

Burden of Proof – Special Exemption



This statement is made: May 13th, 2015

By: Christopher Luceri
Baco Juice & Taco
1614 Wisconsin Avenue NW
Washington DC 20007

For the following project: Occupancy of space as a fast-food restaurant

The conversion of 1614 Wisconsin Ave NW from general retail use to a fast-food establishment, as defined by DC zoning code, and which is subject to §733, FAST FOOD ESTABLISHMENTS (C-2-A). The conversion will not entail any structural changes and will simply be the retrofitting of the existing space for the proposed use.

Review of Conditions Related to Fast Food Establishments

Regarding §733.2, the existing lot is located within 25 ft. of a Residence District and we are requesting that the Board modify this condition. We believe, due to the existing condition of the building on the site and the proposed operations plan for our use, that the general purpose and intent of §733 can be complied with without meeting the 25 ft. minimum separation requirement.

As illustrated in the context map and the plat plan for the site, the existing building is located along the rear lot line and side lot lines up to a point 39.49 ft. from the rear lot line where the front yard court starts. The building's location in this manner provides an effective buffer between the proposed fast-food establishment use and the adjacent Residence District. The building's location on the rear lot line provides the same protection as outlined in §733.3 regarding brick walls along lot lines between zones, except that the continuous wall is simply the building itself, which is two stories tall.

The location of the building provides no opportunity for the proposed use to negatively impact the adjacent residential uses due to odors from trash or noise and congestion generated from loading and unloading – conditions that could result if an alley *did* separate the residence and commercial zone. Further, the depth of the building between the court and the rear lot line, at 39.49 ft., puts the entrance to the building a distance that is greater than the 25 ft. lot separation standard identified in condition §733.2. This separation distance and the height of the building (at two and a half stories) will provide an effective noise buffer between the customers of Baco Taco and neighboring residents living in the residential zone district.

Lastly, as shall be clarified through our responses to the other special exception conditions, Baco Taco does not fit the common character of a fast food establishment. As shall be outlined in more detail

below, our fresh food approach does not include “deep-frying” which can be a major cause of unsightliness and odors due to the external storage of used grease for pick-up by a disposal agency. Our focus on fresh food also results in limited food waste, and secondary waste due to packaging, reducing the amount of trash storage necessary on site.

Section §733.3 applies where the subject lot abuts an alley containing a zone district boundary line for a Residence District. As no part of the lot abuts an alley containing a zone district boundary line for a Residence District, this condition does not apply. However, as already highlighted, the building’s existing condition provides an effective barrier between the proposed use and the adjacent Residence District.

Section 733.4 takes into consideration the eyesore that can result from trash produced by a typical fast food restaurant. Our establishment will not adversely affect the cleanliness of the property or surrounding area. This statement is supported by our restaurant operation plan:

- a) We essentially use almost 100% of our inputs (vegetables, fruit, meats, fish, nuts, etc.) during the creation of our healthy food products and hence create minimal waste. Our main source of refuse is the disposable packaging which we serve our food and beverage products in. In order to be certain that this disposable packaging does not turn into litter we will have multiple trash cans available for customers to dispose of their waste throughout the restaurant and on the courtyard patio.
- b) As a backup for high volume days, we have planned for one of the existing rooms inside the building to be used for temporary trash-storage. When necessary, this closed-off room will serve as a temporary daily storage room for trash until our staff is able to transfer excess trash bags to pick-up containers for collection by our haulers.

Based on the above points, we strongly believe that our refuse will not be unsightly or visible in any way. Except for trash pickup, we will never house trash on the street. As stated already, we produce minimal waste and the majority of what is produced will be disposable packing and the skins/stems of fruits & vegetables. We do not have a deep fryer anywhere in our restaurant and hence we are highly *inconsistent* with the stereotypical “greasy” fast food restaurant.

With Respect to §733.5, we will comply as we cannot add a drive through nor do we have any desire to.

With Respect to §733.6, our existing and future customer entrance complies with this requirement as it faces onto a street – Wisconsin Ave. NW – that is in a commercial zone district.

