GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

TO: Board of Zoning Adjustment

FROM: JLS for Andrew Altman, Director
Office of Planning

BZA
Case No. 16909
Exhibit No. 22

DATE: August 22, 2002

SUBJECT: BZA Application #16909 (Ella L. Tombs – Le Droit Park Market)
1901 4th Street, N.W. (Square 3089, Lot 50)

APPLICATION

The application by Ella L. Tombs requests, approval of a special exception to add a delicatessen to an existing grocery store in an R-4 Zone, pursuant to 11 DCMR §3104.1 and subject to the standards outlined in 11 DCMR §2003, Changing Uses Within Structures.

PROPOSAL

The applicant proposes to add a delicatessen to an existing grocery store. It is the applicant's position that the subject facility would continue to operate as a grocery store as it has for more than twenty years and meet the changing needs of the neighborhood by offering a variety of delicatessen items such as sandwiches, pastries, and coffee.

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends approval of the application.

SITE AND AREA DESCRIPTION

The subject property is located in the Ward One neighborhood of Le Droit Park at 1901 4th Street, N.W. The site is situated on the northeast corner of 4th and T Streets, N.W. in the Le Droit Park Historic District. The neighborhood is developed to the north, south, east and west of the property with row and single-family detached houses. The Le Droit Park neighborhood has been the focus of significant housing investments by Howard University and Fannie Mae in recent years. Many of the houses within the neighborhood have either been recently renovated or are in the process of renovation. The closest store is approximately 1000 feet away at 2nd and Elm Streets, N.W.

The subject structure was built around 1908 and has been operated as a neighborhood grocery store for approximately 26 years. The subject lot is 3,365 square feet. The lot is developed with a 3600 square feet three story building. The store occupies the entire first floor of the building. A four bedroom residential unit occupies the upper two floors. The building has an attached garage.

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The current owner purchased the property in November 2000 and has recently completed substantial updates to the electrical and plumbing systems; and installed new ceilings, floors, and windows. The deli addition would not expand a use that is already nonconforming, but has only required reconfiguration of the existing space. There has been no increase in the size or square footage of the store.

The store is open seven days a weeks from 8 a.m. to 10 p.m. The owner has all necessary licenses from the Department of Health and a license to sell beer and wine from the Alcoholic Beverage Control Board. There will be no cooking on the premises nor will seating be added for deli customers as the store will continue to provide carry out services only.

ZONING REQUIREMENTS

The subject site is in an R-4 zoned district. The R-4 district is designed to include those areas developed primarily with row dwellings, but within which there have been a substantial number of conversions of dwellings for two or more families.

ANALYSIS OF REQUESTED ZONING RELIEF

If approved by the Board of Zoning Adjustment as authorized in 3105 through 3108, a nonconforming use may be changed to a use 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.

The applicant proposes to change the nonconforming use to a use that is permitted in the most restrictive district in which the existing nonconforming use is permitted as a matter of right. The existing nonconforming use is a retail and grocery store. The most restrictive district that permits a retail grocery as a matter of right is C-1, Neighborhood Shopping District, section 701.4(1). Section 701.5 also permits,

> Other service or retail use similar to that provided for in §§701.1 and 701.4 including assemblage and repair clearly incidental to the conduct of a permitted service or retail establishment on the premises shall be permitted in a C-1 district as a matter of right.

The deli operation will be incidental to the retail grocery store.

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 (300) feet in all directions from the nonconforming use. § 2003.2.

The addition of a deli will not adversely affect the present character or future development of the surrounding area in accordance with this title. On the contrary, the recent renovations and improvements to the physical appearance of the store and the addition of the deli will complement and support the rapidly changing character of the neighborhood brought about by the recent increase in revitalization of the neighborhood housing. The subject store has been an accepted neighborhood facility for over twenty years. There are no plans to increase the external size of the store. Further, the applicant states the addition of the deli will not significantly change the manner in which the store has operated in the past.

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

The proposed deli addition will not create any deleterious external effects including noise, traffic, parking, and loading considerations, illumination, vibration, odor, and design and siting effects. The overall operation of the store will continue as it has been operated for over twenty years. The addition of the deli will not cause any significant changes in noise, traffic, parking, odor, or design. There will be no cooking or seating on the premises. Further, the addition of the deli is being proposed in response to requests from residents who live in the community. The applicant plans to keep the area free of litter and debris and will have trash pick up twice a week.

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. § 2003.4.

Since the delicatessen is being proposed in response to customer request, it is unlikely that the deli component of the store will be changed back to just a grocery store. The applicant has made significant investment to reconfigure the existing space to accommodate the addition of the delicatessen.

In residential districts, the proposed use shall be a dwelling, flat, apartment house, or a neighborhood facility. § 2003.5.

The structure was built in approximately 1908. The subject premises have been operated as a neighborhood grocery store for approximately twenty six years. The grocery store is accepted by residents of the community as a neighborhood facility. Further, the applicant states that residents fully support its continued operation as a neighborhood facility with the addition of the delicatessen and included numerous emails from residents with the application.

The Board may require the provision of or direct changes, modifications, or amendments to, any design, plans, 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 may deem necessary to protect the value, utilization, or enjoyment of property in the neighborhood. § 2003.7.

OP has no recommendations for additional conditions, restrictions, or modifications at this time.

RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN

The Comprehensive Plan Generalized Land Use Map depicts the subject area in the *Moderate Density Residential Land Use Category*. Row houses and garden apartments are the predominant uses in this land category.

Section 3104.1

The standard by which the BZA should approve a special exception is set forth in Section 3104.1 of the Zoning Regulations. The following demonstrates how the proposed accessory parking lot has met these standards:

> ***. . . special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.***

The subject grocery store is a nonconforming structure, which was constructed prior to the adoption of the Zoning Act of 1958. It does not fully comply with all the regulations that have been implemented since its construction. The store is a critical neighborhood facility, having been at the same location for well over twenty years. The addition of the delicatessen will not cause significant changes to the existing grocery store operation. The impact on the neighborhood and surrounding property will be minimal and will not cause any significant changes. Further, the applicant is responding to the request by residents in the surrounding community for deli type goods. In OP's opinion, the proposed addition will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning maps.

The granting of the requested special exception to allow for the addition of delicatessen type goods is an appropriate application of the special exception provisions.

COMMUNITY COMMENTS

The subject property is within ANC-1B. According to the applicant, the ANC and general community supports the application.

SUMMARY AND RECOMMENDATION

The proposed special exception for adding a delicatessen to an existing grocery store will be an asset to the community, as it will respond to a need requested by the community. The Office of Planning recommends that the special exception to add a delicatessen to the existing grocery store be **APPROVED.**

ATT: Attachment A - Aerial Map
Attachment B – Photos

AA/vr



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Feature Key

Zoning Boundaries
Square Index

Scale 1:704

25 0 25 50

DC Office of Planning
April 29, 2002

Attachment 1



Traveling east on T St., NW approaching intersection of 4th and T Streets, NW.



On 4th Street, NW standing in front of store looking north.



On 4th Street looking into store window at deli counter.



On 4th Street, NW looking into store window.



On T Street, NW facing north with side view of store.



On northwest corner of 4th Street facing east.



On northwest corner of 4th Street, NW facing east with view of residential unit.



On northwest corner of 4th Street with view attached garage.



On southwest corner facing east.



On southeast corner facing north.