

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Jonathan Kirschenbaum, Case Manager
JKS for
Joel Lawson, Associate Director Development Review
DATE: December 7, 2018
SUBJECT: BZA Case 19887 (1724 North Capitol Street, NW) to permit a restaurant use on the first floor and second floor of a row building.

I. BACKGROUND

The referral from the Department of Consumer and Regulatory Affairs states that a use variance is required for the first floor to permit a restaurant use. OP reached out to both the applicant and DCRA to discuss the omission of the second-floor use variance from the referral. DCRA stated this was most likely an error, and the applicant stated that they intended to request a use variance for both the first floor and the second floor. Out of an abundance of caution, OP analyzed the use of a restaurant on both the first floor and second floor in case it is later determined by DCRA that the second floor also requires a use variance.

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following variance relief for the first floor:

- Use, Subtitle U § 301, pursuant to Subtitle X § 1000 (eating and drinking establishment use not permitted; nonconforming nonresidential use existing; restaurant use proposed).

The Office of Planning (OP) **cannot support** the following variance relief for the second floor:

- Use, Subtitle U § 301, pursuant to Subtitle X § 1000 (eating and drinking establishment use not permitted; unknown use existing; restaurant use proposed).

The applicant states that the first and second floors are already configured for a restaurant use. OP requested the applicant submit interior photographs to the record demonstrating this configuration. However, no materials were filed to the record to show this at the time this report was filed to the record. Thus, OP does not have enough information to support a use variance on the second floor of the subject building.

The applicant's plans refer to the first floor as the "ground floor" and the second floor as the "first floor". This report refers to the ground floor as the first floor and the first floor as the second floor, as this is how the building's historical certificates of occupancy have labeled each floor.

III. LOCATION AND SITE DESCRIPTION

Address	1724 North Capitol Street, NW
Applicant	Janet Stedman and Marjorie Hutchinson
Legal Description	Square 3105, Lot 0072
Ward, ANC	5/5E
Zone	RF-1
Historic District	Bloomington Historic District
Lot Characteristics	Corner lot measuring 66.66 feet by 32 feet; 2,133 sq. ft. in area. The site is bounded by North Capitol Street, NW to the east, Randolph Street, NW to the south, a residential row house to the west, and a row building to the north.
Existing Development	Row building with an existing nonconforming discontinued commercial use on the first floor and unknown use(s) on the second and third floors.
Adjacent Properties	Residential row houses and row buildings with nonconforming commercial uses and residential uses.
Surrounding Neighborhood Character	The surrounding neighborhood character is predominately residential with nonconforming first floor commercial spaces interspersed.
Proposed Development	<p>The applicant proposes to relocate an existing restaurant (Jam Dourg) from the adjacent property located at 1726 North Capitol Street, NW to the subject property. The proposed sit-down restaurant would be located on the first floor and second floor of the subject row building. The applicant states that the existing building footprint will remain the same.</p> <p>According to the plans, there are 15 seats per floor for a total of 30 seats, and 7 bar stools per floor for a total of 14 bar stools. The applicant states that there would be 15 people employed at the restaurant. The hours of operation would be 11:00 am to 1:00 am Monday through Saturday, and would be closed on Sunday. Deliveries to the restaurant would occur on Monday and Saturday between 11:00 am and 1:00 pm at the rear entrance. Trash pickup would occur on Monday, Wednesday, and Friday between 7:00 am and 10:00 am.</p>

IV. OFFICE OF PLANNING ANALYSIS

Variance Relief from Subtitle U § 301, Permitted Uses for the First Floor.

i. Exceptional Situation Resulting in an Undue Hardship

The applicant stated to OP that the first floor is configured as a restaurant use from the layout to the design of the plumbing, but interior photographs were not provided demonstrating this configuration. However, OP was able to determine that though the building has been historically zoned residential since 1958, the first floor has historically been used for commercial purposes. The last certificate of occupancy (CO) was issued in 1974 and permitted a “beauty shop” use on the first floor of the subject building. The applicant’s exterior photographs also show that the last use to occupy the first floor was a commercial use.

The first-floor commercial space has large commercial windows, and a corner-facing door that front onto a heavily trafficked intersection. There is also limited separation between the building and the sidewalk. As a result, the applicant states that there is very little privacy or security, and if the first floor were to be reconfigured for residential purposes it would not be an optimal or practical use. No other buildings on corner lots fronting onto the intersection of North Capitol Street, NW and Randolph Street, NW have residential uses located on the first floor. The applicant further stated to OP that it would be cost prohibitive to convert the existing commercial layout to a residential use.

ii. No Substantial Detriment to the Public Good

A restaurant use on the first floor of the building should not represent a substantial detriment to the public good. There is a mix of uses in the area and most of the corner lot buildings located at other major signalized intersections to the north and south of the subject property either do not have residential uses on the first floor or have residential uses on the first floor that are substantially set back from North Capital Street, NW. The building adjacent to the subject property has an existing commercial space on the first floor where the existing restaurant is located. The applicant stated to OP that most customers live in the immediate area and would walk to the restaurant.

iii. No Substantial Harm to the Zoning Regulations

Allowing a restaurant use on the first floor should not result in substantial harm to the Zoning Regulations. The restaurant use would be located in a portion of the building designed and intended for non-residential use and would be located around other buildings with first floor commercial uses.

