

EXHIBIT F

ZONING COMMISSION
District of Columbia
CASE NO. 14-23
EXHIBIT NO. 12
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 13-16
Z.C. Case No. 13-16

Forest City SEFC, LLC on behalf of the United States General Services Administration
(Southeast Federal Center Overlay Review @ Square 743, Lot 854 [Parcels A, F, and G])
February 3, 2014

Pursuant to notice, the Zoning Commission for the District of Columbia ("Commission") held a public hearing on February 3, 2014 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 allow the temporary use for five years of (i) Parcel G as a trapeze school (11 DCMR § 1803.2(m)) and (ii) Parcel F as a parking lot consisting of 208 parking spaces (§ 1803.2(o)) pursuant to the Commission's review standards and special exception requirements (§§ 1803, 1808, 1809, 3103, and 3104) ("Application").

The property that is the subject of this Application consists of portions of the Southeast Federal Center ("SEFC") identified as Parcels A, F, and G (Square 743, Lot 854) ("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 260,902 square feet of land and is located in the SEFC/CR Zone District.
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 SEFC, 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 a school and temporary parking lot (§ 1803.2(m) and 1803.2(o)).
5. On November 27, 2013, the Applicant filed the Application, on behalf of GSA, requesting review and approval to allow the temporary use for five years of (i) Parcel G as a trapeze school (11 DCMR § 1803.2(m) (“Trapeze School”) and (ii) Parcel F as a parking lot (“Parking Lot”) consisting of 208 parking spaces (§ 1803.2(o)) pursuant to the Commission’s review standards and special exception requirements (§§ 1803, 1808, 1809, 3103 and 3104) set forth in the Southwest Federal Center Overlay District at § 1808. (Exhibit [“Ex.”] 7.)
6. A Transportation Analysis, prepared by Gorove/Slade, was submitted into the record. (Ex. 7K.)
7. After proper notice, the Commission held a hearing on the Application on February 3, 2014. 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 January 13, 2014, ANC 6D voted 6-0 to support the Application and in its letter, dated January 24, 2014, ANC 6D recommended approval of the Application. (Ex. 21.)
9. The Office of Planning (“OP”) filed a report, dated January 24, 2014, noting the Applicant had demonstrated compliance for Special Exception approval to permit a temporary Parking Lot on Parcel F and a Trapeze School on Parcel G. (Ex. 24.) OP also testified in support of the Application at the public hearing and asked the Applicant to consider continuing the landscaping proposed on Parcel F (the location of the temporary Parking Lot) north along First Street to M Street (the location of the open space in Parcel A) which the Applicant agreed to as evidenced by the Applicant’s February 12, 2014 post-hearing submission into the record. (Ex. 31.)
10. The District Department of Transportation (“DDOT”) filed a report, dated January 24, 2014, and concluded that the transportation impacts of the proposed increase in temporary parking spaces were negligible. (Ex. 20.) In its report, DDOT stated its expectation that the Applicant will upgrade the existing pedestrian infrastructure surrounding its site to current standards including sidewalks, tree boxes, crosswalks, and curb ramps, and that DDOT would work with the Applicant during the public space permitting process on the design of the public space. In response to the DDOT report, the Applicant submitted a draft Infrastructure/Hardscape Plan as part of its hearing PowerPoint presentation. (Ex. 26, p. 10.) DDOT testified at the hearing and requested additional information on the public space improvements. The Applicant, in its post-

hearing submission, updated the Commission of its ongoing work with DDOT with regard to public space improvements. (Ex. 31.)

11. Pursuant to 11 DCMR § 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 February 7, 2014, 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 nor would it adversely affect any other identified federal interests. (Ex. 30.)
12. The Commission took final action at the February 3, 2014 public hearing to approve the case with the condition that the order would not be issued until the Applicant provided a response to the record to the issues OP and DDOT brought up at the hearing regarding landscaping and public space improvements. The Applicant submitted a response into the record on February 12, 2014, which the Commission reviewed as a "correspondence" agenda item at the February 24, 2014 Public Meeting. (Ex. 31.)

Description of the Surrounding Area

13. The Property is located within The Yards site and is bounded by the following streets: M Street, S.E. to the north, New Jersey Avenue, S.E. to the east, 1st Street, S.E. to the west and N Street, S.E. to the south. The Property is currently improved with a building formerly used by the National Geospatial Intelligence Agency building ("NGA"), which is slated to be razed in early 2014. The Property currently provides 230 accessory parking spaces which served the NGA building employees when it was in use.
14. The Property is zoned SEFC/CR, which allows temporary parking lots for a maximum period of five years after review and approval by the Commission pursuant to 11 DCMR § 1803.2(o). The SEFC/CR Zone District also allows the use of schools after review and approval by the Commission pursuant to § 1803.2(m).

