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May 18, 2026

VIA IZIS

Board of Zoning Adjustment
of the District of Columbia
441 4th Street, NW, Suite 210-S
Washington, DC 20001

**Re: BZA Case No. 21438
Special Exception Request for Fast Food Establishment at 406 8th Street, SE
Applicant's Prehearing Statement**

Dear Members of the Board:

On behalf of Emerald Wings, LLC (the "Applicant"), we submit this Prehearing Statement pursuant to Subtitle Y §§ 300.15 and 300.16 in support of the above-referenced application, which seeks approval for a fast-food establishment at the property located at 406 8th Street, SE (the "Property"). Specifically, the Applicant seeks the following:

- (1) special exception approval for a fast-food restaurant use at the Property, which is in the MU-4/CHC zone; and
- (2) special exception relief from Subtitle U § 513.1(e)(2) relating to the refuse dumpster requirements (the "Application").

This statement provides a summary of the Application, updates the Board on developments since the Application was filed on December 23, 2025, including outreach to the affected Advisory Neighborhood Commission ("ANC") 6B (the "ANC") and neighborhood stakeholders, and offers additional information for the Board's consideration in advance of the public hearing scheduled for June 17, 2026.

An updated set of plans in support of the Application is attached as **Exhibit A** (the "Updated Plans").

Board of Zoning Adjustment
District of Columbia
CASE NO. 21438
EXHIBIT NO. 26

I. Overview of Application

The Applicant seeks the Board’s approval of the Application in order to operate a Wingstop restaurant on the Property. The Property is zoned MU-4/CHC and is located on the east side of 8th Street, SE, near the intersection with Pennsylvania Avenue, SE, on the corridor commonly known as Barracks Row. The Property, which is within the Capitol Hill Historic District, is improved with an attached, three-story brick building with ground-floor retail and office uses above.

The proposed Wingstop is consistent and compatible with the existing restaurant, retail and pedestrian-oriented commercial character of this section of Barracks Row. The area includes numerous eating establishments that also provide quick-service and carry-out —&Pizza, Popeyes, Taco Bell, and Chipotle—on the west side of the street. Additional food-service uses on the west side include Ledo Pizza, Pizza Boli, and Starbucks. A Dunkin’ Donuts is located immediately adjacent to the Property. Generally, Barracks Row includes a variety of fast-food establishments, restaurants, retail shops, and service uses. Importantly, unlike the fast-food establishments on the west side of 8th Street, SE, the Property does not abut any residences. The nearest residential uses are located on the south side of the square, along E and 9th Streets, SE, and are separated from the Property by the existing commercial corridor.

The Application satisfies the general special exception criteria of Subtitle X § 901.2. The proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; it will not tend to affect adversely the use of neighboring property because the establishment will be operated subject to robust conditions intended to mitigate potential impacts from the proposed use (set forth below); it is consistent with the existing fast-food and restaurant character of this section of Barracks Row; and the use will activate an existing ground-floor commercial storefront. Additionally, while the Applicant seeks relief from the refuse dumpster requirement of Subtitle U § 513.1(e)(2), the Applicant proposes a superior waste-management solution—refrigerated on-site enclosures with daily pickup—that eliminates the adverse impacts (odor, pests, and visual blight) that the dumpster requirement is designed to prevent. (*See Condition 3 below.*)

II. Relevant Precedent

The Application is similar to Application No. 21144, which the BZA approved on July 17, 2024, permitting the operation of a Taco Bell directly across the street from the proposed Wingstop at 411 8th Street, SE. Like the Taco Bell, the Wingstop is designed primarily to accommodate off-premises ordering and pick-up activity and minimize the time customers are at the Property. As such, some of the conditions proposed below are substantially similar to those accepted by the Board in its approval of the Taco Bell – term limit, hours of operation, and trash/recycling storage and pick-up. The 10-year term is also substantially consistent with the Board’s approval on October 16, 2019, for the &Pizza (Application No. 18770-C).

Of note, unlike the Taco Bell, &Pizza, and the other fast-food establishments on the west side of 8th Street, SE, the proposed Wingstop does not abut any residential uses. The Application therefore presents fewer potential adverse impacts on nearby residents than those previously approved uses.

III. Proposed Conditions for Approval of Use

For the past several months, the Applicant has engaged in extensive discussions about the Application with representatives of ANC 6B and other community stakeholders in order to develop a comprehensive set of conditions to mitigate potential impacts from the proposed Wingstop. The proposed list of conditions is set forth below:

