

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

Application of FC, LLC
3287 ½ M Street NW (Sq. 1206, Lot 833)

STATEMENT OF THE APPLICANT

I. Introduction

FC, LLC (the “Applicant”) requests approval of a special exception to establish a Flavor Hive restaurant in an existing building located at 3287 ½ M Street NW (Sq. 1206, Lot 833). The proposed restaurant will replace a prior restaurant that operated in this location. The proposed Flavor Hive restaurant will involve preparation, consumption, dine-in and carry out of rice and salad bowls, sides, desserts, beverages, and other food items. The restaurant will have 20 seats for dine-in customers.

Given the location of the Property and the proximity of retail and restaurant uses nearby, the proposed Flavor Hive is in harmony with surrounding properties and will be of benefit to the area. No changes will be made to the exterior of the existing building in which the restaurant will be established. No drive-through is proposed.

While the Applicant does not consider Flavor Hive a traditional “fast food” restaurant, the proposed restaurant is classified as a “fast food establishment” under the District of Columbia Zoning Regulations given that food is ordered and served at a counter and there is no waiter service. Therefore, a special exception is required prior to the establishment of this use in the MU-4 zone.

II. The Property and Surrounding Area

The Property is located at 3287 ½ M Street NW (Sq. 1206, Lot 833) with frontage on M Street NW. The Property is a two-level condominium unit, identified as tax lot 2005, located within

an existing three-story building (with one story also below grade). The Property consists of two levels with a total of 1,678 square feet split between 1,613 square feet in the restaurant space at basement level and 65 square feet in a vestibule at street level.

The Property is located within the MU-4 zone and also within the Georgetown Historic District. The Property is located on M Street NW in Georgetown, a retail-heavy location with numerous shops, restaurants, and other street-level uses nearby.

III. Relief Requested

The Applicant requests that the Board of Zoning Adjustment (“BZA”) approve a special exception to allow the establishment of a Flavor Hive location on the Property. In the MU-4 zone, a fast-food establishment may be permitted with a special exception. The proposed restaurant meets the definitions and standards of a fast-food establishment in the MU-4 zone, as discussed below.

Special Exception Review Standards

The general review standards for special exceptions are found in Subtitle X, Chapter 9 of the D.C. Zoning Regulations. This application meets the review standards of Subtitle X, Chapter 9, as follows:

A. The proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps.

The Zoning Regulations and Zoning Maps establish that MU-4 zones are intended to permit moderate-density mixed-use development, provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core. Thus, MU-4 zones are located in low and moderate-density residential areas with access to main roadways or rapid transit stops, and includes office employment centers, shopping centers, and moderate bulk mixed-use centers. The proposed Flavor Hive restaurant use is in harmony with this

general purpose and intent. It will be established in an existing commercial building surrounded by similar uses. Its location on M Street NW, a busy commercial and retail-oriented thoroughfare, will be easily accessible by pedestrians. Multiple bus stops are located in close proximity to the Property. The proposed restaurant will serve residents, workers, and visitors of the Georgetown neighborhood.

B. The proposed use will not tend to affect adversely the use of neighboring property, in accordance with the Zoning Regulations and Zoning Maps.

The proposed Flavor Hive restaurant is consistent with nearby commercial retail uses located along this busy portion of M Street NW. Neighboring properties are developed with a variety of commercial and retail uses. The Flavor Hive restaurant will serve Georgetown residents, workers, and visitors. Thus, the proposed use is in harmony with and will not adversely affect neighboring properties.

C. The proposed use will meet all applicable conditions as may be specified in this chapter.

Pursuant to the use permissions for mixed use zones in Chapter 5 of Subtitle U of the D.C. Zoning Regulations, the MU-4 zone is classified as MU-Use Group E. The conditions associated with special exception uses in MU-Use Group E are set forth in Subtitle U, Chapter 513 of the D.C. Zoning Regulations. Fast food establishments in the MU-4 zone are subject to the following conditions:

1. If the use is a single tenant in a detached building:

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

The proposed use is not a single tenant in a detached building.

- (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. The brick wall shall not be required in the case of a building that extends for the full width of its lot.

This condition is not applicable.

- 2. 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 residential zone.**

Trash dumpsters shall be located within a below grade garage accessible to the Property.

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

No drive-through will be provided.

- 4. 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 new Flavor Hive restaurant will be located on M Street NW, a busy thoroughfare with many shops and restaurants nearby. Hours of operation will be 11:00am to 10:00pm Monday through Thursday, 11:00am to 2:00am Friday and Saturday and 11:00am to 8:00pm on Sunday. No alcohol will be served and trash collection will be handled in the existing garage serving the Property.

- 5. The use shall provide sufficient off-street parking, but not less than that required by Subtitle C, Chapter 7 to accommodate the needs of patrons and employees.**

The restaurant space in which the proposed Flavor Hive will be located contains approximately 1,678 square feet. Pursuant to Subtitle C, Chapter 7 of the D.C. Zoning Regulations, the parking requirements for eating and drinking establishments is 1.33 parking spaces per 1,000 square feet in excess of 3,000 feet. Since the proposed use will occupy less than 1,000 square feet in excess of 3,000 feet, no off-street parking spaces are required or provided.

6. The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic condition.

It is not expected that this use would create any new dangerous or objectionable traffic conditions. Most customers will arrive on foot or drive and park on the street, much like they do to patronize restaurants and shops nearby along M Street NW. The use, therefore, would not contribute to any dangerous traffic conditions.

7. The Board of Zoning Adjustment 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.

For the reasons discussed above, it is not expected that the proposed Flavor Hive restaurant will negatively affect adjacent or nearby properties.

IV. Community Outreach

The Applicant will reach out to ANC 2E and other affected community/civic groups, the Office of Planning, and adjacent property owners to discuss the Application with the community and address any concerns or comments that the community may have.

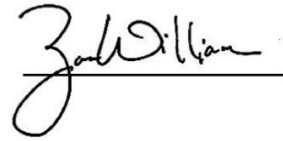
V. Witnesses

The following witnesses will appear on behalf of the Applicant at the hearing before the Board of Zoning Adjustment:

1. Basim Mansour – FC, LLC

VI. Conclusion

For the reasons discussed above and at the public hearing before the Board of Zoning Adjustment, the Applicant respectfully requests that the Board of Zoning Adjustment grant the relief sought in this Application.

A handwritten signature in black ink, appearing to read "Zach Williams", written over a horizontal line.

Zachary G. Williams, Esq.
Venable LLP
Authorized Agent for the Applicant