

**MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment  
**FROM:** Karen Thomas, Case Manager  
*JL* Joel Lawson, Associate Director Development Review  
**DATE:** November 24, 2017

**SUBJECT:** BZA Case # 19626 (2410 Market Street NE – Application to permit a drive-through with a fast-food establishment (Chick-fil-A))

**I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends **approval** of the following special exception request to permit a drive-through with a fast-food use pursuant to U § 513.1 (n).

**II. LOCATION AND SITE DESCRIPTION**

Address	2410 Market Street NE (Shops at Dakota Crossing Retail Center)
Applicant:	Fort Lincoln Retail, LLC
Legal Description	Square 4327, Lot 1161
Ward / ANC	Ward 5; ANC 5C03
Zone	MU-5-A
Historic District or Resource	No
Lot Characteristics	The site is an irregularly shaped tract, within the larger shopping center property known as Dakota Crossing.
Existing Development	The subject portion of the shopping center site is currently undeveloped.
Adjacent Properties	The vacant site is bounded by a Lowe’s Home Improvement center on the north, Market Street NE to the east, a ramp from New York Avenue to South Dakota Avenue to the south and a retail parking lot to the west.
Surrounding Neighborhood Character	The surrounding neighborhood is a mix of uses including the mix of commercial uses on the larger shopping center site, as well as residential townhomes to the on the north side of Fort Lincoln Drive and 33 <sup>rd</sup> Street NE. To the west of South Dakota Avenue, there are small industrial uses and warehouses in the PDR-1 zone and the south of New York Avenue is undeveloped, un-zoned land.

Proposed Development	The applicant proposes to continue the build-out of the existing shopping center parcel with a one-story fast-food establishment, and a drive-through accessory to its operation, on an undeveloped tract on the larger shopping center parcel. The proposed development would include a 4,975 square feet fast-food establishment with 94-indoor seats and 26 outdoor seats and a child's play area for customers. The accessory drive-through is designed as a double-ordering queue driveway with spaces for up to 36 vehicles (Exhibit 5, Site Plan (August 29, 2017))
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### III. ZONING REQUIREMENTS and RELIEF REQUESTED

Subtitle U § 512.1 (d) (2) permits a fast food establishment or food delivery service in all other MU Use Group E zones<sup>1</sup> by right subject to the following conditions:

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

*(B) If any lot line of the lot abuts an alley containing a zone district 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;*

*(C) 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 residential zone;*

*(D) The use shall not include a drive-through; and*

*(E) Subparagraphs (A) and (B) shall not apply to a fast food establishment located in Square 5912;*

The proposed restaurant use is permitted by-right in the MU-5-A zone subject to specified conditions of U § 512.1 (d) (2), (A), (B), (C), (D) and (E) all of which would be satisfied as a matter-of-right use, except condition (D), that the use not include a drive-through.

**Subtitle U § 513.1 (n) states:** *Any use permitted as a matter of right in MU-Use Group E that does not comply with the required conditions for MU-Use Group E may apply for permission as a special exception except firearms retail sales establishments.*

The applicant has, accordingly, requested special exception relief to allow the proposed drive-through.

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<sup>1</sup> Subtitle U § 512 (d) (1) (1) A fast food establishment or food delivery service shall not be permitted within the MU-4, MU-17, MU-24, MU-25, MU-26, and MU-27 zones; **The subject zone is MU-5-A.**

#### **IV. OFFICE OF PLANNING ANALYSIS**

##### **Subtitle X Chapter 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 requested special exception would permit the proposed improvement on the vacant commercial site, with the accessory drive-through as otherwise permitted by the Zoning Regulations.

The intent of not allowing a drive-through by right was to mitigate the possible adverse impacts of queuing and its potential impacts on the public right of way. In this instance, the location of the vacant tract on the large shopping center parcel is well removed from public space. Thus, the entrance to the drive-through's queue would not occur from public space, but well within the shopping center's property and away from other commercial uses that may have a larger traffic impact within the shopping center, or any residential development. In addition, the proposed development would provide a total of 27 parking spaces for this use, well in excess of the required number (3), based on the square foot of the proposed establishment.<sup>2</sup> Therefore, the accessory drive-through will be in harmony with the intent and general purpose of the Zoning Regulations and Map.

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

Permitting the proposed drive-through should not affect adversely the use of neighboring property, which, in this instance would be another commercial use (Lowe's). Queuing for the drive-through location would not impact that use, as it is separated by the Lowe's' parking lot, which is not accessible from the same driveway to the fast food.

*(c) Subject in specific cases to the special conditions specified in this title.*

The request meets the conditions for the granting of a special exception pursuant to this section. There are no other special conditions specified in this title pertinent to this use.

#### **V. COMMENTS OF OTHER DISTRICT AGENCIES**

Comments from District agencies were not posted to the record at the time of the writing of this report.

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<sup>2</sup> 1.33 parking spaces per 1,000 sf in excess of 3,000 sf. (4,975 sf).

## VI. COMMUNITY COMMENTS

The applicant submitted that ANC5C was notified of the proposal. The ANC 5C is anticipated to discuss the proposal at its regularly scheduled meeting on November 15, 2017.

A letter of support from a residential property owner is placed in the record as Exhibit 26.

### Location and Zoning Map

