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Executive Director
Marcel C. Acosta

**IN REPLY REFER TO:
NCPC File No. Z.C. 10-18**

NOV 09 2010

**Zoning Commission of the
District of Columbia
2nd Floor, Suite 210
441 4th Street, NW
Washington, D.C. 20001**

Members of the Commission:

Pursuant to delegations of authority adopted by the Commission on August 6, 1999, I found that the text amendment to allow additional flexibility for fast food establishments and prepared food shops on Lot 127 in Square 375 would not be inconsistent with the Comprehensive Plan for the National Capital, nor would it adversely affect any other federal interests. A copy of the Delegated Action of the Executive Director is enclosed.

Sincerely,

**Marcel C. Acosta
Executive Director**

Enclosure

**cc: Harriet Tregoning, Director, D.C. Office of Planning
Anthony Hood, Chairman, Zoning Commission**

**ZONING COMMISSION
District of Columbia**
CASE NO. 10-18
EXHIBIT NO. 14

**ZONING COMMISSION
District of Columbia
CASE NO.10-18
EXHIBIT NO.14**

**AMENDMENTS TO THE ZONING REGULATIONS OF THE DISTRICT OF COLUMBIA
CHAPTER 17, DOWNTOWN DEVELOPMENT OVERLAY, SECTIONS 1703 AND 1711,
TO ALLOW ADDITIONAL FLEXIBILITY FOR FAST FOOD ESTABLISHMENTS AND
PREPARED FOOD SHOPS ON LOT 127 WITHIN SQUARE 375**

Washington, D.C.

Submitted by the Zoning Commission of the District of Columbia

Delegated Action of the Executive Director

OCT 28 2010

Pursuant to delegations of authority adopted by the Commission on August 6, 1999, 40 U.S.C. §8724(a), and DC Code §2-1006(a), I find that the text amendments to allow additional flexibility for fast food establishments and prepared food shops on Lot 127 within Square 375 would not be inconsistent with the *Comprehensive Plan for the National Capital*, nor would they adversely affect any other identified federal interests.

* * *

The Zoning Commission of the District of Columbia has taken a proposed action to approve text amendments to Chapter 17, Downtown Development Overlay, sections 1703 and 1711 Zoning Regulations of the District of Columbia (Title 11 of the District of Columbia Municipal Regulations (DCMR)). The District of Columbia Office of Planning requested the text amendments to allow additional flexibility for fast food establishments and prepared food shops on Lot 127 within Square 375.

Square 375 is bounded by H Street, NW (on the north), 9th Street, NW (on the east), G Street, NW (on the south), and 10th Street, NW (on the west). G Place, NW runs east/west through the center of the square. Lot 127 is located along 10th Street NW, between G Place, NW and G Street, NW. The Martin Luther King Jr. Memorial Library is located immediately east of the lot.

Square 375 is located in the DD/C-4 zone. The C-4 Central Business District zone encompasses the downtown office and retail core of the District of Columbia. The zone permits a variety of retail, commercial, and business uses including high-density, mixed-use development. The

Downtown District Overlay (DD) is designed to accomplish the land use and policy objectives found within the *Comprehensive Plan for the National Capital: District Elements* for the downtown shopping district and retail core. Square 375 is subject to both the area-wide and site-specific use and design standards of the DD overlay. The portion of the Square south of G Place NW is also part of the Downtown Arts District. As a result, development within this square, and in particular on Lot 127, is subject to several layers of use requirements within the zoning regulations, all aimed at creating arts-related or arts-supporting uses in downtown and concentrating retail and service uses at the ground level on certain streets.

A mixed-use structure is currently under construction on Lot 127 with retail and church uses on the first floor and office space above. The available 3,946-square-foot retail space was originally designed as space for the church and has physical constraints, such as low ceiling heights and a location in a non-retail corridor, that makes it difficult to market for the preferred uses for this lot within the Zoning Regulations. As such, the developer of the structure on Lot 127 would like to 1) exempt Lot 127 from the gross floor area restriction on fast food establishments and prepared food shops within the Downtown Shopping District under section 1703, and 2) allow on Lot 127 fast food establishments and prepared food shops as an arts-related use under section 1711. The proposed text amendments will only expand the types of uses that can be considered as restaurants in this location. The current zoning regulations do not anticipate or address casual dining or fast-casual dining restaurants within the definitions provided, which the developer believes the space can be marketed to. These types of restaurants accommodate both carryout and "sit-down" dining, often with limited table service and the use of non-disposable tableware. However, since customers are required to order at a counter and pay prior to receiving their food, they are categorized as fast food establishments within the zoning regulations. The proposed text amendments do not have an effect on the church use within the development on Lot 127.

The proposed text amendments to Chapter 17 are as follows (in bold):

1703 DOWNTOWN SHOPPING DISTRICT (RETAIL CORE)

- 1703.3 Each new or altered building that faces or abuts a public street shall devote all of the ground floor leasable space to the retail and service uses listed in § 1710 or the arts and arts-related uses listed in § 1711; provided:
- (a) The gross floor area devoted to the retail, service, arts and arts-related uses listed in §§ 1710 and 1711 shall be no less than 0.5 FAR on the ground floor;
 - (b) Not more than 20% of the required gross floor area on the ground floor shall be occupied by banks, loan offices, other financial institutions, travel agencies, or other transportation ticket office, prepared food shops, fast food establishments, printing or fast copy services, newsstands, dry cleaners, or any combination thereof; **except that on lot 127 in Square 375, measured as 109.04 feet parallel to 10th Street NW from G Street, NW to G Place, NW, fast food establishments and prepared food shops shall not be subject to the 20% limit;**
 - (c) This ground floor use requirement shall not apply to a building that is devoted entirely to hotel or apartment house use or to a church or other place of worship; and
 - (d) In the applicable sector of the Downtown Arts District, that is Squares 254, 290, 321, 347, 377, 376, and 375 (south of G Place), uses that are listed in section 1711 shall comprise not less than 50% of the gross floor area required to be devoted to preferred uses.

1711 ARTS USES AND ARTS-RELATED USES

- 1711.1 For the purpose of this chapter, the following uses are preferred arts uses and arts related retail and support uses:
- (a) Art Center;
 - (b)...
 - (y) Fast food establishments (excluding drive-through) and prepared food shops, only within those portions of Square 375 that are east of a line parallel to 10th Street extending 109.04 feet from G Street, NW to G Place, NW.**

The proposed text amendments would allow casual dining or fast-casual dining restaurants, along with "traditional" fast food establishments and prepared food shops, to be treated as restaurants, and therefore as preferred uses, within Lot 127. In this case, the requested text change would practically result in a 3,946-square-foot space that could be devoted entirely to these types of eating establishments as opposed to the 911 square feet that the Zoning Regulations currently allow. The proposed text amendments would not preclude use of the space for any of the other preferred uses found in section 1711.

The proposed text amendments would provide additional ground-floor retail opportunities within a downtown square that is currently lacking such uses, and the proposed expansion of restaurant uses on lot 127 is appropriate and complementary to the proposed office uses on the site and those existing nearby. The proposed text amendments also would not adversely affect identified federal interests and are not inconsistent with the *Comprehensive Plan for the National Capital*.



Marcel C. Acosta
Executive Director