

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-03**

Z.C. Case No. 13-03

**Forest City SEFC, LLC on behalf of the United States General Services Administration
(Southeast Federal Center Overlay Review of Three Parking Lots)**

April 11, 2013

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on April 11, 2013 to consider an application by Forest City, SEFC, LLC ("Applicant") for property owned by the United States General Services Administration ("GSA"), for review and approval to use three temporary parking lots for five years pursuant to the standards set forth in the Southwest Federal Center Overlay District at 11 DCMR § 1808

The property that is the subject of this application consists of portions of the Southeast Federal Center ("SEFC") identified as Parcels H/I, L, and Q (Sq 744, Lot 806, Sq 771, Lot 800; and Parcel Q) ("Property"). The Commission considered the application pursuant to Chapter 30 of the Zoning Regulations. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022 For the reasons stated below, the Commission hereby approves the application

FINDINGS OF FACT

Application, Parties, and Hearing

- 1 The Property consists of approximately 286,642 square feet of land and is located in the SEFC/CR, SEFC/R-5-E, and SEFC/R-5-D Zone Districts
2. The Property is located on land that is owned by the federal government, but was authorized for private development by an Act of Congress in 2000 (*See*, Southeast Federal Center Public-Private Development Act of 2000, Pub. Law. 106-407 (2000) ("Act"))
- 3 On February 14, 2003, GSA filed a petition requesting that the Commission establish zoning for approximately 42 acres of the Southeast Federal Center This petition also resulted from numerous area planning initiatives affecting the SEFC The Commission took final action to adopt the map and text amendments on March 8, 2004, and the amendments became effective upon their publication in the *D C Register* on July 9, 2004.
- 4 The SEFC Overlay calls for the development of a mix of residential and commercial uses within the Southeast Federal Center, including high-density residential development and a variety of retail and service uses, within the context of a transit- and pedestrian-oriented design The SEFC Overlay also grants the Commission jurisdiction to approve the use of the Property for temporary parking lots or garages. (11 DCMR § 1803 2(o))
- 5 The Commission previously approved the Applicant's request for three temporary parking lots (Parcels H/I, O, and Q) in Z.C Order No. 07-17

6. On January 31, 2013, the Applicant filed an application, on behalf of GSA, requesting review and approval, permitted by § 1803.2(o) of the Zoning Regulations to use three temporary parking lots for five years pursuant to the standards set forth in the Southwest Federal Center Overlay District at 11 DCMR § 1808. (Exhibit ["Ex."] 3.)
7. After proper notice, the Commission held a hearing on the application on April 11, 2013. Parties to the case were the Applicant and Advisory Neighborhood Commission ("ANC") 6D, the ANC within which the Property is located.
8. At a duly noticed meeting on March 11, 2013, ANC 6D voted 5-0 to support the application for temporary parking lots and in its letter, dated March 15, 2013, ANC 6D recommended approval of the application. (Ex. 13.)
9. The Office of Planning ("OP") filed a report recommending approval and testified in support of the application at the public hearing, subject to three conditions: (1) landscape restoration of all lots prior to approval for construction of any new parking on Parcel Q; (2) construction of a bike connection between Water Street and Navy Yard river walk; and (3) additional landscape screening on the south end of Parcel Q, adjacent to Yards Park. (Ex. 16.) OP also noted that the development of the SEFC neighborhood has been active since the original approval of the temporary parking lots in Z.C. Case No. 07-17 and that future projects are in the pipeline. Condition 1 is included as a Condition of this Order. OP withdrew its recommended Condition 2 after the Applicant demonstrated at the hearing that there is an existing network of bike connections between Water Street and the river walk. The Applicant testified at the hearing that OP's proposed Condition 3, additional landscape screening, could interfere with its proposed stormwater management system. As a compromise, the Applicant offered to include the enhanced landscape screening if the District Department of the Environment determines that the screening would not interfere with the stormwater system. The Commission believes that the Applicant's proposal is a reasonable balance between OP's desire to provide adequate buffering between the parking lot and the riverfront park, and the preservation of the Applicant's stormwater management system. This compromise condition is incorporated in this Order.
10. The District Department of Transportation ("DDOT") filed a report in support of the application, subject to three conditions: (1) the number of parking spaces permitted on Parcel Q should not exceed the number of spaces currently provided on Parcel N; (2) Parcel Q should not operate as a parking lot until the existing lot on Parcel N is no longer accessible; (3) and the Applicant should provide a pathway for users from Water Street, S.E. to the Anacostia Riverfront Trail. (Ex. 15.) In its report, DDOT determined that the proposed parking lots are not likely to have a significant impact on the travel conditions of the District's transportation network. DDOT did not support net increases of surface parking spaces within the Yards Waterfront Redevelopment area. Regarding DDOT's proposed Condition 1, the Applicant testified at the hearing that it was

