

March 26, 2021

DC Office of Zoning
Board of Zoning Adjustment
One Judiciary Square
441 4th Street NW
Suite 210S
Washington, DC 20001
202-727-6311

Re: BZA Special Exception Hearing
Detailed Statement of Zoning Regulations for Special Exception
413 8th St., SE
Washington, DC 20003

Dear Chairperson Hill:

Thank you for the opportunity to submit to you the below detailed statement of how the application (Case No. 18238A) meets each element of the review standards for special exceptions specified in Subtitle X § 901 and Subtitle X § 1002.

G 1200.4 & X 901.2 Relief may be granted as a special exception by the Board of Zoning Adjustment to the development standards and regulations of this subtitle where, in the judgment of the Board, the special exception:

(a) Will be in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps;

- The Applicant and Tenant, Chipotle Mexican Grill, will adhere to this provision by being in harmony with the general purpose and intent of the MU zone, the Zoning Regulations, and Zoning Maps.

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

- The Applicant and Tenant, Chipotle Mexican Grill, will adhere to this provision. Applicant and Tenant have diligently worked with the ANC and members of the neighborhood to address and resolve concerns they had related to rodent control and sound mitigation for this property.

(c) Is subject in each case to any applicable special conditions specified in this chapter.

- Compliance with applicable special conditions is demonstrated below.

U 513.1 The following uses shall be permitted as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of this section:

(d) Fast food establishments or food delivery service eating and drinking establishments in the MU-4, MU-17, MU-25, or MU-27 zones, subject to the following conditions:

(1) If the use is a single tenant in a detached building;

- The Tenant, Chipotle Mexican Grill, is a single tenant at this location, however the building is not detached.

(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; and

- No part of the lot on which the Tenant will occupy is located within twenty-five feet of a R, RF, or RA zone.

(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;

- The site does not abut an alley of any sort. The rear yard is a fenced in enclosure that abuts other rear yards.

(2) Any refuse dumpster used by the establishment shall be housed in a three (3)-sided 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 or be within ten feet (10 ft.) of a R, RF, or RA zone;

- Tenant is to replace the existing outdoor trash/recycling shed with a dedicated trash/recycling walk-in cooler and will reconfigure the space currently dedicated to the outdoor trash/recycling shed, mechanicals, and the Tenant's walk-in food cooler to allow the new trash/recycling walk-in cooler to be connected to the building by a code-compliant method. Construction will have tight gaps to avoid nooks or crevasses. If unavoidable, the gaps will be completely covered with rodent proof material. Exterior wiring and piping leading to the roof will be rodent proof. Any fascia boards should be quality wood; not particle board, Masonite or inexpensive pine. Sealants will be high quality and long lasting. Twenty-five gauge metal will be utilized inside connector walls for long term protection against rodents. Doors will have tight fitting rodent resistant sweeps.

- Since the rear yard does not access an alley or street, Tenant’s trash will have to be stored in toters and removed through the front entrance of the space. All Tenant grease is to be stored within this space, and not in the rear yard.
- (3) The use shall not include a drive-through;
- The proposed Tenant will not provide a drive-through.
- (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;
- Consistent with the Applicant’s representations at the ANC meetings on March 2 and 9, 2021, no objectionable noises, sounds, odors, lights, operating hours or other conditions objectionable to neighboring properties will be created by the proposed Tenant.
 - Further, Applicant (or the Applicant through its Tenant) will relocate the existing HVAC compressors for the Tenant’s space and install new mechanicals necessary to the operation of the two walk-in coolers and will sound proof those mechanicals. Applicant will remove from the rear yard of 413 8th Street, SE the existing HVAC units servicing the second floors of 413 8th Street, SE and 415 8th St., SE (415 is also owned by the Applicant) and install new HVAC units (one on the roof of 413 8th St., SE and one on the roof of 415 8th, St., SE) as close to 8th Street as practicable, but not to the west of where the HVAC units on the roof of 411 8th St., SE are installed.
- (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;
- No off-street parking spaces are required by 2102.1 for a fast food restaurant in a C-2-A zone district. All street parking in this location is metered.
- (6) The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions; and
- No dangerous or other objectionable traffic conditions will be created by the Tenant.
- (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;
- Trash not to sit out on the street for pick up, and is to be taken through the space for street pick up.

- Sound control measures to be taken to avoid and abate noises objectionable to the residential neighbors from mechanical units, and to prevent an increase in existing sound level conditions of the site. Tenant is to employ all sound measures and persons necessary to meet this requirement.
- Applicant (or the Applicant through its Tenants) shall maintain the outdoor spaces in the rear of 413 8th St., SE and 415 8th St., SE, including by ensuring that: (1) they are kept free of rodent burrows and all rodent harborage, including weeds and leaves; (2) the trees behind 413 8th Street, SE are watered, trimmed, and treated for mold or insects as needed; and (3) the leaves are cleared from the yards, trench drains, and gutters on a regular and established schedule.

Therefore, for the reasons enumerated above, the application (Case No. 18238A) meets each element of the review standards for special exceptions specified in Subtitle X § 901 and Subtitle X § 1002 for a fast food exception.

Thank you for your consideration and please let us know if you have any questions.

Sincerely,

Samuel H. Porter, III

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