

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Shepard Beamon, Development Review Specialist
MBR
 Maxine Brown-Roberts, Associate Director Development Review

DATE: May 29, 2026

SUBJECT: BZA Case # 21438 – Special Exception relief to permit a fast-food establishment (Wingstop) in the MU-4/CHC zone at 406 8th Street SE.

I. OFFICE OF PLANNING RECOMMENDATION

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

- Subtitle U § 513.1(e) Use Permissions (Fast Food Establishment) pursuant to Subtitle X § 901.2; and
- Subtitle U § 513.1(e)(2) Use Permissions (Refuse Dumpster Requirements) pursuant to Subtitle X § 901.2.

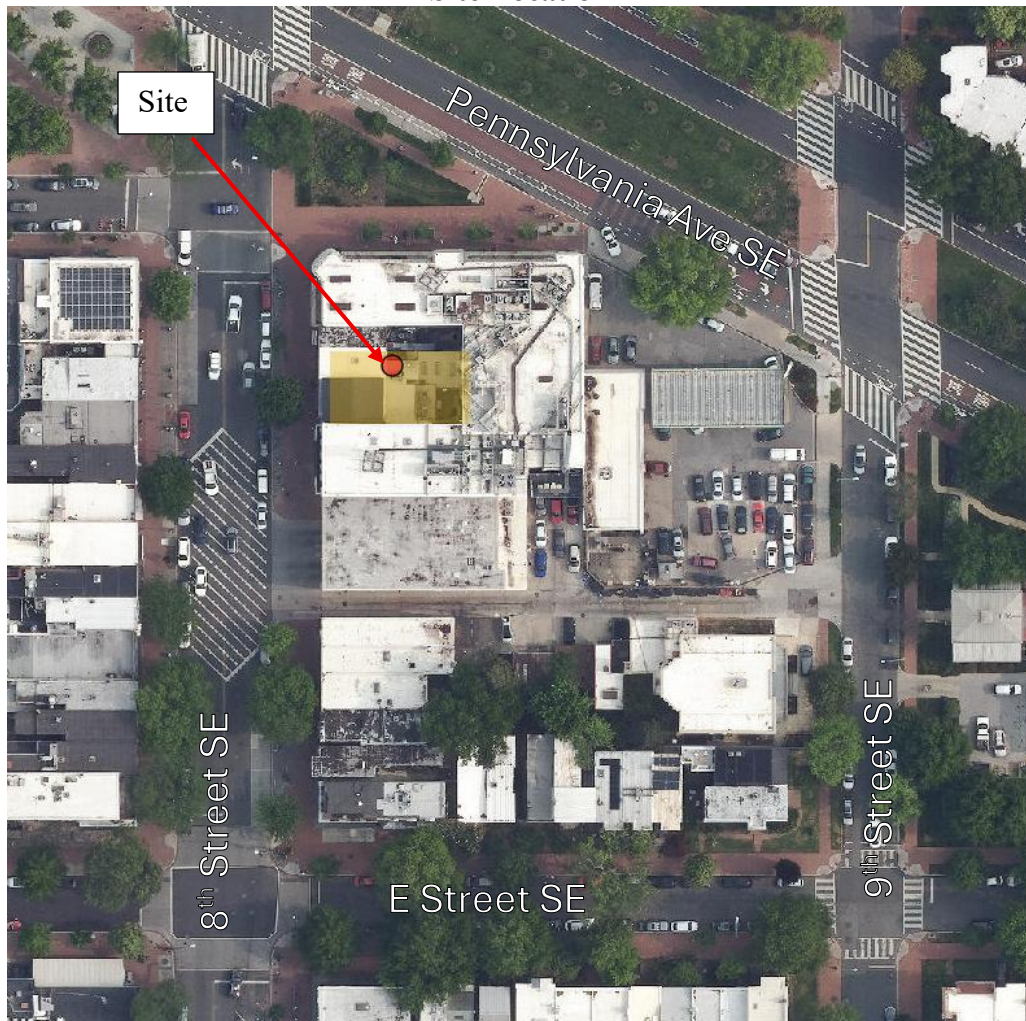
The applicant has proposed a series of conditions at [Exhibit 26](#) including conditions related to a 10-year term limit, deliveries, hours of operation, trash and recycling, pest and odor control, and grease collection. Additionally, the applicant has requested minor design flexibility to make changes to the approved plans to address feedback from the Historic Preservation Office or the Historic Preservation Review Board. OP is not opposed to the proposed conditions or the requested flexibility.

II. LOCATION AND SITE DESCRIPTION

Address	406 8 th Street, SE
Applicant:	Emerald Wings, LLC
Legal Description	Square 925, Lot 827
Ward / ANC	Ward 6; ANC 6B
Zone	MU-4/CHC Mixed USE/Capitol Hill Commercial Overlay District
Historic District or Resource	Capitol Hill
Lot Characteristics	The site is a lot measuring 2,888 SF in area on the east side of 8 th Street SE.
Existing Development	The subject property is development with an attached, three-story brick building that has ground floor retail and office uses above.