Project Overview

15. The Applicant is requesting review and approval to allow the temporary use for five years of (i) Parcel G as a Trapeze School (11 DCMR § 1803.2(m)) and (ii) Parcel F as a Parking Lot consisting of 208 parking spaces (§ 1803.2(o)) pursuant to the Commission's review standards and special exception requirements (§§ 1803, 1808, 1809, 3103, and 3104) ("Project").
16. "Parcel A" is located on the northern portion of the Property and consists of 136,997 square feet of land. The Applicant proposes that this space will be open to the public (unfenced) as a park and open space.

17. "Parcel F" is located on the southwest corner of the Property at the northeast corner of the intersection of N Street and 1st Street and consists of 74,535 square feet of land. The Applicant proposes a temporary Parking Lot comprised of 61,573 square feet of paved area on Parcel F for a total of 208 parking spaces for a term of five years. The number of parking spaces proposed is a reduction of 22 spaces from the 230 spaces currently provided on the Property for use by NGA employees and visitors. The proposed Parking Lot will be available and open to the public and will serve parking needs in the area.
18. "Parcel G" is located on the southeast corner of the Property and the northwest corner of the intersection of N Street and New Jersey Avenue and consists of 50,585 square feet. The Applicant requests approval of the Commission for the use of such parcel for temporary Trapeze School use.

Zoning Overview

19. The proposed Project meets the Commission's review standards set forth in 11 DCMR § 1808 of the SEFC Overlay as follows:
 - (a) The development of this Property proposed by the Applicant is for its use as a temporary Trapeze School and temporary Parking Lot. These uses will help encourage and support residential and commercial development, including visitor-related uses, such as entertainment and cultural uses within the SEFC in accordance with §§ 1802.2, 1802.3, and 1802.4; and
 - (b) All of the uses for the Property are temporary in nature. When the development of the Property occurs in conjunction with Phase III of the Yards, the temporary uses of the Property as a Trapeze School, Parking Lot and open space will be replaced with residential and non-residential buildings. Furthermore, when these buildings are constructed, they will provide either underground garages or other enclosed parking which will not be visible from the street. In the interim, the surface Parking Lot will be landscaped with grass, trees and shrubs.
20. The proposed Project also furthers the additional criteria for approval set forth in 11 DCMR § 1808.2 of the SEFC Overlay as follows:
 - (a) The landscaping for the Parking Lot on Parcel F will include a variety of trees and shrubs that will screen the Parking Lot and provide four-season interest through the use of color, foliage, and textures; 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. In addition, stormwater management for the Parking Lot will be provided through the use of Bio-retention areas for water quality control. During

construction of the Parking Lot, a sediment and erosion control plan will be developed and implemented.

21. The proposed Project complies with surface parking lots landscaping standards set forth in 11 DCMR § 2111.1.
22. The proposed temporary Parking Lot complies with the size, access, maintenance and operation standards for parking spaces set forth in 11 DCMR §§ 2115, 2117, and 2301.
23. The proposed Project complies with the green area ratio standards pursuant to 11 DCMR § 3400.
24. The proposed Project also meets the special exception test set forth in 11 DCMR § 3104.1 as follows:
 - (a) The Trapeze School and Parking Lot will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps; and
 - (b) Neither the Trapeze School nor the Parking Lot will cause objectionable conditions nor will these uses adversely affect neighboring or nearby property. The Trapeze School has operated in Parcel O since 2010 and has had a positive impact on the area and the Ballpark by adding to the variety of recreational uses available to District residents and helping attract people to the waterfront. Initially, the Parking Lot will also have a positive impact on the neighborhood by continuing to serve parking needs driven by construction workers, Navy Yard, USDOT, and other area employees, new area residents and their visitors, Trapeze School instructors and students, and patrons of new restaurant and retail uses within The Yards.

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 lot and school 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. In addition, the Applicant is in compliance with the surface parking lot landscaping standards in § 2111.1; the size, access, maintenance, and operation of parking spaces pursuant to §§ 2115, 2117, and 2301; and compliance with the green area ratio standards of § 3401.2.

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 § 1309.10(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 January 13, 2014, ANC 6D voted 6-0 to support the Application and in its letter, dated January 24, 2014, 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 finding the Applicant demonstrated compliance for Special Exception approval and recommended additional landscaping, which the Applicant agreed to as evidenced by the Applicant’s February 12, 2014 post-hearing submission into the record. (Ex. 31.)
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 to allow the temporary use of (i) Parcel G as a Trapeze School and (ii) Parcel F as a Parking Lot for a period of five years. This approval is subject to the following conditions:

1. The Project shall be built in accordance with the plans marked as Exhibits 7G, 7H, 7I, and 7J.

2. The Parking Lot on Parcel F will contain a maximum of 208 parking spaces.
3. The approvals granted in this Order shall be valid for a period of five years from the effective date of this Order as that date is indicated below.
4. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. 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 February 3, 2014, upon the motion of Commissioner May, as seconded by Chairman Hood, the Zoning Commission **ADOPTED** this Order at the close of its public hearing by a vote of 5-0-0 (Anthony J. Hood, Marcie I. Cohen, Peter G. May, Robert E. Miller, and Michael G. Turnbull to approve).

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 April 11, 2014.


ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION


SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING