

Supplemental Report

TO: District of Columbia Board of Zoning Adjustment
FROM: Crystal Myers, Development Review Specialist
JL Joel Lawson, Associate Director Development Review
DATE: January 19, 2023

SUBJECT: BZA Case 20410 (5504 Connecticut Avenue, N.W.) to permit a fast-food restaurant use in an existing mixed-use building in the MU-3A zone.

I. BACKGROUND

This application was originally filed in November 6, 2020 as a use variance. Since filing, the zoning regulations were amended to allow this use in this zone by special exception, subject to conditions of approval. This happened prior to OP issuing its first report (Exhibit 28), where OP was unable to recommend support of the use variance, and noted that the applicant was advised to amend the filing to request special exception relief. OP later submitted a February 25, 2022 supplemental report requesting additional information on the case to complete the special exception review, (Exhibit 47). The applicant amended the filing accordingly and provided the necessary information for OP to complete its review.

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends **Approval** of the following special exception relief:

- Fast Food Establishment Use, Subtitle U § 511.1(e), pursuant to Subtitle X § 900 (fast food establishment use not permitted; fast food establishment use proposed).

III. LOCATION AND SITE DESCRIPTION

Address	5504 Connecticut Avenue, N.W.
Applicant	Albert & Schulwolf, LLC for Mamma Lucia of Chevy Chase, LLC
Legal Description	Square 1859, Lot 86
Ward, ANC	Ward 3, ANC 3G
Zone	The MU-3 zones are intended to permit low-density mixed use development, providing convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and other limited uses.
Historic District	None
Lot Characteristics	The rectangular property has 9,531 square feet of area with 152-foot of frontage along Connecticut Avenue.

Existing Development	The lot is currently developed with a two-story building, consisting of ground floor retail and office on the second floor.
Adjacent Properties	To the north, is a two-story office and retail building. To the south, across Livingston Street, is a six-story building consisting of residential dwelling units. To the east, across Connecticut Avenue, is a two-story office and retail building. To the west is one-story retail building.
Surrounding Neighborhood Character	The character of this section of the Connecticut Avenue corridor is low density mixed-use, consisting of neighborhood-serving retail and office uses. Directly to the south on Connecticut Avenue is an area of medium to high density residential. West of the lot is low-density residential.
Proposed Development	The Applicant proposes to alter the interior of a retail space in the commercial building to accommodate a fast-food establishment. No exterior alterations or additions are proposed. A special exception is required to allow this use in the MU-3 zones. According to the Applicant, the establishment is open today because it has a temporary permit.

IV. OFFICE OF PLANNING ANALYSIS

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 fast-food establishment is permitted in the MU-3A zone with the approval of a special exception. The proposal complies with the special exception criteria, discussed in more detail below, so the use is in harmony with the general purpose and intent of 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

Allowing the establishment to continue on the site should not adversely impact the neighboring properties. The proposal complies with the special exception criteria, discussed below, and the establishment has been on the property for over a year.

Special Exception Relief from Subtitle U § 511.1(e), to allow Fast Food Establishments

511.1 The following uses in this section 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.

(e) Fast food establishment, subject to the following conditions:

(1) The establishment shall be located within a multi-tenant building or shopping center; it shall not be located in a single-tenant detached building;

If approved, this fast-food establishment would continue to be within a multi-tenant building. As provided by the applicant, the building's other tenants include Starbucks, the Parthenon restaurant, a hair salon, a dry cleaner, a reflexology business, and a private physician's office.

(2) No more than thirty percent (30%) of the total gross floor area of the multi-tenant building or shopping center shall be occupied by fast food establishments;

The Applicant states that the fast food establishment is the only one in the multi-tenant building and that it would not occupy more than 30% of the building. The entire building is about 7,452 square feet in area and Mamma Lucia is approximately 900 square feet, so it occupies 12 percent of the building.

(3) Any refuse dumpster used by the fast food use 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 nor be within ten feet (10 ft.) of a R, RF, or RA zone;



The dumpsters are along the rear service alley and the buildings along this end of the alley are owned by the same property owner. In order to comply with the enclosure requirement, the dumpsters would be located in a corner where existing brick building walls can be used to help create an enclosure. The property owner will also install a new alley gate to complete the enclosure.

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

The fast-food establishment does not include a drive-through.

- (5) *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 fast-food establishment, Mamma Lucia, should not become objectionable to neighboring properties. It has been operating at this location for over a year and according to the Applicant the neighboring properties have not complained about the current operations, including the hours of operation which are listed below:

Hours of Operations

7:00am – 9:00pm (Mon-Thurs)

7:00am – 10:00pm (Fri-Sat)

7:00am – 9:00pm (Sun.)

Noise/Sounds

Noise on the property is limited because most of the business is done through pick-up or delivery. On-site seating is limited to 10 seats indoors and 16 seats outdoors, for a maximum of 26 customers dining on-site. Staff on-site is no more than 5 workers.

The hours of operation are similar to other eating establishments in the area so a reasonable level of noise during these hours would not be out of character for this area.

Lights

The fast-food establishment does not have an exterior light.

Ventilation/Odors

The establishment uses a high-end updraft ventilation system to minimize the cooking odors. This is the same system used by other food services in this shopping center.

Loading and Deliveries

All loading and delivery activity occur through the front entrance off Connecticut Avenue and this would continue. The property owner does not permit their tenants to do loading in the rear along the alley because these activities would block the trash area. The applicant states that this business usually receives deliveries twice a week on Monday and Friday between 10:00am and 3:00pm.

- (6) *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;*

Dedicated on-site parking spaces are not required because the establishment is less than 1,000 square feet. Street parking is located along both sides of Connecticut Avenue and along Livingston Street, to the south.

- (7) *The use shall be located and designed so as to create no dangerous or otherwise objectionable traffic conditions; and*

The property is in an existing building providing neighborhood-oriented retail. The Applicant has provided that the fast-food establishment would rely predominantly on pedestrian to-go orders and third-party delivery services. The site would not be improved with curb cuts or additional parking, and the existing traffic conditions would remain unchanged. The District Department of Transportation has provided a report at Exhibit 29 indicating that the proposed use would not have adverse impacts on the District's transportation network.

- (8) *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.*

No additional conditions are recommended.

V. OTHER DISTRICT AGENCIES

The District Department of Transportation (DDOT) provided a report at Exhibit 29 that states they have no objection to the proposed use.

VI. ADVISORY NEIGHBORHOOD COMMISSION

As of the date of this report, the ANC had not provided comments to the record.

VII. COMMUNITY COMMENTS TO DATE

As of the date of this report, there are no community comments in the record.