Variance Relief from Subtitle U § 301, Permitted Uses for the Second Floor.

i. Exceptional Situation Resulting in an Undue Hardship

OP reviewed the historical COs issued to the subject building and was not able to conclude that the second floor was historically used for commercial purposes. As previously discussed, interior photographs demonstrating an existing commercial use were not filed to the record. Thus, the applicant has not demonstrated how an exceptional situation resulting in an undue hardship would occur from using the second floor as a residential use.

ii. No Substantial Detriment to the Public Good

The enlargement of a commercial use into the second floor would bring commercial activities further into the residential portion of the neighborhood. Commercial uses are not permitted in the RF-1 zone, and it would be one of the few buildings (if any) to have a commercial use on

the second floor. Because no exceptional situation has been demonstrated for use of the second floor as a restaurant in the RF zone, OP cannot conclude there would be no detriment to the public good.

iii. No Substantial Harm to the Zoning Regulations

Non-residential uses are purposefully limited in the RF zone, and commercial uses are restricted, to protect the character of residential areas and to preserve existing housing stock. In addition, there are multiple commercially zoned areas in the neighborhood where this use would be permitted, consistent with the intent of those zones. Because no exceptional situation has been demonstrated for use of the second floor as a restaurant in the RF zone, OP cannot conclude there would be no harm to the zoning regulations.

V. COMMENTS OF OTHER DISTRICT AGENCIES

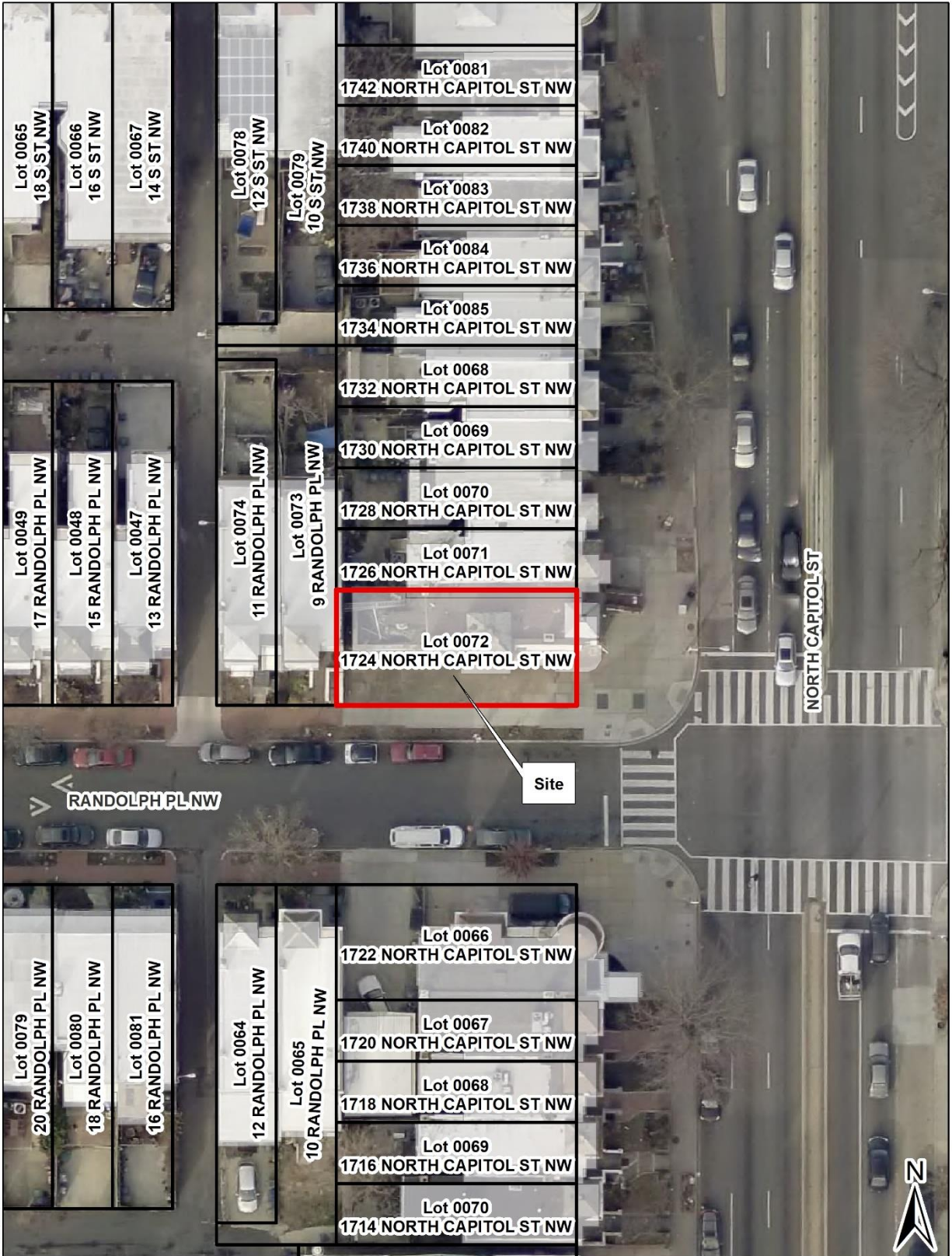
No agency comments were received at the time this report was drafted.

VI. COMMUNITY COMMENTS TO DATE

At its regularly scheduled meeting on November 20, 2018, ANC 5E voted to recommend approval of the requested relief (Exhibit 30).

Five letters of support from neighborhood residents were filed to the record (Exhibit 6) and a petition of support with 140 signatures was filed to the record (Exhibit 7).

Attachment: Location Map



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