With Respect to §733.7, we do not expect our use will become “objectionable to neighboring properties” in anyway based on the character of our business. This statement is supported by our operations plan:

- a) We produce no more noise than any traditional restaurant, which is a use permitted without the need for a special exception in the C-2-A zone. Also important to note is that we do not sell any alcoholic products and hence will not produce any loud, intoxicated patrons in association with our establishment.
- b) With respect to any odors produced from our use, we do not have a deep fryer and hence do not produce any of the unappealing odors associated with typical greasy fast food establishments. The primary smell we produce in our premises stems from vegetables that will be sautéed or juiced, as well as meats that will be grilled, both of which will be filtered via commercial grade vent hoods. These brand new hood vents will be installed in such a way as to suck any fumes produced via our grill out of the building and straight up into the sky so as to not interfere with anyone in the neighborhood.
- c) Our only outdoor lighting will be the already existing courtyard and street lights which have been functioning in in proximity to 1614 Wisconsin Ave for decades.
- d) Our hours of operation are no earlier or later than many of the other bars and restaurants on Wisconsin Ave. Tentatively, we will close at 8PM most days with the possibility of later hours on the weekend, if there is sufficient demand from the neighborhood.

With respect to §733.8, we will not be providing off-street parking, but this is consistent with the parking requirements of the zoning code outlined in §2101 based on the property's location in the Georgetown Historic District and its classification as a historic resource:

- a) According to the District of Columbia Inventory of Historic Sites (attached), buildings between 1000 -2001 Wisconsin Avenue, NW in the Georgetown Historic District are considered historic resources in accordance with section § 2120.2 of DCMR Title 11. According to § 2120.3 of DCMR Title 11, a historic resource is exempt from the requirements of § 2100.4 to provide any additional parking as a result of a change of use and from the requirement of § 2100.6 to provide additional parking as a result of an increase of intensity of use. Therefore, the proposed change in use to a fast food establishment does not result in requirements for off-street parking in accordance with §2101.1.
- b) 1614 Wisconsin Avenue NW is located in a business district that is highly walk-able and well connected to public transit. Patrons are expected to primarily be the residents of the surrounding neighborhood, students of Georgetown University, and tourists visiting and walking around historic Georgetown.
- c) 1614 Wisconsin Avenue, NW is also located in close proximity to a DC Circulator bus stop at Q Street NW and Wisconsin Ave. NW, and along the 30 and 33 WMATA Metro Bus Routes, which provide direct access to the Tenlytown-AU and Foggy Bottom GWU Metro rail stops. Although some employees may drive, it is expected that most will use the identified Metro bus and rail routes or other transportation modes (e.g., bicycles) to get to and from work.

With respect to §733.9, our change of use deals only with an existing building so we see no dangerous or objectionable traffic conditions stemming from it. Although our courtyard patio may produce a slight increase in sidewalk foot-traffic, it is located entirely on private property set back from the public sidewalk.

With respect to §733.10, we intend to facilitate deliveries and have trash collected without obstructing public rights-of-way and without posing a public nuisance. We intend to do so in a variety of ways:

- a) Trash will be stored completely out of sight until it is ready to be picked up at designated times. We expect to have trash pickups roughly five days a week, based on our level of waste output.
- b) Our deliveries will be made the same way other restaurants and retail uses do so along this portion of Wisconsin Ave. NW. Our vendors will temporarily park their delivery trucks on Wisconsin Ave. NW, right in front of Baco Taco, and unload their delivery directly into the store.
- c) In the planning of our establishment, we left a large amount of space available for both dry storage and freezer storage. We did this on purpose in order to anticipate for a high-volume of sales and in order to minimize the frequency of our vendor deliveries. Because of the proposed amount of storage, we will be able to minimize dry-goods deliveries to once or twice a week and fresh food-goods to three times a week.
- d) We will arrange deliveries to take place at off-peak traffic times, in the morning after morning rush hour, or late in the afternoon, between our lunch & dinner rushes, before evening rush hour.

Please refer to the drawings and context map for further clarification on our proposed change of use. Please contact me with any questions or comments.

Thank You,

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