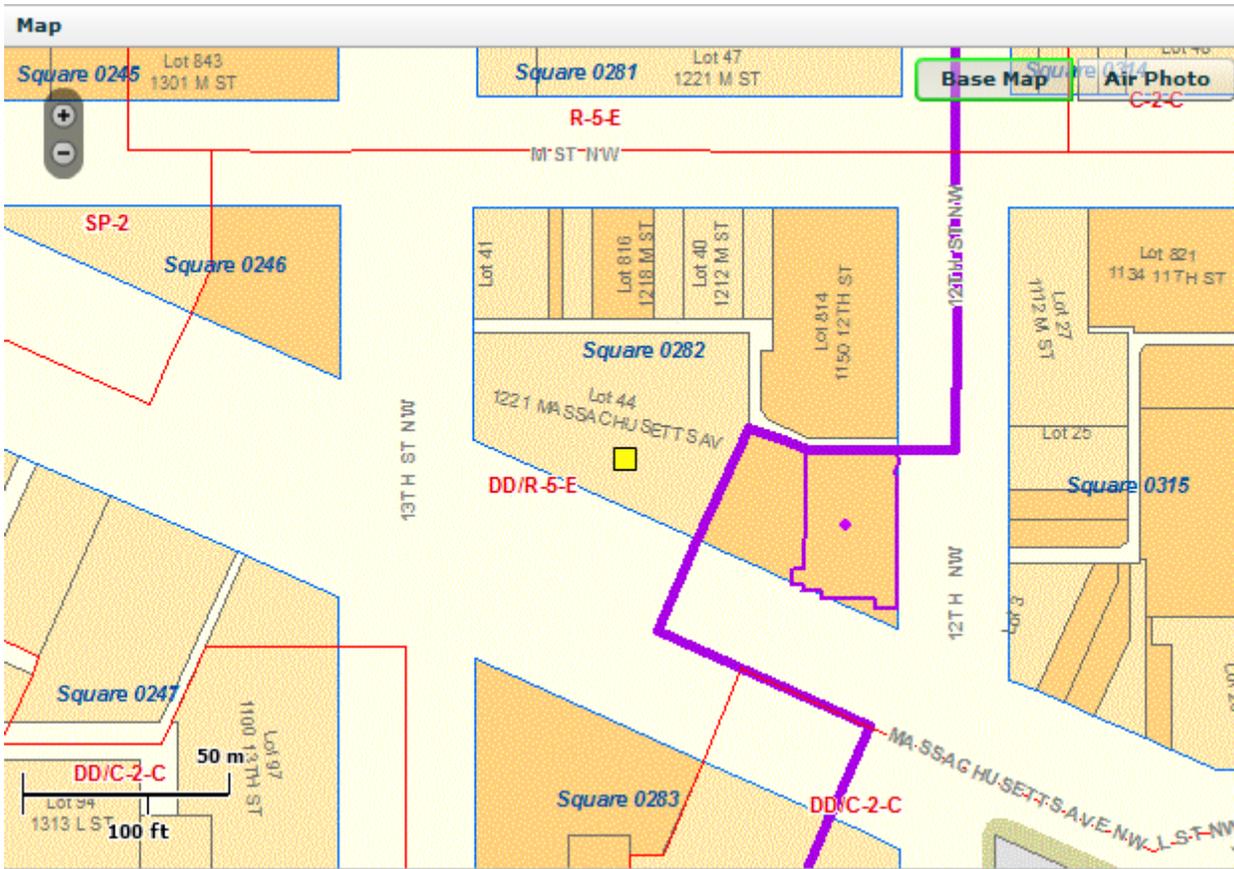
## **VI. COMMUNITY COMMENTS**

ANC 2F voted unanimously to approve the requested relief at its regularly held meeting on November 2, 2011. The tenant's association has also voted unanimously to support the proposed use within the building.

## **VII. CONCLUSION**

The Office of Planning recommends approval of the use variance to permit the delicatessen use within the 400-square foot vacant space on the ground floor of the Cambridge Apartment building. Commercial and office uses have been established uses within this building without any record of adverse impacts on the surrounding neighborhood. The small scale delicatessen use is intended to serve the immediate community, including the long-stand residents of the apartment building and the other office and commercial tenants on the lobby/ground floor of the building. Further, the proposed use would not be contrary to the intent of the Downtown Development Overlay District.

ATTACHMENT



**ZONING MAP – 1221 Massachusetts Ave NW**