



MEMORANDUM

TO: District Board of Zoning Adjustment

2012 JUN 12 PM 4:29

FROM: Paul Goldstein, Case Manager

✓ Joel Lawson, Associate Director Development Review

DATE: June 12, 2012

SUBJECT: BZA No 18362 - Request for special exception relief for a fast food establishment at 2427 Minnesota Avenue SE

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends approval** of the requested special exception relief pursuant to § 733 for a fast food establishment at 2427 Minnesota Avenue SE (Square 5578, Lot 74)

II. AREA AND SITE DESCRIPTION

Address	2427 Minnesota Avenue SE
Legal Description	Square 5578, Lot 74 (hereinafter, the "Property")
Ward/ANC	8/8A
Lot Characteristics	The Property is roughly triangular in shape, with approximately 42' in frontage along Minnesota Avenue and 79' in frontage along 25 th Street. It measures 1,476 square feet in lot area. The Property does not border an alley and slopes downward toward the northern portion of the site.
Zoning	C-2-A Medium density mixed-use
Existing Development	The Property is improved with a one story-commercial building housing two tenants (including the Applicant). The Applicant occupies the building's northern tenant space at the southwest corner of Minnesota Avenue and 25 th Street SE. The Property has no on-site parking.
Historic District	N/A
Adjacent Properties	The site abuts commercial uses to the immediate west and south. Further south, across a public alley, is a low scale apartment building. To the east, across 25 th Street, is a gas station. To the north, the Property is opposite a triangular federally owned public space.
Surrounding Neighborhood Character	The surrounding neighborhood is characterized by low scale commercial uses along Pennsylvania Avenue and a mix of low scale commercial and residential uses along Minnesota Avenue. More broadly, the area also contains low density residential uses.

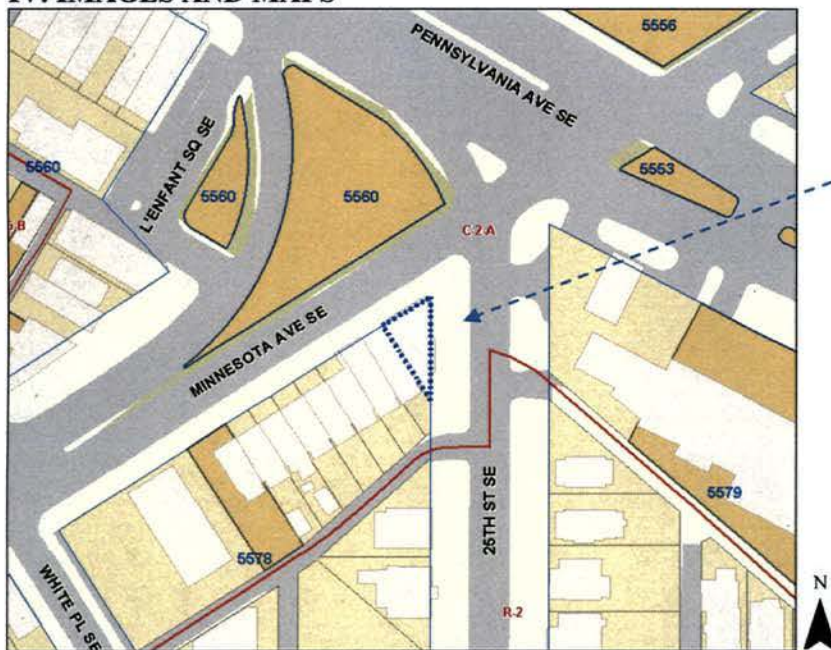
III. PROJECT DESCRIPTION IN BRIEF

Applicant.	Chicken To Go Inc (tenant) as represented by Julie Kim Minnesota Corner LLC (owner) ¹	BOARD OF ZONING ADJUSTMENT District of Columbia CASE NO. 18362 EXHIBIT NO. 31
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¹ Todd Norris (on behalf of the owner Minnesota Corner LLC) informed OP that MD Monir Patwary, who was listed as an agent at the time of the BZA submission, no longer represents the Applicant. The owner authorized Julie Kim, or anyone that she designates, to represent Chicken to Go at the BZA hearing. OP encouraged Mr. Norris and Ms. Kim to submit an official letter of authorization to the record.

Proposal:	The Applicant requests permission to operate a fast food establishment (Chicken to Go Inc.) in a location which has historically housed fast food establishments. Most recently, the previous tenant in the space, D.C. Carry-out, was permitted to operate as a fast food establishment in 2008 following Board of Zoning Adjustment approval.² Presently, OP surmises that the Zoning Administrator referred the Applicant to the BZA process due to a change of ownership in the business. The Applicant currently operates at the subject location. In general, the Applicant provides that the business would operate between 8:00 a.m. and 10:00 p.m. seven days a week. No new construction is proposed pursuant to the application.
Relief Sought:	Special exception pursuant to § 733 for a fast food establishment

IV. IMAGES AND MAPS



View of the site (outlined and highlighted)



View of the Property (identified with an arrow) looking south across Minnesota Avenue; Source: Bing Maps (2010)

² See Application No. 17800 of D.C. Carry-out (2008).



