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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen J. Mordfin, AICP, Case Manager
Joel Lawson, Associate Director Development Review
DATE: February 18, 2014
SUBJECT: BZA Case 18710, 607 Chesapeake Street, S E

I. OFFICE OF PLANNING RECOMMENDATION

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

- § 701.1, C-1 Uses as a Matter of Right (fast food restaurants not permitted, fast food restaurant proposed)

II. LOCATION AND SITE DESCRIPTION

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District of Columbia

Address	607 Chesapeake Street, S E	CASE NO. <u>18710</u>
Legal Description	Square 6208, Lot 106	EXHIBIT NO. <u>22</u>
Ward	8	
Lot Characteristics	Rectangular corner lot with no alley access	
Zoning	C-1 – Neighborhood Shopping Commercial District	
Existing Development	One-story commercial building constructed in 1956, with three commercial spaces, permitted in this zone	
Adjacent Properties	North. Across Chesapeake Street, small apartments and triple-attached housing South: day care center East utility substation West: Across 6 th Street, elementary school	
Surrounding Neighborhood Character	Moderate density residential, including educational and small commercial uses	

III. APPLICATION IN BRIEF

The applicant proposes to continue the existing operation of a fast food restaurant with no seating. A temporary one-year Certificate of Occupancy (C of O) was issued in 2006 for one year to allow the owner to apply to the Board for a use variance to permit a fast food restaurant at this location. No record of such application exists, and in 2008 a permanent C of O was issued to a new owner of the same business. In November 2013 the current owner of this fast food restaurant applied for a C

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of O to change ownership, and was directed by DCRA to obtain a use variance to permit a fast food restaurant in the C-1 district

No building construction and no changes to the operation of the business are proposed.

IV. OFFICE OF PLANNING ANALYSIS

a. Variance Relief from § 701.1, C-1 General Provisions

i. Exceptional Situation Resulting in a Practical Difficulty

The subject property has been used as a fast food restaurant for approximately ten years, without the granting of a use variance by the Board, but with the issuance of certificates of occupancy. Although the site could be utilized for a use permitted as a matter-of-right or a use permitted by special exception, the previous owners of the property received certificates of occupancy, most recently in 2008, and subsequently outfitted the space for a fast food restaurant. As the previous owner had a valid C of O, the applicant purchased the business, mistakenly believing that the use was permitted and that no BZA action would be necessary to change ownership. The exceptional situation is the erroneous issuance of the previous C of O, resulting in the applicant purchasing the business under the assumption that the use was permitted and that a new certificate of occupancy could be issued without the need for the granting of a use variance.

ii. No Substantial Detriment to the Public Good

The existing fast food business has been operating at the subject location for approximately ten years. Granting of this application would permit this neighborhood business to continue serving the community.

iii. No Substantial Harm to the Zoning Regulations

The approval of the subject application would allow for the continuation of this fast food restaurant to operate as a neighborhood serving business, as it has for the last decade.

V. COMMENTS OF OTHER DISTRICT AGENCIES

No comments were received from other District agencies.

VI. COMMUNITY COMMENTS

No comments were received ANC 8D.

Attachment: Location Map