proposing 199 spaces for Parcel Q, and that Parcel N currently provides 160 spaces. The Applicant further testified that the additional spaces were needed to serve the retail and office uses in the historic Boilermaker and Lumbershed buildings. The Applicant is currently developing these buildings with a combined 70,000 square feet of retail and office uses, and they will open in 2013. Because of their historic nature, the buildings do not have any on-site parking. The Commission is persuaded that the 39 additional spaces are justified given the new retail and office uses included in these buildings. Condition 2 is incorporated into this Order. With respect to Condition 3, as mentioned above in connection with OP's parallel request for a bike connection between Water Street and the river walk, the Applicant testified that a network of trails connecting Water Street and the Navy Yard river walk already exists. The Commission is persuaded that a condition requiring an additional trail was not necessary to address an adverse impact of the Applicant's proposal, given these existing connections.

11. Pursuant to § 3012.1 (a)(1) all Chapter 18 applications are submitted to the National Capital Planning Commission ("NCPC") for review and comment. Through a letter dated March 12, 2013, the NCPC Executive Director indicated that pursuant to delegated authority he found that the proposed development would not be inconsistent with the Comprehensive Plan for the National Capital. (Ex. 12.)
12. Erwin Anders, PE, of Gorove/Slade Associates submitted a Transportation Analysis and appeared as an expert witness at the April 11, 2013 public hearing on behalf of the Applicant. (Ex. 14, Tab I.)
13. The Commission took action at the April 11, 2013 public hearing to approve the plans submitted into the record and the relief requested.

Description of the Surrounding Area

14. The Property is located within The Yards site, which is bounded by the following: M Street, S.E. and Tingey Street, S.E. to the north; 1st Street, S.E. to the west; the existing Washington Navy Yard to the east; and the Anacostia River to the south. A District of Columbia Water and Sewer Authority Pumping Station facility lies adjacent to the south and west sides of the Yards' site.
15. The Property is currently zoned SEFC/CR, SEFC/R-5-E, and SEFC/R-5-D, all districts in which temporary parking lots are permitted for a maximum period of five years after review and approval by the Commission.

Project Overview

16. The Applicant is requesting approval to use three temporary parking lots for five years pursuant to §§ 1803.2(o) and 1804.2(g).

17. "Parcel H/I" is located along the south side of N Street, S.E. between 1st and Canal Streets, S.E., on two parcels of land on Lot 806 in Square 744 and consists of approximately 126,880 square feet. This parcel is zoned SEFC/CR. This parcel was approved in Z.C. Order No. 07-17 (May 12, 2008) for 416 parking spaces and currently provides 394 parking spaces. The Applicant requests permission to renew the approval of the use of this parcel as a temporary parking lot for a term of five years.
18. "Parcel L" is located on the southeast corner of Tingey Street, S.E. and 2nd Street, S.E. on Lot 800 in Square 771 and consists of approximately 69,385 square feet. This parcel is zoned SEFC/R-5-E. This parcel currently provides 196 parking spaces, but no prior Commission approval was granted. The Applicant requests permission to use this parcel as a temporary parking lot for a term of five years.
19. "Parcel Q" is located along Water Street, between 4th Street, S.E. and 5th Street, S.E. and consists of approximately 90,377 square feet. This parcel is zoned SEFC/R-5-D. This parcel was approved in Z.C. Order No. 07-17 (May 12, 2008) for 236 parking spaces but has not yet been constructed. The Applicant requests permission to renew the approval of the use of this parcel for 199 parking spaces as a temporary parking lot for a term of five years.
20. The total number of parking spaces requested in these three temporary parking lots is 789, which is a net increase of only four spaces from what was approved in Z.C. Order No. 07-17 (May 12, 2008).

Zoning Overview

21. The proposed Project meets the Commission's review standards set forth in § 1808 of the SEFC Overlay as follows:
 - a. The development of these sites as temporary Parking Lots will help encourage and support residential and commercial development, including visitor-related uses, within the SEFC in accordance with § 1802.2, 1802.3, and 1802.4; and
 - b. The proposed Parking Lots are temporary. As the development of the Property progresses, the Parking Lots will be replaced with residential and non-residential buildings. When they are constructed, these buildings will provide either underground garages or other enclosed parking which will not be visible from the street. In the interim, the surface Parking Lots are landscaped with grass, trees, and shrubs.
22. The proposed Project also furthers the additional criteria for approval set forth in § 1808.2 of the SEFC Overlay as follows:

- a. The landscaping for the parking lots on Parcels H/I and L currently include a variety of trees, shrubs, perennials, roses, and grasses that will screen the parking lots and provide four-season interest through the use of color, foliage, and textures. The landscaping for the proposed parking lot on Parcel Q will also include these elements; and
 - b. Most of the plant materials proposed are native to the region and should provide a relatively low-maintenance landscape screen and provide a minimum of heat and glare reduction. The Applicant has complied with all applicable storm water plan review and erosion control permits for Parcels H/I and L and will go through the same process for Parcel Q.
23. The proposed Project also meets the special exception test set forth in § 3104.1 as follows:
- a. The proposed Parking Lots are temporary, as allowed in the SEFC Overlay District. Temporary parking lots are allowed for a maximum of five years at which time they may be renewed by the Zoning Commission. Therefore, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations; and
 - b. The special exception will not tend to adversely affect the use of the neighboring properties in accordance with the Zoning Regulations and Maps. The subject properties have historically been used for parking and industrial purposes. The parcels are currently paved or will be repaved to current standards and will have landscaping to improve their appearance.

CONCLUSIONS OF LAW

1. As required by 11 DCMR § 1809, the Commission required the Applicant to satisfy the burden of demonstrating conformance to the standards that are necessary to approve the temporary parking lots under § 1808.
2. Based upon the record before the Commission, having considered the reports and testimony OP and DDOT provided in this case, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR § 1808, which includes the standards set forth in § 3104 for a special exception and the specific standards relating to achieving the objectives of the SEFC Overlay District as set forth in § 1802.
3. The Commission provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to ANC 6D, OP, and to owners of property within 200 feet of the Property.

4. Approval of the proposed development is not inconsistent with the Comprehensive Plan.
5. The Commission is required under § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)) to give “great weight” to the issues and concerns of the affected ANC expressed in its written report. As reflected in the Findings of Fact, at its duly noticed meeting held on March 11, 2013, ANC 6D voted 5-0 to support the application for temporary parking lots and in its letter, dated March 15, 2013, ANC 6D recommended approval of the application.
6. The Commission is also required to give great weight to the recommendations of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code §6-623.04). As reflected in the Findings of Fact, OP presented a report and testimony at the public hearing in support of the application with conditions, which are reflected in the decision below.
7. The Commission finds these expressions of support to be persuasive and agrees with the recommendations that the application should be granted. In doing so the Commission has afforded the ANC and OP the great weight required by statute.
8. Based on the record before the Commission, having given great weight to the views of OP and the ANC, the Commission concludes that the Applicant has met the burden of satisfying the applicable standards under 11 DCMR § 1808 as well as the burdens of proof for a special exception.
9. The project that is the subject of this application will promote the development of the SEFC into a viable mixed-use neighborhood which is in conformity with the entirety of the District of Columbia zone plan, as embodied in the Zoning Regulations and the Zoning Map of the District of Columbia.

DECISION

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission **ORDERS APPROVAL** of the application for SEFC Overlay District review for three temporary parking lots for a period of five years. This approval is subject to the following guidelines, conditions, and standards:

1. The Project shall be built in accordance with the plans marked as Tabs E, F, and G of Exhibit 14 of the record.
2. The Applicant shall provide landscape restoration of all lots (Parcels H/I and L) prior to approval for construction of any new parking on Parcel Q.

3. Additional landscaping screening shall be installed on the south end of Parcel Q, adjacent to Yards Park, provided that the District Department of the Environment determines that such additional landscaping does not interfere with the approved storm water measures for Parcel Q.
4. Parcel Q shall not operate as a parking lot until such time that the existing surface parking on Parcel N is no longer accessible.
5. This Order shall be valid for a period of five years from the effective date of this Order.
6. 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.

On April 11, 2013, upon the motion of Commissioner Miller, as seconded by Commissioner Turnbull, the Zoning Commission **ADOPTED** this Order at the close of its public hearing by a vote of **4-0-1** (Anthony J. Hood, Marcie I. Cohen, Robert E. Miller, and Michael G. Turnbull to adopt; Peter G. May not present, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on July 5, 2013.