

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**Application of Chicken to Go Inc
2427 Minnesota Ave SE Washington
DC 20019**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDER OF
PROOF**

I. Background

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Chicken to Go Inc ("Chicken To Go " or "Applicant") proposes to establish a fast food establishment/restaurant in an existing building located at **2427 Minnesota Ave SE.**, Washington, D>C> (Square 5578m Lot 0074). The retail space contains approximately 1600 square feet of retable area tenant spaces in the one-story building. Zone C-2-A. The building in which **Chicken to Go Inc** would locate is entirely within the C-2-A District.

II. Relief Requested

The C-2-A District permits fast food establishments through special exception relief. Although **Chicken to Go Inc** is considered a carry out restaurant in virtually every other jurisdiction, because its patrons pay for their meal before prior to consuming it, the Zoning Regulations technically deem it a fast food establishment. Consequently, **Chicken to Go Inc** is required to seek special exception relief under section 773 of the Zoning Regulations **Chicken to Go Inc** meets the standards for special exception relief as described below.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18362
EXHIBIT NO. 5

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III. Special Exception

Section 773.1 of the Zoning Regulations provides that the Board of Zoning Adjustment may grant special exception relief for a fast food establishment in the C-2-A District subject to certain conditions. The Board may modify these conditions, provided that the modification complies with general purposes and intent of this section. See 11 DCMR § 733.12.

**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 there from by a street or alley.***

Lot 0074 is not separated from the adjacent residential district to the east by a street or an alley and thus the Applicant requests a modification of this condition. The proposed modification is consistent with the general purposes and intent of the fast food establishment.

Regulations because it will not affect any properties used for residential purposes. First, as shown on the attached plans, the retail space to be occupied by **Chicken to Go Inc** does not abut the residential district to the east. Another retail space separates **Chicken to Go Inc** from the residential district. Except that patrons pay for the meal before consuming it. **Chicken to Go Inc** will operate and function like a carry out restaurant, and will produce no more noise, refuse or traffic than other restaurants operating in the same block. Consequently, it will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity.

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 (6ft.) 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*

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Although this provision technically does not apply because the lot does not abut an alley containing a zone district boundary line for a residential district, the Applicant nevertheless requests a modification of this provision. The Applicant does not propose to construct a 6-foot high brick wall along the property line separating the residential and commercial zone districts because such a wall is unnecessary. As noted above, the space to be occupied by the fast food establishment is not located at the rear of the building, it does not abut the boundary line and the adjacent residential property is not used for residential purposes. Consequently, there are no residential uses that need to be protected by a brick wall from the effects of a fast food establishment.

733.4 *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 a Residence District.*

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The refuse dumpster for the fast food establishment will be housed in a three-sided enclosure, as shown on the attached plans. It will be shared with the other commercial retail and service establishments in the building.

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

Chicken to Go Inc does not propose and shall not include a drive-through as part of its use of the property.

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 Residence District.*

Chicken to Go Inc will not have any customer entrance along the portion of the building that faces the zone district boundary line for a residential district.

733.7 *The use shall be designated and operated so as not to become objectionable to Neighboring properties because of noise, sounds, odors, lights, hours of operation, or Other conditions.*

The proposed fast food establishment has been designed and will be operated so as not to become objectionable to neighboring

properties. It will be virtually indistinguishable from a restaurant, as defined under the Zoning Regulations, and will not create any excessive noise, sounds, odors, and lights. The planned hours of operation will be approximately 8:00 a.m. To 10:00 p.m. Monday through Sunday, These hours are consistent with those of restaurants along this commercial sector of Minnesota Avenue, and in fact represent earlier closing hours than many other establishments.

733.8 *The use shall provide sufficient off-street parking, but not less than that required by § 102.1, to accommodate the needs of patrons and employees.*

The zoning Regulations require that a fast food establishment, located in a building with a side yard such as this property, provide one parking space for each 100 square feet of space above a threshold of 1,600 square feet of space. Here, **Chicken to Go Inc** will occupy 1600 square feet of space, generating a requirement for 0 parking spaces because is carry out .

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

Chicken to Go Inc will occupy one tenant space in a small retail building . Thus, the proposed use is in compliance with this condition.

733.10 *There shall be adequate4 facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking*

The newly reconfigured parking lot and traffic circulation patterns

will facilitate truck deliveries and trash collection without obstructing public rights-of-way or the parking spaces aisles, or drive ways on the site.

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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.

The proposed fast food establishment will be located in a building that is being used as fast-food business several years.

IV. Conclusion

Pursuant to section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for this application. Through the Applicant's written statement, and through testimony and evidence presented at the public hearing, the Applicant will further demonstrate how it meets its burden of proof to obtain the Board's approval of the requested relief.