

ANC 4C's Response to Applicant's Proposed Conditions

ANC 4C wishes to reiterate our desire for the Application to be denied. But in the case that it is approved, we appreciate the opportunity to provide additional feedback on the possible conditions in the Board's order.

1. Pest Control

ANC 4C supports monthly extermination services.

ANC 4C also requests daily collection (on days the business is open) of any litter that would reasonably be associated with the business. Chicken parts and food packaging from the business are the two types of litter that ANC 4C has in mind. We ask this in the same spirit as the Winter Sidewalk Safety Act, which requires business owners to clear snow from sidewalks. Similarly, we would ask the business to collect litter from the space between their property and the street curb or alley. For example:

Within both the outdoor space on their lot and the outdoor space directly between their lot and the street or alley, the Applicant will collect and properly dispose of any litter reasonably associated with their business. The Applicant shall do this at least once on each day they are open, as part of the business's daily closing tasks.

2. Grease Management and Odor

ANC 4C supports the grease trap plans.

ANC 4C continues to have concerns about odor but appreciates that the roof-level exhaust is better than street-level exhaust. If there are any filtration or treatment technologies that would eliminate some of the exhausted odor, ANC 4C would support their use.

3. Trash Storage

ANC 4C supports the trash storage plans.

4 & 5. Anti-Littering Sign & Customer Trash Receptacle

ANC 4C supports an anti-littering sign and a customer trash can.

To reiterate the comment under Pest Control:

ANC 4C also requests daily collection (on days the business is open) of any litter that would reasonably be associated with the business. Chicken parts and food packaging from the business are the two types of litter that ANC 4C has in mind. We ask this in the same spirit as the Winter Sidewalk Safety Act, which requires business owners to clear snow from the sidewalks that front or abut their property. Similarly, we would ask the business to collect litter from the space between their property and the street curb or alley. For example:

Within both the outdoor space on their lot and the outdoor space directly between their lot and the street or alley, the Applicant will collect and properly dispose of any litter reasonably associated with their business. The Applicant shall do this at least once on each day they are open, as part of the business's daily closing tasks.

6. Community Point of Contact

ANC 4C supports the community contact.

ANC 4C would like this condition to explicitly include both the business and the property owner. For example:

a. The owner of 3831 Georgia Ave NW and the owner of the ground-floor tenant shall each designate a local point of contact for ANC 4C and surrounding neighbors to address operational questions or concerns.

b. The owner of 3831 Georgia Ave NW and the owner of the ground-floor tenant shall each respond to inquiries within a reasonable timeframe and shall make reasonable efforts to meet informally with community members to discuss and resolve concerns that are not otherwise addressed.

7. Time Limitation

ANC 4C supports a time limitation.

We request that the term be less than 10 years. 3-5 years is our preference. A term shorter than the lease period would be beneficial to the community because it would create a strong incentive for the Applicant to earn the community's trust.

8. Hours of Operation

ANC 4C's concerns regarding hours of operation are based on other conditions like noise, light and wages, rather than the actual hours.

9. Noise

ANC 4C supports a 55-decibel limit on operations.

ANC 4C would like to extend this to the operations of the delivery drivers as well, at least while they are within a block of the business, since this business will be delivery-focused. For example:

The Applicant shall conduct its operations and maintain all equipment associated with the premises such that sound originating from business operations, including contracted delivery services, does not exceed 55 decibels inside any nearby residence, as measured with the doors of both the premises and the residence closed.

10. Lighting

ANC 4C supports conditions on lighting.

In addition to the proposed text, we would like a measurable metric, like the 55-decibel limit for Noise. We proposed a limit to match the brightness of a typical living room. Based on our research, this meant a limit of 50-100 lux shining on a neighbor's window. We are open to a higher value if necessary. We are also open to this value only applying after a specific time. For example:

The Applicant shall make reasonable efforts to shield and/or redirect exterior lighting fixtures away from residential windows, consistent with applicable law and the lighting necessary for safe operation of the premises, such that illuminance originating from the business does not exceed 80 lux on any nearby residential windows.