Adjacent Properties	The building is situated between a three-story brick building to the north with commercial ground floor use and a four-story brick building to the south, with a grocery store on the ground floor.
Surrounding Neighborhood Character	The surrounding neighborhood is mixed with two- to four-story buildings with commercial uses on the ground floors. There is also a fire station, and one building to the south of the subject property.
Proposed Development	The Applicant proposes to reconfigure the existing tenant space on the first floor of the building, which consists of approximately 1,274 square feet of GFA, to accommodate a Wingstop fast food restaurant. Proposed hours of operation: 10:30 am – 1:00 am daily with option to go to 3:00 am as needed.

Site Location



III. OFFICE OF PLANNING ANALYSIS

A. Fast Foot Establishments Subtitle U § 513.1(e)

Subtitle U § 513.1(e) permits a fast-food establishments or food delivery service eating and drinking establishments in any of the MU-4 zones, 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; and*
 - (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 use is not within a detached building.

- (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;***

The applicant does not propose providing a dumpster enclosure. Therefore, the applicant requests special exception relief from refuse dumpster requirements. The applicant would instead store trash on-site in an enclosed refrigerated area and will be collected five days a week on the abutting curb on 8th Street SE. The proposed location for trash and recycling would not be within ten feet of a residential zone.

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

No drive-through is included with the proposed use.

- (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 applicant proposes a pollution control unit (PCU) as part of the exhaust system to mitigate any foul odors from the fast-food operation. They also propose monthly extermination services. There should be no negative impacts stemming from lights or noise from the establishment. The proposed hours of operation are similar to other fast-food establishments on the corridor.

- (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;*

Pursuant to Subtitle C § 701.5, a fast food restaurant requires minimum of 1.33 vehicle parking spaces per 1,000 square feet in excess of 3,000 square feet; one (1) short-term bicycle parking space for each 3,500 square feet; and at least one loading berth and adjacent loading platform for a food and alcohol service-related use consisting of 5,000-20,000 square feet of gross floor area (“GFA”). The proposed

fast-food square footage does not exceed 3,000 square feet and therefore, is not required to provide parking.

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

Upon completion of the 8th Street, SE Bus Priority, on-street parking will no longer be permitted on the eastern side of the street, in front of the subject property. The lane will be a painted dedicated bus-only lane, which will prohibit vehicle parking or standing. There will also be signage that restricts parking at all times along the eastern block. The applicant states that DPW and the Clear Lanes Program will further enforce no parking in travel lanes through the use of camera technology to identify illegally parked vehicles.

There will be short-term 10-minute paid on-street vehicle parking on the western side of the street. There will also be a nearby designated parking corral for on-street micromobility.

- (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;*

The applicant provided conditions that include a 10-year term limit, hours of operation, trash and grease storage and collection procedures, pest control, and pollution control. Please see Appendix A of this report for the complete list of conditions. The proposed conditions are similar to those for other fast-food restaurants on the corridor. OP does not object to the applicant's proposed conditions and does not recommend additional conditions.

B. Special Exception Review Standards Subtitle X § 901

- 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 MU-4 zone encourages a mix of moderate-density residential, employment, retail, service, and other related uses at appropriate densities and scales. The MU-4 zone also is intended to preserve and enhance existing commercial nodes and surroundings by providing an appropriate scale of development and a range of shopping and service opportunities. The intent of the fast-food special exception requirements is to allow certain otherwise restricted uses to operate while mitigating and controlling possible adverse impacts the use may have on the surrounding areas. The fast-food special exception requirements also intend to ensure a project satisfies all general and specific statutory conditions through the BZA review process. Similarly, the requirements aim to ensure there are no negative impacts on the public

right-of-way. The proposed fast-food use is anticipated in the zone, provided the special exception conditions can be adequately addressed by the applicant.

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

The proposed use would be located on a commercial corridor where fast food and restaurant use are common and should not unduly impact surrounding properties along 8th Street, SE. The applicant has proposed a number of conditions to alleviate any potential negative impacts including maintenance of the rear courtyard, noise and pest control. As stated above, proper measures will be in place to prohibit vehicles from idling in front on the business. The applicant has committed to installation of a PCU to mitigate noxious odors, trash collection six days a week, and monthly pest control.

(c) Subject in specific cases to the special conditions specified in this title.

The request meets all of the conditions for the granting of a special exception pursuant to this section with the exception of Condition U § 513.1(e)(2) regarding the refuse dumpster. The applicant has requested special exception relief from this condition and has provided an alternate method of on-site trash storage. There are no other special conditions specified in this title pertinent to this use.

C. Design Flexibility

The property is located in the Capitol Hill Historic District and therefore must be reviewed by the Historic Preservation Review Board (HPRB). The applicant requests minor design flexibility from the approved architectural plans as detailed Appendix A, Condition 9. OP does not object to this request with the understanding that there will be no modifications to the intent of the conditions related to trash and recycling storage and collection and pollution control, and there is no conflict to the zoning regulations.

IV. COMMENTS OF OTHER DISTRICT AGENCIES

At Exhibit 29, FEMS states that they do not object to the proposed fast-food use. There are no other comments from District agencies at the filing of this report.

V. ANC COMMENTS

To date, comments from ANC 6B have not been filed to the record.

VI. COMMUNITY COMMENTS

At the time of this report there is a letter of opposition in Exhibit 20 and a request for party status from several property owners in support in Exhibit 27.

APPNEDIX A

Applicant's Proposed Conditions

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 pickups 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.