


MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Ron Barron, Case Manager
 Joel Lawson, Associate Director Development Review

DATE: April 30, 2025

SUBJECT: BZA Case 21291, Request for special exception relief to permit a fast-food establishment use in an existing, attached, one-story commercial building in the NMU-4/CP zone at 3519 Connecticut Ave NW.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Subtitle H § 6007.1(e)(2), permit a fast-food eating and drinking establishment

OP also recommends **approval** of the requested *area variance* relief from the following requirement:

- Subtitle H § 6007, condition (d) requiring a three-sided brick enclosure for trash receptacles

II. LOCATION AND SITE DESCRIPTION

Address	3519 Connecticut Avenue NW
Applicant	HDR Holdings, LLC
Legal Description	Sq. 2222, Lot 0015
Ward, ANC	Ward 3; ANC 3C
Zone	NMU-4/CP
Historic District	Cleveland Park Historic District
Lot Characteristics	An irregular lot with 51,817.2 sq. ft. of total lot area.
Existing Development	The subject property is improved by a one-story, multi-unit, historically contributing commercial shopping plaza.
Adjacent Properties	Bounded to the north by a commercial property, filling station and Porter Street NW; to the east by a multi-family residential development at 2755 Ordway Street NW; to the south by Ordway Street NW;
Surrounding Neighborhood Character	The neighborhood is a major commercial corridor, typified by a combination of commercial only and mixed-use development.
Proposed Development	A new fast-food use, locating in an existing, historically contributing one-story commercial shopping plaza.

III. ZONING REQUIREMENTS and RELIEF REQUESTED

Zone-	Regulation	Existing	Proposed	Relief
Density H § 504	2.0 FAR	0.41	No Change	None Requested
Height H § 505	40 ft. max.	1 story	No Change	None Requested
Rear Yard G § 207	15 ft. min.	0 ft.	No Change	None Requested
Side Yard G § 208	None required	0 ft.	No Change	None Requested
Lot Occupancy G § 210	60% max.	41%	No Change	None Requested
Parking C § 701	23 spaces	50 spaces	No Change	None Requested
Use Provisions H § 6007	Eating and Drinking Establishment, Fast Food or Delivery Business	N/A	N/A	Sp. Ex. Relief Requested Area Variance Relief Requested

IV. OFFICE OF PLANNING ANALYSIS

The applicant is requesting special exception relief to allow a fast-food use in the NMU-4/CP zone. This use is allowable in the zone by special exception subject to certain conditions. While the applicant can meet most of these conditions, they are unable to comply with condition (D), requiring any refuse container to be enclosed in a three-sided brick structure. Accordingly, the application has been amended to also request area variance relief from this provision. The zoning code considers deviation from a pre-condition of a special exception to be an area variance.

Subtitle H Section 6007 SPECIAL EXCEPTION USES (NMU-USE GROUP B)

6007.1 In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and subject to the conditions applicable to each use as follows:

(e) Eating and drinking establishment uses as follows:

- (1) [Prepared food shop](#) with seating for more than twenty-four (24) patrons; and*
- (2) Fast food establishments or food delivery businesses shall be permitted, subject to the following conditions:*
 - (A) The uses shall not be permitted in the MU-4/WP [zone](#);*

The proposed use would not be located in the MU-4/WP zone.

(B) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of any R, RA, or RF zone unless separated therefrom by a street or alley;

The proposed use is located within 25 feet of an existing RA zone. However, the closest part of the RA zone is separated by an alleyway and a retaining wall screened with vegetation.

(C) If any lot line of the lot abuts an alley containing a zone boundary line for a residential zone, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot;

The location of the proposed use is within Sam's Park and Shop, a contributing resource to the Cleveland Park Historic District. The building is an L shaped structure with one end extending the width of the lot and the other end open to accommodate a parking structure, so most of the building is constructed to the rear lot line along the alley.

(D) Any refuse dumpsters shall be housed in a three- (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face an R, RA, or RF zone;

The applicant is unable to comply with this section and has requested area variance relief, analysis for which is below.

