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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

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

DATE: September 25, 2012

SUBJECT: **BZA Case 18410** - Request for Special Exception relief to locate a massage establishment in a three-story commercial building at 2352 Wisconsin Avenue NW

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) **recommends** approval of special exception relief in accordance with the following provisions:

- § 731 to locate a massage establishment on the upper two floors the subject building; and
- § 2003 to continue the current non-conforming, non-residential floor area ratio of 1.55 onsite that exceeds the 1.50 FAR allowed in the C-2-A district under § 771.2.

II. AREA AND SITE DESCRIPTION

Address:	2352 Wisconsin Avenue NW
Legal Description:	Square 1300 Lot 0425
Ward:	3B
Lot Characteristics:	A nearly rectangular interior lot with an area of 2,120 square feet (0.05 acre) and frontage along Wisconsin Avenue NW.
Existing Development:	The property is developed with a three-story commercial row building that fronts onto Wisconsin Avenue. Access to the depressed partial basement level is across with a paved plaza between it and Wisconsin Avenue. Access into the rear yard from the building is from the second floor (the basement is entirely below grade on the rear elevation). The entire rear yard on the subject property is paved with asphalt (refer to Figure 1).
Zoning:	<i>R-3 and NO/C-2-A</i> - a massage establishment is not allowed in R-3 but is allowed in C-2-A by special exception in accordance with § 731. The building on the subject property is located entirely within the approximately 1,870 square-feet of the lot zoned NO/C-2-A district. ¹ The balance of the lot is zoned R-3. Provisions of the Naval Observatory (NO) overlay have no bearing on this case.
Historic District:	None

¹ OP measurements based on the agency geographic information system.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18410

EXHIBIT NO. 36

Surrounding Neighborhood Character:	Moderate intensity commercial uses.
Adjacent Properties:	Abutting properties to the north and south are also developed with three-story commercial buildings; to the east across Wisconsin Avenue is the Guy Mason Recreation Center and ball field; and the pair of lots to the west that front 37th Street NW are occupied by the parking lot for 5400 Wisconsin Avenue and a vacant dwelling.

III. PROJECT DESCRIPTION IN BRIEF

Applicant	Helena A. Galich Marx Properties LLC, Kathryn Elia Galich Rozansky Properties LLC (owners of record) and Square 235 Assoc. Limited Partnership.
Proposal:	To authorize Yan Shun Chu and Xiong Li, the future tenants and owners of Massage Escape Spa Company, to locate a massage establishment on the upper two floors of the existing building. Calculations based on the submitted plans indicate this use would occupy approximately 2,014 square feet on both floors. The top two floors of this building are currently vacant. According to Certificates of Occupancy on file in the Department of Consumer and Regulatory Affairs (DCRA), previous uses onsite include office on all three floors (1964 and 1982), art studio on the third floor (1973) and ground floor nail salon (July 2012). DC land records indicate the basement floor area is approximately 880 square feet, making the overall building floor area around 2,984 square feet. OP calculated the current <i>non-residential</i> floor area ratio, based on the lot area zoned NO/C-2-A, to be approximately 1.55 which exceeds the 1.50 FAR allowed under § 771.2 of the regulations.² The previous non-residential FAR was therefore non-conforming. This proposal to replace the previous non-residential use with a new non-residential use that would continue the non-conforming FAR appears to also require special exception approval in accordance with § 2003.
Relief Sought:	§§ 731 and 2003 - special exceptions to allow a massage establishment to replace the previous use and continue the non-conforming, non-residential FAR.

IV. OP ANALYSIS

Compliance with § 731:

731.1 Any establishment that has as a principal use the administration of massages shall be permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section ...

731.3 The establishment shall be compatible with other uses in the area.

The proposed spa and massage establishment would not be incompatible with neighboring uses. The subject property is in the midst of series of restaurant and mixed uses along this side of Wisconsin Avenue.

Neighboring uses along 37th Street (a vacant building and parking lot) and the recreation center and ball field across Wisconsin Avenue would also not be negatively impacted.

² 2,984 (building floor area) / 1,870 sq. ft. (area zoned NO/C-2-A) = 1.547 FAR

- 731.4 *The use shall not be objectionable because of its effect on the character of the neighborhood or because of noise, traffic, or other conditions.*

Massage establishments are inherently quiet uses. The application notes that this proposal would also support other "wellness" uses in the area such as the recreation center and outdoor ball field across the avenue, and the indoor gym at the Washington Sports Club. The applicant is licensed to provide massage services in D.C. (refer to Figure 3).

No on-site parking is required because the total floor area of this use would be less than the 3,300 square feet that triggers required parking for service uses under § 2101.1. According to the applicant, most patrons would come from nearby businesses and households within walking distance of the subject property. If current clients want to continue using this service, arrangements would be made to pick them up at the nearest Metro rail station. The site is served by several Metro bus routes that travel along Wisconsin Avenue.

The proposed use would therefore not be objectionable to or adversely affect the character of the surrounding commercial district.

- 731.5 *The establishment shall not have an adverse impact on religious, educational, or other institutional facilities located in the area.*

Based on D.C. land record land use information, no religious, educational or institutional uses are within 200 feet of the subject property.³

Compliance with § 1531:

OP did not identify any provisions of the NO overlay district that would prohibit the proposed service use.

Compliance with § 2003:

- 2003.1 *If approved by the Board of Zoning Adjustment, as authorized in §§ 3103 and 3104 for variances and special exceptions, a nonconforming use may be changed to a use that is permitted as a matter of right in the most restrictive district in which the existing nonconforming use is permitted as a matter of right, subject to the conditions set forth in this section.*

- 2003.2 *The proposed use shall not adversely affect the present character or future development of the surrounding area in accordance with this title. The surrounding area shall be deemed to encompass the existing uses and structures within at least three hundred feet (300 ft.) in all directions from the nonconforming use.*

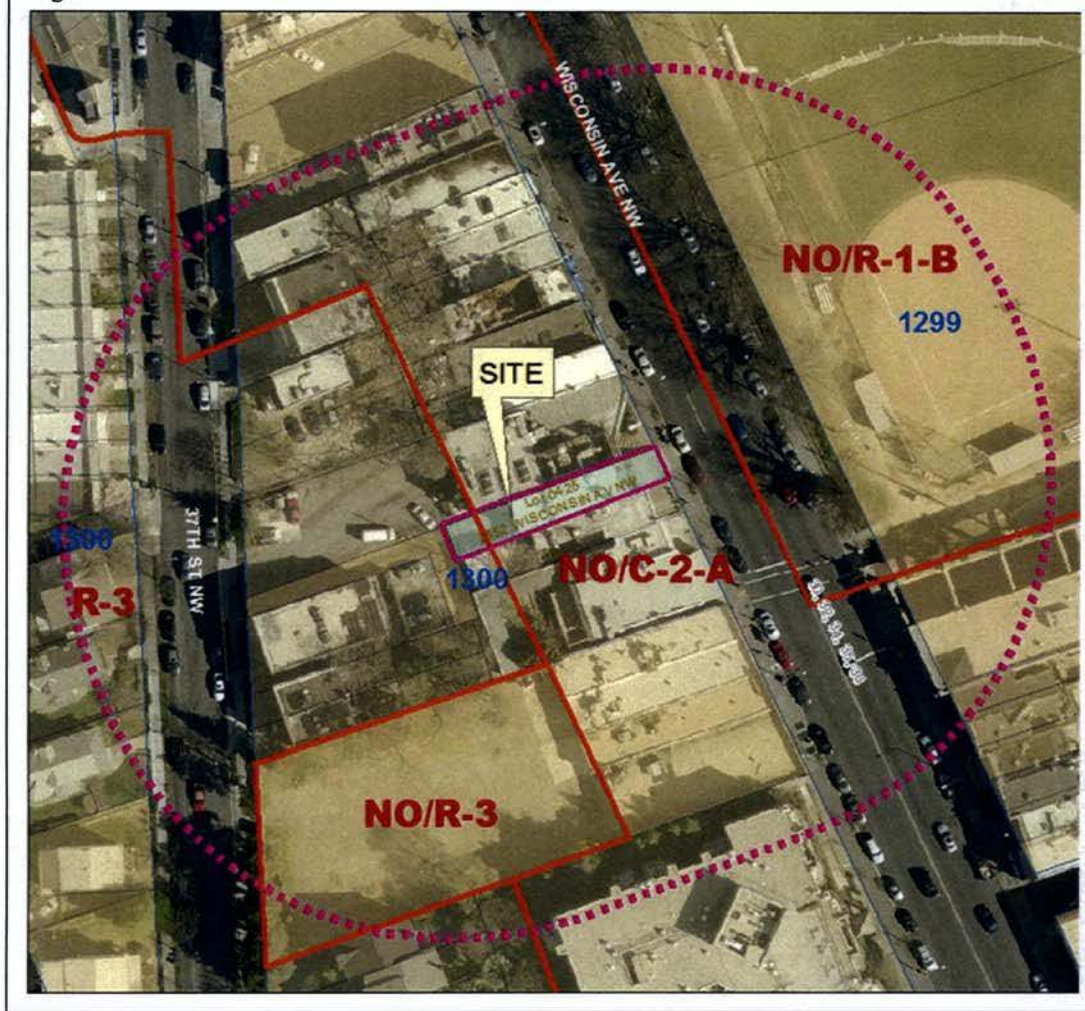
Based on the above analysis, there is no indication that the proposed spa and massage establishment use would adversely affect the character of the surrounding area or inhibit its future (re-) development.

Figure 1



³ Offices of the El Salvador General Counsel in the Calvert Center at 2332 Wisconsin Avenue NW are within the 200-foot radius.

Figure 2



2003.3 *The proposed use shall not create any deleterious external effects, including but not limited to noise, traffic, parking and loading considerations, illumination, vibration, odor, and design and siting effects.*

Based on the above analysis, the proposed use would not create any deleterious effects.

2003.4 *When an existing nonconforming use has been changed to a conforming or more restrictive use, it shall not be changed back to a nonconforming use or less restrictive use.*

Although the proposed use is allowable by special exception, it would also continue the current non-residential FAR onsite which is non-conforming.

2003.5 *In Residence Districts, the proposed use shall be a dwelling, flat, apartment house, or a neighborhood facility.*

As noted above, the building on the subject property is located entirely within the portion of property zoned NO/C-2-A.

2003.6 *For the purpose of this section, the districts established by this title are listed in the following order of decreased use restriction: ...*

(c) *C-1, C-2-A, C-2-B, C-2-C, C-3-A, C-3-B, C-3-C, C-4, and C-5 (PAD);*

Not applicable in this case because the proposed massage establishment use is currently allowed in the NO/C-2-A district by special exception.

2003.7 The Board may require the provision of or direct changes, modifications, or amendments to any design, plan, screening, landscaping, type of lighting, nature of any sign, pedestrian or vehicular access, parking and loading, hours of operation, or any other restriction or safeguard it deems necessary to protect the value, utilization, or enjoyment of property in the neighborhood.

No changes or amendments are recommended to the current application plans. Additional relief is recommended in accordance with this section to continue the existing non-conforming, non-residential FAR on the subject property.

Based on these reviews, the application generally meets the applicable standards for approval by the Board of Zoning Adjustment.

V. COMMUNITY COMMENTS

According to the Single District Commissioner, Advisory Neighborhood Commission (ANC) 3B declined to comment on this application at its meeting on July 12, 2012 meeting. The opinion was expressed during the meeting that concerns initially expressed by the neighbors had been adequately addressed and that this business would become a good member of the Glover Park business community.

Figure 3

