

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18238 of Streetsense, pursuant to 11 DCMR §§ 3104.1 and 1570.1, for a special exception to allow a fast food restaurant (Chipotle Mexican Grill) under § 733, in the CHC/C-2-A District at premises 413 8th Street, S.E. (Square 902, Lot 828).¹

HEARING DATE: July 19, 2011
DECISION DATE: July 19, 2011

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment (“Board” or “BZA”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (“ANC”) 6B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6B, which is automatically a party to this application. ANC 6B filed a report, dated July 13, 2011, which indicated that at a duly noticed and regularly scheduled public meeting on July 12, 2011, with a quorum of Commissioners present, the ANC voted, by a vote of 10:0:0, to support the application, as amended.² (Exhibit 31.) A previously filed ANC report, also dated July 13, 2011, similarly stated that the ANC had voted in support of the application at July 12, 2011 meeting. (Exhibit 29.)

¹ The Applicant amended the application only to include 413 8th Street, S.E., and not 415 as well, as originally thought. The case caption has been altered accordingly. (Exhibit 27.) Also, the Applicant stated that should the restaurant (China Wall) which currently occupies the first floor premises at 415 8th Street, S.E., to vacate the premises, the Applicant intends to seek the required special exception approvals needed for a fast food operation. (Exhibit 30.)

² The ANC indicated that it would be requesting the Board to condition the special exception to Chipotle Mexican Grill as the applicant while at this address. (Exhibit 31.)

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The Office of Planning ("OP") submitted a timely report recommending approval of the application for special exception, subject to two conditions. The District Department of Transportation ("DDOT") provided comments which were included in OP's report. DDOT recommended that deliveries to the site be restricted to Monday through Friday, between the hours of 10:00 a.m. and 4:00 p.m., when traffic is lower in volume. (Exhibit 28.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to 11 DCMR §§ 3104.1 and 1570.1, for a special exception to allow a fast food restaurant (Chipotle Mexican Grill) under § 733, in the CHC/C-2-A District. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 1570.1, and 733, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application is hereby **GRANTED WITH THE FOLLOWING CONDITIONS**:

1. This approval shall be for a term of **TEN (10) YEARS**, beginning on the date upon which the order became final.
2. Deliveries to the site shall be restricted to Monday through Friday, between 10:00 a.m. to 4:00 p.m.
3. All trash pick-ups from the site shall be from the street curb.

VOTE: **5-0-0** (Meridith H. Moldenhauer, Michael G. Turnbull, Nicole C. Sorg, Lloyd J. Jordan, and Jeffrey L. Hinkle to GRANT.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
The majority of the Board members approved the issuance of this order.

ATTESTED BY:



JAMISON L. WEINBAUM
Director, Office of Zoning

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FINAL DATE OF ORDER: August 1, 2011

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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As Director of the Office of Zoning, I hereby certify and attest that on August 1, 2011, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Guy E. Silverman, Manager
Streetsense
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Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
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ATTESTED BY:

A handwritten signature in black ink, appearing to read "Jamison L. Weinbaum", written over a horizontal line.

JAMISON L. WEINBAUM
Director, Office of Zoning