

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

Application of Fort Totten North, L.L.C.
ANC 4B

STATEMENT OF THE APPLICANT

This is the application of Fort Totten North, L.L.C. ("**Applicant**") for special exception relief to allow three fast food establishments in a new mixed-use residential and retail development. The Property that is the subject of this application is 300-320 Riggs Road NE (Square 3748, Lot 52) ("**Property**"). The Property is located in the C-2-A Zone District.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment (the "**BZA**" or the "**Board**") approve a special exception, pursuant Section 733 (11 DCMR § 733), to allow three fast food establishments in one building.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Section 3104.1 of the Zoning Regulations (11 DCMR § 3104.1).

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is a rectangular-shaped parcel located in the Fort Totten neighborhood in northeast Washington, and it contains approximately 201,283 square feet of land area. It is generally bounded to the south by South Dakota Avenue, to the west by 3rd Street, to the north by Chillum Place, and to the east by Riggs Road. The Property comprises the entirety of the square, and it is not adjacent to any other properties.

The surrounding area contains a mixture of residential, retail, and industrial uses. To the north and west are primarily semi-detached dwellings and small apartment buildings. To the south and southwest are primarily industrial (warehouse) and retail buildings. To the east are

small retail buildings, small apartment buildings, and single family dwellings. The undeveloped parcel to the southeast is slated for development into a multifamily residential building. The Fort Totten Metro station is located approximately ½ mile to the south.

IV. BACKGROUND AND PROJECT DESCRIPTION

The proposed fast food establishments will be part of the retail offerings at the new mixed-use residential and retail project known as Fort Totten Square. Fort Totten Square recently opened for residents and brings an exciting shopping, dining, and living experience to the Fort Totten neighborhood. The project includes convenient ground floor retail, including an urban-format Walmart with full-service grocery and pharmacy, and 345 rental apartments in four stories above the retail. In total, the project contains approximately 130,000 square feet of retail and 300,000 square feet of residential. The retail spaces are currently being built out by tenants. The project received favorable Large Tract Review in 2012.

Fort Totten Square is the first phase of a two-phase project in the neighborhood. The second phase, Fort Totten South, will be a residential development on the parcel to the southeast across Riggs Road.

Three of the tenants in Fort Totten Square will be fast food establishments. These establishments are identified on the attached site plan. One of the tenants will be Five Guys Burgers and Fries. Five Guys maintains a simple menu of fresh, hand-formed burgers and fresh-cut fries. Five Guys started as a small family owned and operated burger joint in Arlington, Virginia in 1986, and it began franchising in 2003. Since then, it has grown to have locations throughout the United States and Canada. In Fort Totten Square, Five Guys will operate a 2,250 square foot store with approximately 44 seats.

Another tenant will be 350 Degrees, a new restaurant concept that will open its first location at Fort Totten Square. 350 refers to the optimal temperature for achieving a perfectly crisp, healthier fry. 350 Degree's menu will include a combination of fried appetizers, sandwiches, sides and desserts that will incorporate American, Latin and Asian flavors and ingredients from around the world. 350 Degrees will operate a 1,750 square foot store with approximately 80-100 seats. A restaurant concept package for 350 Degrees is attached.

The third tenant will be Subway. Subway is the largest submarine sandwich chain in the world. It started in 1965 and has grown to more than 44,000 restaurants in 111 countries. Subway is committed to providing a wide range of great tasting, healthier food choices while reducing its environmental footprint and creating a positive influence in the communities it serves around the world. At Fort Totten Square, Subway will operate a 1600 square foot store with approximately 50 seats.

V. THIS APPLICATION SATISFIES THE REQUIREMENTS FOR SPECIAL EXCEPTION RELIEF FOR FAST FOOD ESTABLISHMENTS IN THE C-2-A ZONE DISTRICT

The standard for special exception relief is that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and that relief can be granted without adversely affecting neighboring properties. More specifically, Section 733 provides specific standards by which to evaluate such a request for this special exception relief. As demonstrated below, this application satisfies these standards.

A. *733.2: No part of the lot on which the use is located shall be within 25 feet of a Residence District.*

The Property is separated from the nearest Residence District by streets that are 60 and 90 feet wide, respectively, so no part of the Property is within 25 feet of a Residence District.

- B. *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 high and twelve inches 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 Property does not abut an alley containing a zone district boundary line for a Residence District.

- C. *733.4: Any refuse dumpsters shall be housed in a three sided brick enclosure equal in height to the dumpster or six feet high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.*

All refuse for the project will be stored and collected in a coordinated manner. The restaurants' refuse will be contained in dumpsters located in the enclosed parking garage directly behind the tenant space. Refuse will be collected every three days and recycling every two days.

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

None of the proposed fast food establishments will include a drive through.

- E. *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.*

As shown on the site plan, the entrances to the fast food establishments will be along Riggs Road, N.E. so none of the entrances will face a zone boundary line for a Residence District.

- F. *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 operations or other conditions.*

The restaurants will operate so that they will not become objectionable to neighboring properties. As shown on the site plan, the restaurants will be deep within the project among other retail uses. Five Guys' operating hours will be approximately 11:00 am to 10:00 pm,

Monday through Sunday. Subway's operating hours will be approximately 7:00 am to 10:00 pm on Monday to Friday and 9:00 am to 9:00 pm on Saturday and Sunday. 350 Degree's operating hours will be approximately 10:30 am to 8:30pm Monday through Sunday.

Because the Property is surrounded by streets, all of the proposed restaurants will be separated from neighboring properties by a significant distance. The location of the restaurants within the project will insulate all noise from nearby properties. Similarly, each of the restaurants will employ modern ventilation systems that will minimize odors. Furthermore, the distance between the restaurants and nearby properties will prevent detectable odors from emanating to such nearby properties. Finally, lights for the restaurants, like for the rest of the retail uses in the project, will be internal and directed towards the floor and tables. The tenant's lighting will not cause light spillover across the street to neighboring properties.

G. 733.8: The use shall provide sufficient off-street parking, but not less than that required by 2101.1

The Fort Totten Square project provides 460 parking spaces for all retail uses, including 44 for the proposed fast food establishments. This amount of parking exceeds of the required amount of 22 spaces.

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

The restaurants will be part of multiple retail offerings in the project. The project has been designed with a comprehensive traffic circulation pattern that will accommodate the expected amount of traffic to the project. No queuing on the streets or other objectionable traffic conditions will result from the restaurants or the project, generally. Further, many of the

restaurants' patrons are expected to be residents of the project and residents of nearby properties, who will walk.

- I. 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.*

All loading, both deliveries and trash collection, for the project will occur within the site. The restaurants will use the same loading facilities. As shown on the attached site plan, loading will be located directly behind the tenant space in the enclosed parking garage.

- J. 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 property.*

Because the restaurants will be part of a mixed-use retail complex separated from nearby properties and with a comprehensive loading and parking plan, no additional conditions are necessary for the proposed fast food establishments.

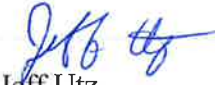
VII. COMMUNITY OUTREACH

The Applicant has worked with ANC 4B and other local community groups throughout the development of Fort Totten Square. In regards to the proposed fast food restaurants, the Applicant will reach out to the affected ANC and community groups about this application.

VI. CONCLUSION

Because the proposed fast food establishments satisfy the special exception criteria, the Applicant is entitled to the relief. As such, the Applicant respectfully requests that the Board grant it the requested special exception relief.

Respectfully submitted,
GOULSTON & STORRS, PC



Jeff Utz



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