(E) The use shall not include a drive-through;

The proposed use would not have a drive-through.

(F) There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone boundary line for a residential zone; and

There would be no customer entrance that would face the side or rear of a building that faces a street or alley containing a zone boundary line. All entrances would face the parking lot that is parallel to Connecticut Ave. NW.

(G) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;

The use should not result in objectionable impacts to neighboring properties. The Park and Shop has currently has other retail and food service uses. The proposed use should not significantly increase any existing impacts of the shopping center.

Subtitle X Section 901 SPECIAL EXCEPTION REVIEW STANDARDS

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgment of the Board of Zoning Adjustment, the special exceptions:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The proposed use is one that is specifically envisioned in the NMU-4/CP zone. The applicant's business model is one that does not fit neatly into either of the eating and drinking establishment categories defined in the zone. Even though the use is not a traditional fast-food use, the applicant has been able to meet nearly all of the conditions and is unlikely to generate negative impacts on the neighboring community.

- (b) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and*

Neighboring property is unlikely to be affected adversely by the proposed use. The location has been a commercial strip mall since at least the 1930's, has had a wide variety of tenants and has always abutted nearby residential properties.

Area Variance Analysis

The applicant is requesting a use that can only be allowed in the NMU-4/CP zone by special exception. As stated above, the applicant is unable to comply with the trash receptacle condition of Subtitle H § 6007.1(e)(2), requiring an area variance. Pursuant to Subtitle X § 1001.3(f), an area variance may be sought to relieve a deviation from a "[p]recondition to the establishment of a...special exception use provided that the variance would not cause the proposed use to meet the definition of a more intense use."

The site is currently vacant. The most recent prior use was as a specialty wine store. The proposed use should not produce significantly greater impacts than the previous use in terms of traffic, noise, odor and other potential deleterious impacts. The proposed use would also be sited in a long-standing commercial structure with multiple other tenants, separated from nearby non-commercial uses.

Extraordinary or Exceptional Situation or Condition

The proposed use would be a tenant in the historic Sam's Park and Shop complex. The rear of the building is built to the property line, which requires all tenants to handle their trash in the adjacent public alleyway. For the applicant to comply with condition D of Subtitle H § 6007.1(e)(2), a new three-sided brick structure would need to be constructed. The historic nature of the property and the likelihood that DDOT would not permit construction of a new permanent brick structure in a public alley, when taken together, constitute factors that create an extraordinary or exceptional situation or condition.

Peculiar and Exceptional Practical Difficulties

OP agrees that the factors stated above constitute a peculiar and exceptional practical difficulty for the applicant. It is reasonable to assume that the applicant would be unable to construct a new compliant structure, without which approval for the proposed use could not be granted. Strict application of the zoning code would therefore create practical difficulty by effectively blocking the business from operating.

No substantial detriment to the public good

Approval of the requested use variance would be unlikely to result in a substantial detriment to the public good. As noted above, the proposed use would be located within an existing historic commercial building with multiple uses; the proposed use should not result in a significant increase in potential impacts.

No substantial impairment of the intent, purpose and integrity of the zone plan

Approval of the requested use variance would be unlikely to result in a substantial impairment of the intent, purpose and integrity of the zone plan. As stated elsewhere in this report, the proposed use would be sited in a historic, purpose-built commercial building, fronting a major commercial corridor, segregated from non-commercial uses. Relief from the condition D of 6007.1(e)(2) would be in harmony with the general purpose and intent of the NMU-4/CP zone. Although the proposed use does not fit neatly into either of the definitions of an eating and drinking establishment provided in this section, it would not be inconsistent with the intent of this zone or location.

V. OTHER DISTRICT AGENCIES

No other District Agencies have submitted comment at the time of this report.

VI. ADVISORY NEIGHBORHOOD COMMISSION

ANC 3C submitted a report at [Ex. 18](#) recommending approval.

VII. COMMUNITY COMMENTS TO DATE

No comments from the community have been submitted at this time.

