

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Brandice Elliott, AICP, Case Manager  
 Joel Lawson, Associate Director Development Review  
**DATE:** December 4, 2012  
**SUBJECT:** BZA Case 18451, 409 15<sup>th</sup> Street, N.E.

**I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following use variance relief to allow continuation of a commercial use in a residential zone:

- § 350.4 (carry-out business, not permitted in the R-5-B zone)

**II. LOCATION AND SITE DESCRIPTION**

Address	409 15 <sup>th</sup> Street, N.E.
Legal Description	Square 4544, Lot 0174
Ward	6
Lot Characteristics	Rectangular corner lot at 15 <sup>th</sup> Street and Isherwood Street with alley access
Zoning	R-5-B – predominantly row dwellings and multiple family dwellings
Existing Development	Existing single-story commercial building, accommodating a nonconforming liquor store
Historic District	Not Applicable
Adjacent Properties	To the north: Highway Christian Church, single story. To the south: across the 16 foot wide alley, row dwellings. To the east: multiple-family dwellings. To the west: across 15 <sup>th</sup> Street, multiple-family dwellings.
Surrounding Neighborhood Character	Row dwellings and condominium/apartment buildings

**III. APPLICATION IN BRIEF**

The applicant proposes to operate a 1,200 square foot carry-out business in an existing commercial building. This request would not increase the existing non-residential FAR, which was originally permitted to accommodate commercial uses when the building was constructed in 1937.



## **BACKGROUND**

The single story commercial structure was constructed in 1937 and has operated continuously as a liquor store. In 1988, the property was rezoned from C-M-1 to R-5-B by a Zoning Commission initiated action to align the zoning district with the Land Use Element of the Comprehensive Plan (effective March, 1985).

When the current property owner purchased the building in 2008, there was an existing delicatessen with a commercial kitchen, which had been operating in the suite with a Certificate of Occupancy. The applicant recently applied for a Certificate of Occupancy to allow the operation of a carry-out business and was disapproved due to the need of a use variance.

The application indicates that the proposed business would be a delicatessen, which consists of food that is assembled, but not heated by means other than microwave or toaster. However, discussions with the applicant have confirmed that the proposed business would be a restaurant, as food would be prepared and cooked using the existing commercial kitchen.

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

This request would allow a carry-out business to operate within an existing commercial building located in the R-5-B district. While the hours of operation have not been set, the applicant anticipates that the establishment would generally operate from 11:00 am until 9:00 pm. The business would function as carry-out only, not providing seating for customers to consume food on the premises.

### **A. Use Variance (§ 350.1, carry-out business in the R-5-B district)**

#### **1. Exceptional Situation Resulting in a Practical Difficulty**

The property was zoned C-M-1 when the building was constructed in 1937, resulting in a building designed to accommodate commercial uses. Although the property has since been rezoned to R-5-B, a liquor store has been the primary tenant since the building was constructed and continues to occupy most of the floor area. The floor area that would be occupied by the applicant was converted to a food service establishment by a previous tenant and includes a commercial kitchen. Given the original purpose of the structure, the improvements that have been made to it over time and the existing liquor store, it would not accommodate a residential use without significant investment.

The site is situated at the corner of 15<sup>th</sup> Street N.E. and Isherwood Street N.E., which offers increased visibility and accessibility to the property. The development consists of a rectangular building and a parking area adjacent to 15<sup>th</sup> Street. The location and site design make the conversion into a residential use impractical.

## **2. No Substantial Detriment to the Public Good**

No substantial detriment to the public good is anticipated. The property has historically accommodated commercial uses, including a liquor store and delicatessen; therefore, the use of the area as a carry-out business would not result in the loss of a housing unit or other permitted use. The character of the neighborhood would not be adversely affected, as corner stores are common in this neighborhood.

The proposed business is not anticipated to substantially increase vehicular traffic in the area, as the use is intended to serve area residents, although there is existing (now nonconforming) parking on site in front of the building. The business would be carry-out only and would not provide seating for patrons to consume food on site, resulting in minimal trash generation. There are adequate on-site trash receptacles for existing businesses located at the rear of the property.

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

The space that would be occupied by the carry-out business is currently vacant, but was occupied by a delicatessen until recently. The commercial FAR would not increase, as the proposed restaurant would not require any modifications. Further, the development predates the current zoning regulations. As a result, substantial harm to the zoning regulations due to the proposed restaurant is not anticipated.

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

Comments of other District agencies had not been received at the writing of this report.

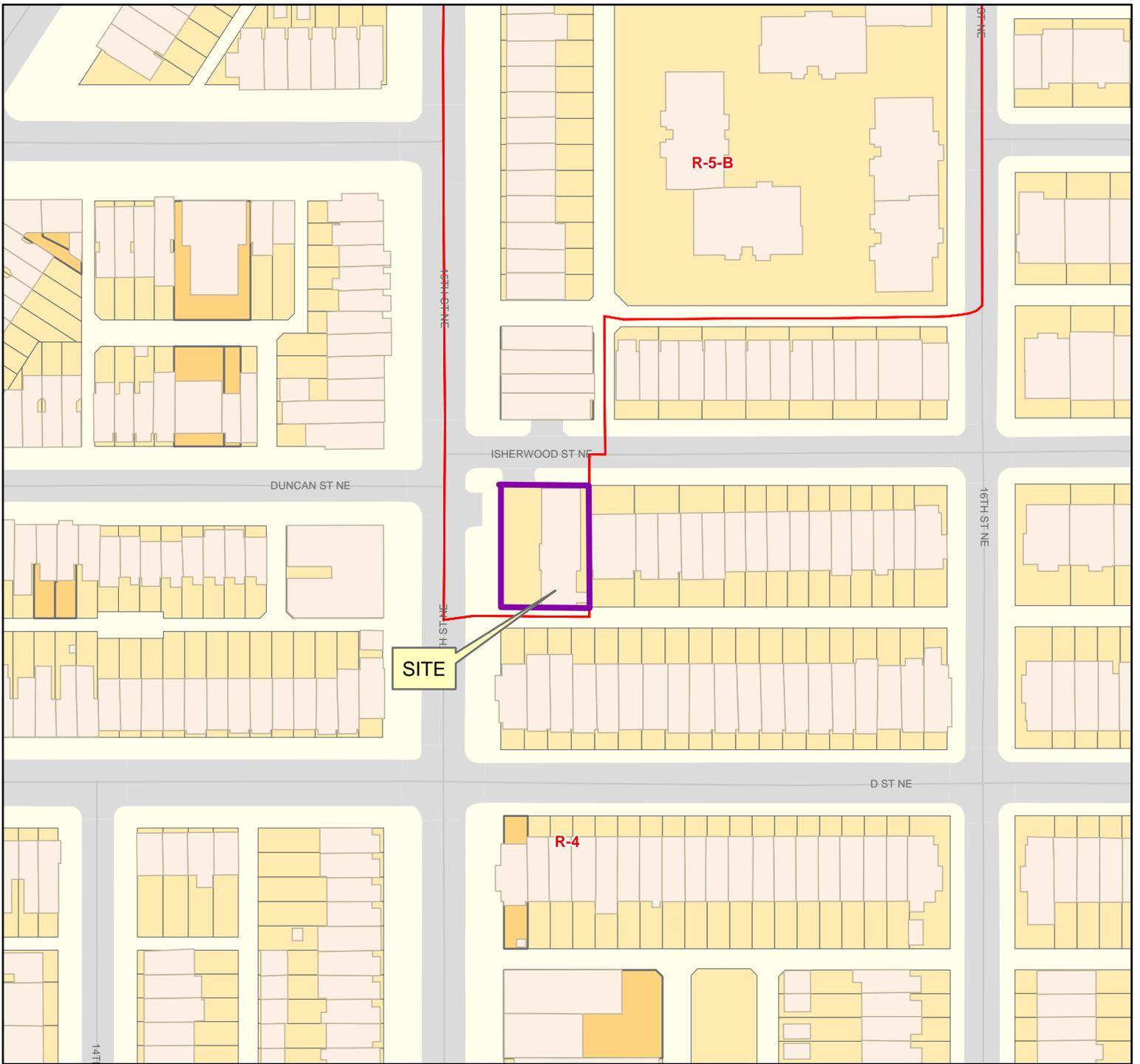
## **VI. COMMUNITY COMMENTS**

ANC 6A voted unanimously to support the requested relief at its regularly held meeting on November 8, 2012. The Office of Planning has not received any comments from neighbors concerning this application.

## **VII. CONCLUSION**

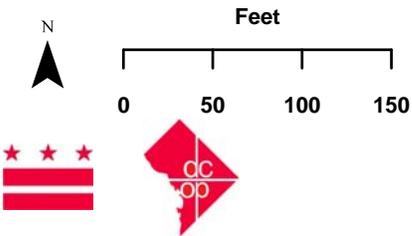
The Office of Planning recommends approval of the use variance to permit a carry-out use within a suite of an existing commercial building. Commercial uses have been established within this building without any record of adverse impacts on the surrounding neighborhood and the financial investment required to convert the suite into residential would be detrimental to the property owner.

Attachment: Location Map



OPI/D0022645

## 409 15th Street, N.E. - BZA Case 18451



**Government of the District of Columbia**  
**Office of Planning ~ November 8, 2012**

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.

- Buildings
- Zoning Districts
- Parks
- Water
- Roads
- Street Centerlines
- Development Review Sites