11. Security

ANC 4C supports this condition so long as it does not lead to light pollution or over-policing.

12. Traffic, Delivery Management, and DDOT Coordination

For part a, ANC 4C requests that the pickup instructions do more than “encourage”. We request that the instructions inform drivers that they will be prohibited from collecting their order unless they are in compliance. For example:

The Applicant shall, where delivery platforms allow, include pickup instructions informing delivery drivers that they will not be served unless they comply with all applicable traffic and parking laws and are not obstructing travel lanes, sidewalks, driveways, or neighboring properties.

For part b, ANC 4C supports the creation of additional parking for two-wheeled vehicles in the forms of both street parking and bike racks.

For part c, ANC 4C asks for stronger language. Businesses that serve alcohol cannot serve it to minors, full stop. Policies and training are not sufficient. We seek a similar prohibition for serving to improperly parked drivers. For example:

The Applicant will not serve orders to, or accept deliveries from, any person whose vehicle is stopped in an active travel lane of Georgia Avenue, NW. Emerald Wings will ensure that its employees are reasonably able to observe the area of Georgia Avenue, NW immediately in front of the premises, whether through the storefront windows or an interior camera, in support of this commitment.

Other Requested Items

ANC 4C appreciates that the Applicant has shared some communication with the property owner. We remain disappointed, however, by the lack of information.

The owner has failed to detail all 10 prospective tenants. The owner also fails to disclose the amount of money they were seeking from these tenants. This insufficient communication is emblematic of why ANC 4C does not feel it can trust the Applicant.

ANC 4C believes our local storefronts are empty primarily because of high rents, rather than from lack of interest. This email demonstrates interest in the space and does nothing to disprove the notion of high rents.

Additional Conditions

ANC 4C would like to request the following conditions be included in any order from the Board.

13. Wage Equality

As noted in my submitted testimony, we believe the Board has the authority to issue conditions in zone NMU-7b/GA for the benefit of workers. This authority comes from Subtitle H §§ 101.2(e) and 800.3, pursuant to Subtitle X § 901.4.

Minors in DC may be paid as little as \$7.25 per hour, less than half of DC's living wage. Their time is worth just as much, if not more, than adults'. In these economically precarious times, we know that minors in our community are often working to support their family or themselves. As such, paying them less than the living wage – especially in light of the Applicant's anticipated profits of up to \$400,000 per year – is exploitation.

Thus, we ask for the following condition in order to prevent age discrimination and the exploitation of children:

The Applicant shall pay all their workers no less than the adult minimum wage in DC.

Closing Thoughts

ANC 4C thanks the Board for their careful consideration of this Application.

We still believe the Board should deny this Application. Even with the conditions proposed by the Applicant:

- The Applicant fails Subtitle X § 901.2(a), per
 - Subtitle G § 101.3(f) & Subtitle H § 101.2(c)
 - Subtitle G § 101.3(g)
 - Subtitle H § 101.2(e)
 - Subtitle H § 800.1(a)
- The Applicant fails Subtitle X § 901.2(c), per
 - Subtitle H § 6007.1(e)(2)(G)
- The Applicant fails Subtitle X § 901.3, per
 - Insufficient evidence against impacts of odors, drivers, and prosperity

If the Board does approve the Application, we ask that the Board include the suggestions we've made. I am happy to discuss any suggestion in more detail at the Board's convenience.

We also ask, per the requirements of "great weight", for written explanation of the decision against each point in our Form 129 report. We are particularly interested in any legal explanation that would prohibit the Board from

(1) considering financial aspects (like wealth extraction or wages) when deciding to approve or deny or

(2) including financial conditions in an order (especially in zone NMU-7B/GA).

If any part of this might delay the Board's decision, we humbly remind the Board that the Applicant spent many weeks negotiating with the community for their other location and that we should not be asked to give this Application less than its due because of the Applicant's poor planning.

Yours,

Michael Warburton
box SIGN 4KYQ3J9W-4P9ZJYY9

Mike Warburton, ANC 4C