1. **Term Limit and Applicant's Good Faith Commitment.** This approval shall become effective the date this order becomes final and shall remain valid for a period of ten (10) years following the issuance of Applicant's Certificate of Occupancy (the "Term"). Throughout the Term, Applicant commits to using commercially reasonable efforts to work in good faith with the community to address reasonable concerns related to operations regarding noise, odors and pests, consistent with the intent of these conditions and applicable laws and regulations. For purposes of this condition, the Applicant shall provide to the ANC the name and contact information for the person designated to serve as a community liaison.
2. **Hours of Operation.** Applicant's walk-in and general operations hours for the restaurant may be from 10:30 am to 1:00 am, seven days a week. The establishment may be open daily until 3:00 am but will only accommodate delivery services and order pick-ups after 1:00 a.m. until close.
3. **Restaurant Trash and Recycling Pick-Ups.** Applicant shall provide for the onsite storage of trash and recycling in enclosed refrigerated storage areas, substantially consistent with the plans on Sheet M1 (Mechanical Floor Plan) of the Updated Plans and in accordance with applicable health and building code requirements, until removal from the building. Applicant shall arrange for trash pick-up service six (6) days per week and recycling pick-up service five (5) days per week. All trash pick-ups shall be from the abutting 8th Street, SE curb.
4. **Grease Collection, Storage & Removal.** The Applicant shall install a grease interceptor and oil collection system on the Property, designed to collect and store used cooking grease indoors on the Property. The equipment and schedule of maintenance and oil collection shall be operated and maintained in a commercially reasonable manner consistent with similarly situated restaurant uses in the District of Columbia and in accordance with applicable laws, regulations, and manufacturer recommendations.

5. **Rodent and Pest Control.** During the operation of the Wingstop, the Applicant shall cause extermination services, including treatment for insects, spiders, rats, mice, moles and other rodents to the Property by a licensed exterminator on a monthly basis. In the event that any such pests are discovered on the Property, the Applicant shall take all commercially reasonable and appropriate measures to promptly relieve the Property of such pests.

6. **Customer Trash Receptacle.** During the operation of the Wingstop, the Applicant shall provide a trash receptacle in the customer waiting/pick up area in order to reasonably discourage littering in and around the Property.

7. **No Littering Sign.** Prior to the issuance of a final certificate of occupancy for the Wingstop, the Applicant shall place an anti-littering sign on the Property, in accordance with the signage to be finalized and attached with the MOA and subject to applicable laws and regulations.

8. **Pollution Control Unit.** In order to mitigate odors from the fast food establishment, the Applicant agrees to install a pollution control unit (“PCU”) as part of the exhaust system. The PCU installation shall be substantially similar to the engineering sketch and specs attached as **Exhibit B** (together, the “PCU Plans”).

9. **Minor Design Flexibility.** Applicant is granted minor design flexibility from the attached plans, including modifications to the layout, dimensions, configuration, screening, location, and specifications of the PCU, exhaust systems, rooftop equipment, HVAC equipment, mechanical systems, trash facilities, and related architectural or engineering elements as may be required by field conditions, permitting requirements, Historic Preservation Office review, Historic Preservation Review Board review, engineering considerations, manufacturer requirements, or code compliance, provided the overall intent of the Conditions 3 and 8 and the PCU Plans is maintained and such changes do not materially increase external impacts. Mechanical equipment may be repaired, replaced, relocated, upgraded, or modified over time with substantially equivalent or improved equipment, provided such changes comply with applicable law, and provided the overall intent of Conditions 3 and 8 and the PCU Plans is maintained and such changes do not materially increase adverse external impacts. Nothing herein shall prohibit repairs, replacements, maintenance, upgrades, or modifications required by applicable law, permitting authorities, manufacturers, insurers, or operational necessity, provided the overall intent of Conditions 3 and 8 and the PCU Plans is maintained and such changes do not materially increase adverse external impacts.

10. **Instructions for Delivery Drivers.** The Applicant shall use commercially reasonable efforts, where able, to guide app-based delivery drivers to adhere to all signage along the Bus Only Lanes and to only park or stand in legal spaces, including the curbside spaces along the west side of 8th Street SE, the south side of Pennsylvania Avenue SE,

and on D Street SE. The instructions shall specifically include a note that parking or standing in front of the fire station driveway is prohibited.

The Applicant respectfully requests that the conditions recited above be included in the BZA Order approving the Application, as they appropriately mitigate potential impacts from the proposed Wingstop operation.

In addition to these conditions being included in the BZA Order, the Applicant is working with the ANC and neighborhood stakeholders to include the foregoing conditions in a Memorandum of Agreement. The final executed Memorandum of Agreement will be submitted to the record prior to the public hearing.

IV. Summary of Meetings with ANC and Neighborhood Stakeholders

The Applicant and its representatives have discussed the Application extensively with representatives from ANC 6B and neighborhood stakeholders at the following meetings:

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| 12/8/25 | Meeting with Commissioner Brian Gorman, SMD for ANC 6B04. |
| 1/8/26 | ANC 6B P&Z Committee Meeting |
| 1/15/26 | Meeting with ANC 6B Commissioners |
| 2/5/26 | Meeting with P&Z Subcommittee |
| 2/11/26 | Community Meeting at the Property |
| 3/2/26 | Virtual Meeting with Neighborhood Stakeholders |
| 3/4/26 | Meeting with the Fire Station |
| 3/4/26 | Capitol Hill Restoration Society's Zoning Committee |
| 3/5/26 | ANC 6B P&Z Committee Meeting |
| 3/9/26 | Virtual Meeting with Neighborhood Stakeholders |
| 4/13/26 | ANC 6B P&Z Committee Meeting |
| 4/30/26 | Meeting with Fire Station, DDOT and Dept. of For-Hire Vehicles at PM Peak Hour |
| 5/4/26 | Meeting at Property with Engineers |

5/7/26

ANC 6B P&Z Committee Meeting

The primary concerns raised by residents related to odor and rodent control. To address these issues, the residents requested—and the Applicant agreed—to install a pollution control unit (“PCU”), install a grease interceptor and oil collection unit on the Property, and store trash and recycling onsite in refrigerated enclosures, among the other measures outlined above.