View of the Property's 25th Street face (showing Chicken to Go's garbage cans)



View of Chicken to Go's entrance and along (Minnesota Avenue)

V. ZONING RELIEF REQUESTED:

In a C-2-A zone, a proposed fast food establishment is permitted only by special exception. The special exception criteria are discussed below:

Special Exception

733.2 No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of a Residence District unless separated therefrom by a street or alley.

All parts of the lot are more than 25' from the nearest residence district line.

733.3 If any lot line of the lot abuts an alley containing a zone district boundary line for a Residence District, 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.

Since no lot line abuts an alley, no continuous brick wall is required.

733.4 Any refuse dumpster 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 a Residence District.

The Applicant requests a modification to this provision. The Applicant presently operates using three trash cans rather than a dumpster. Since the subject building occupies nearly the entire lot, the Applicant's garbage cans are located on the Property's 25th Street frontage in public space (a small portion of the approximately 30' wide sidewalk). Although an R-2 district is nearby, the trash cans do not face a residence district because the boundary line does not appear to extend to the location of the cans. The trash cans are not enclosed by any screening.

While fixed trash enclosures often may be appropriate, the location of the cans in public space (and the Applicant's indication that there are no other location options) complicates such an approach in this case. The previous fast food establishment, as permitted by the BZA in 2008, also located the trash in approximately the same location without an enclosure. The Applicant indicates that trash is picked-up twice a week, and that an employee cleans the area outside of the store nightly. The Applicant also provides that cooking oil drums are stored inside the building.

While OP would not object to the Board imposing a screening requirement of the trash space, OP is supportive of a modification of this provision due to the ample public space and the seemingly limited impact of the trash cans.³ During a recent site visit, OP observed an orderly trash area as reflected in pictures on page three of this report. OP believes that the Applicant's proposal complies with the general purposes and intent of this section.

733.5 *The use shall not include a drive-through*

The plans do not show any existing or planned drive-through.

733.6 *There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone district boundary line for a Residence District*

The entrance is at the corner of Minnesota Avenue and 25th Street. The boundary line for the R-2 district on the opposite side of 25th Street does not appear to extend to the location opposite the Applicant.

733.7 *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 Applicant would operate between 8:00 a.m. to 10:00 p.m. seven days a week. The Applicant indicates that lighting would be kept to a minimum and would not be visible after hours of operation. The Applicant further provides that the business does not generate any excessive noise, and the business operates on a commercial corner where previous fast food establishments have operated.

733.8 *The use shall provide sufficient off-street parking, but not less than that required by Sec 2101.1 to accommodate the needs of patrons and employees*

The Property would not accommodate off-street parking. The Applicant indicates that the subject tenant space is approximately 1,600 square feet in size, although OP estimates that the space may be smaller. According to § 2101.1, "fast food restaurants" in a building having no side yard (as is here the case) have the same parking requirement as retail or service establishments in the respective zone district. In C-2-A zones, retail and service establishments must provide parking when "in excess of 3,000 ft.², 1 for each additional 300 ft.² of gross floor area and cellar floor area." As such, the Applicant is not required to provide off-street parking. Notwithstanding the lack of parking required, the existing 1920's-era building on the site covers virtually the entire lot which limits on-site parking opportunities.

733.9 *The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions*

The use would be located in an existing tenant space that has historically housed fast food establishments. The Applicant also indicated that the majority of customers arrive by foot or public transportation. Short-term use on-street parking spaces also are available along Minnesota Avenue. As such, the use should not contribute to any dangerous traffic conditions.

733.10 *There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles, or driveways on the site*

³ OP notes that fixed trash enclosures may require approval by the Public Space Committee.

OP does not anticipate that deliveries or trash pick-up would create any unreasonably obstructions.

733 11 The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection, or any other matter necessary to protect adjacent or nearby property

OP does not recommend that the Board impose any additional conditions. However, OP notes that the previous fast food approval in 2008 (Application No. 17800 of D C Carry-out) contained the following conditions of approval:

1. Approval shall be for a period of THREE (3) YEARS.
2. The business hours of operation shall be from 11 00 a.m. to 12 00 midnight, seven days a week.
3. Trash containers shall be placed outside of the building for no more than two hours, and only on trash collection days.
4. The Applicant shall collect and remove trash from the exterior of the property twice a day and maintain a litter-free environment on the exterior of the property seven days a week.

OP has not found any reasons to impose such conditions in this case.

733 12 An applicant for special exception under this section may request the Board to modify the conditions enumerated in §§ 733 2 through 733 4, provided that the general purposes and intent of this section are complied with

The Applicant requests a modification to § 733.4 as discussed above.

VI. ANC/COMMUNITY

To date, OP has not received any comments from neighbors. A representative of ANC 8A contacted OP and expressed certain concerns regarding the application which also have been communicated to the Applicant.

VII. AGENCIES

DDOT submitted a memorandum, dated June 8, 2012, which expressed "no objection to approval of the special exception."