With respect to the PCU Plans, please note that the Applicant’s engineers are still working with the PCU representative to confirm all the total weights (dry and wet, including the detergent tank and weight of the detergent itself), so the structural engineer can appropriately design the platform the PCU will sit on. Once this information is confirmed, the Applicant will proceed with finalizing plans showing the layout. The final plans will be forwarded to the ANC’s Planning & Zoning Committee for review at its meeting on June 4, 2026. The specs and final layout for the enclosed refrigerated area for the indoor storage of trash and recycling discussed in Condition 3 above will also be forwarded to the Committee for review at its meeting on June 4, 2026.

The Applicant is pleased that the Fire Department has reported no objection to the Application. The Applicant engaged Gorove Slade Associates to study and address the concerns raised by Captain Hershey at DC Fire Department Engine House 18 in his letter filed at Exhibit 20 of the case record. This effort included a meeting with representatives from the Fire Department, the Capital Planning Division at DDOT, and the leadership and enforcement team of the Department of For-Hire Vehicles (“DFHV”). The first takeaway from the meeting was that several transportation improvements currently underway by DDOT will significantly improve traffic congestion, particularly around the Fire Station. Those improvements are depicted on the plan attached as **Exhibit C**, and include the following:

- **Bus Only Lanes on east and west sides of the street eliminate the parking lane along the eastern curbline adjacent to the fire station at all times (24-hours) through red lane paint, BUS ONLY messages, and BUSES ONLY 24 HOURS signage.**
 - Additional signage proposed north and south of the fire station curb cut to indicate NO STANDING OR PARKING ANYTIME, which reinforces parking restrictions.
 - No legal parking limits the potential for parking spillover into the fire station curb cut.
 - "No parking" enforced by DPW and Clear Lanes Program, which adds an extra layer of enforcement through the use of camera technology to identify illegally parked and stopped vehicles and send information directly to DDOT.

- **10-minute Pay-to-Park zone on west side of 8th Street SE designed to accommodate very short-term parking.**
 - Expected to reduce the number of parkers that leave their vehicle for hours at a time, increasing parking turnover on the block.
 - Increases the availability of on-street parking or standing space for delivery drivers and patrons of restaurants and take-out shops along the block, endeavoring to limit the amount of double parking that occurs on the west side of 8th Street SE.
- **Short-term bike racks provided on the east side of 8th Street SE, providing space for delivery couriers to park bikes.**
 - 6-foot-wide tree box area remains for additional bike parking while still maintaining a 16-foot-wide sidewalk for pedestrians.
 - In-street micromobility corral located at the intersection of D Street SE and 8th Street SE to further serve delivery couriers if the space on 8th Street SE is fully occupied.
- **Firehouse pavement markings to be repainted to reinforce the need to keep the area clear, especially when traffic backs up from the signalized intersection at Pennsylvania Avenue SE.**

The second takeaway from the meeting was the need for increased parking and traffic enforcement, which DFHV committed to coordinate with the Department of Public Works (“DPW”). The Applicant also committed to ongoing dialogue with the Fire Station, DPW, and DFHV to assist with parking enforcement, particularly to minimize interference with emergency response operations.

Finally, in order to mitigate the potential traffic impacts generated by the proposed Wingstop, the Applicant agrees to use commercially reasonable efforts to guide app-based delivery drivers to adhere to all signage along the Bus Only Lanes and to only park or stand only in legal spaces, including the curbside spaces along the west side of 8th Street, SE, the south side of Pennsylvania Avenue, SE, and on D Street, SE. Additionally, the instructions will specifically include a note that parking or standing in front of the fire station driveway is prohibited.

V. Conclusion

The Applicant is scheduled to present the Memorandum of Agreement, including the conditions recited above, at the ANC 6B Planning & Zoning Committee meeting on June 4, 2026,

and at the full ANC meeting on June 9, 2026. The ANC will vote on the Application, including the plans for the PCU and the refrigerated area of trash/recycling storage on these dates.

In light of the foregoing, the Application satisfies the applicable criteria for granting special exception approval for the proposed use. We look forward to presenting the Application to the Board at the public hearing on June 17, 2026. Should you have any questions, please do not hesitate to have the Office of Zoning staff contact us.

Respectfully submitted,

HOLLAND & KNIGHT LLP

By: *Leila Batties*
Leila Jackson Batties
Madeline Shay Williams

Attachments (Exhibits A-C)

Certificate of Service

I hereby certify that on May 18, 2026, a copy of the foregoing Prehearing Statement filed in support of BZA Case No. 21438 was served by electronic mail on the following at the addresses stated below.

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