

August 16, 2017

**VIA IZIS**

Anthony Hood, Chairperson  
Zoning Commission for the District of Columbia  
441 Fourth Street, NW, Suite 200S  
Washington, DC 20001

**Re: Z.C. Case No. 17-12  
The Yards: Text and Map Amendments to the SEFC Zones  
Prehearing Submission**

Dear Chairperson Hood and Members of the Commission:

On behalf of Forest City SEFC LLC (the “**Applicant**”), we hereby submit the Applicant’s prehearing submission for the above-referenced application. The Commission set down the application for a public hearing as a rulemaking case on July 24, 2017, based on a report of the D.C. Office of Planning (“OP”) dated July 13, 2017 and a report from Advisory Neighborhood Commission (“ANC”) 6D dated July 14, 2017, each recommending setdown.

The Commission did not raise any issues at setdown. In its report, the Office of Planning noted that it would work with the Applicant to provide an analysis of the potential impact of the text amendment on housing and affordable housing in the Southeast Federal Center as well as provide further information regarding the anticipated cultural use on Parcel E. A preliminary response on these matters is provided below.

**Housing and Parcel E Discussion**

As discussed in the initial application, though originally conceived with the best of intentions, in practice the existing underlying zoning fails to achieve the SEFC Master Plan goals for office use due to a number of factors, including an increase in non-office, non-residential uses such as retail and cultural uses, which count against the overall non-residential FAR cap; an inability to create adequate CLD pairs to transfer office density to the proposed office parcels; and evolving site constraints on the eastern part of The Yards, adjacent to the Washington Navy Yard. The Applicant has proposed these

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amendments as a part of a concerted effort to move forward with commercial office development in the Yards, consistent with the approved Master Plan.

Generally speaking, the proposed amendments will not impact the production of housing and affordable housing in The Yards. Historic planning documents related to the development of the SEFC generally anticipated the production of approximately 2,000 housing units across The Yards as a whole. The proposed amendments do not alter the ability to meet this goal, and current forecasts anticipate approximately 2,100 housing units as follows:

- SEFC-1 Zone: Parcel D provides 218 units, and current projections anticipate up to 650 units in this zone on Parcels H and I, which is adjacent to the 600 residential units planned as a part of Forest City's PUD on the former DC Water Sites to the south.
- SEFC-2 Zone: The SEFC-2 zone is fully entitled, with 1,108 units complete or under construction on Parcels L, M, N, and O.
- SEFC-3 Zone: Approximately 130 units are forecasted for Parcel Q, the sole residential parcel in the SEFC-3 zone.

Therefore, the Applicant expects to continue to meet the anticipated housing goals for the SEFC. This is because the proposed zoning changes are not intended to, and in fact do not, materially modify the underlying potential for residential and office development in the former SEFC-1 Zone (nor in the SEFC-2 and SEFC-3 zones, which are not impacted by the amendment). The proposed amendment also makes no changes to the existing commitment that twenty percent (20%) of the rental residential units in The Yards be reserved as affordable for households earning up to 50% of the area median income.

The SEFC-1A Zone will permit 7.0 FAR for any permitted use. Therefore, Parcels A, F, and G, located in the SEFC-1A Zone, will as before be permitted to be developed as either residential or nonresidential use. Market forces will dictate the ultimate use of these parcels, although the Yards West Master Plan carries forward the expectations of the SEFC Master Plan that these parcels will be devoted to commercial office use. All the text amendment changes is the manner in which these parcels will achieve their maximum office potential. While the original zoning relied on a CLD regime to permit such density, the proposed zoning permits it on a more straightforward basis.

- The SEFC-1B Zone will also permit a maximum of 7.0 FAR, but only up to 3.0 FAR may be devoted to nonresidential use. As in the SEFC-1A zone, CLDs are eliminated. Put another way, Parcels H and I, which are located in this SEFC-1B zone, must each include 4.0 FAR of residential development to take advantage of the maximum density available under the Regulations—

including the 1.0 bonus for residential use that was proposed by the Applicant and adopted by the Zoning Commission in Z.C. Case No. 14-05. If no office use is incorporated, then the residential FAR for parcels in this zone would approach 7.0, reduced from that ceiling only by ground floor retail (and hence non-residential) space.

- Parcels D, E, and K, on the east side of the SEFC, are also in the proposed SEFC-1B Zone. Parcels D and K are already constructed, with Parcel D including a sizeable residential component as noted above.

This leaves Parcel E. Parcel E is located at the northeastern edge of the SEFC, adjacent to the Navy Yard. The western half of Parcel E, closest to the rest of The Yards, is currently improved with two contributing historic structures constructed during World War II. The industrial design and heritage of these buildings create physical, structural, and environmental constraints that preclude conversion to residential use. The remainder of Parcel E is located at the eastern edge of The Yards, and is surrounded not only by Buildings 202 and 74, but also by historic structures located within the Navy Yard itself. This context effectively creates a relatively isolated site with limited development potential because of both its location and sensitivity to its historic context. As importantly, the Navy has expressed concern about residential development on these sites given the proximity to Navy Yard operations and resultant security and safety considerations at that location.

Accordingly, although the original SEFC Master Plan assumed that all of Parcel E would be devoted to residential use, multiple constraints effectively preclude residential development on Parcel E. After extensive evaluation and discussion with multiple potential development partners over the past decade, Forest City has concluded that the configuration and use of the historic buildings limits the use of these structures to nonresidential uses. This “cuts off” the remainder of Parcel E from the rest of the Yards neighborhood, which, combined with design and security constraints related to the adjacent Navy Yard, make residential use undesirable for the remainder of Parcel E. Parcel E’s best use—and only practical use—is for nonresidential uses. This eliminates a major potential “residential” block within the SEFC that would have generated nonresidential CLDs that could be transferred to office development in Yards West.

Furthermore, as OP is aware and noted in its comments, a potential cultural use has been identified for portions of Parcel E. This cultural use, anticipated at approximately 200,000 square feet, would bring an exciting, pedestrian-activating and neighborhood-defining use to the Yards and help support the vibrancy of this new neighborhood. Details regarding this cultural use are still in development, but the Applicant expects to be able to share further detail regarding this cultural use prior to the public hearing.

## **Public Hearing – Hearing Fee, Testimony, Witnesses, and Evidence**

Enclosed is a check for \$189,800, which represents the hearing fee, as determined pursuant to the Hearing Fee Calculation Form attached as Exhibit A. At the hearing, the Applicant will offer Mark Gilliland as an expert in the field of master planning, and his resume is attached as Exhibit B. Mr. Gilliland has been involved in the master planning process for The Yards since the project was first launched, and has been previously recognized as an expert by the Commission.

Outlines of the testimony of all of the Applicant's proposed witnesses is attached as Exhibit C. The Applicant intends to present testimony from Peter Calkins on behalf of the Applicant as well as from Mr. Gilliland.

A list of all publicly available maps, plans, and other documents supporting this application is attached as Exhibit D.

The Applicant has previously discussed the application with DDOT, who concluded that a transportation analysis was not required because the amendments do not increase the permitted development beyond what has been already approved by the Commission.

### **Exhibits**

The following documents are attached to this submission:

- Exhibit A      Hearing Fee Calculation Form
- Exhibit B      Expert Witness Resumes
- Exhibit C      Outlines of Witness Testimony
- Exhibit D      List of Publicly Available Documents

The Applicant respectfully asks the Commission to schedule this application for public hearing at its earliest opportunity. Please feel free to contact Dave Avitabile at (202) 721-1137 if you have any questions regarding this application. We look forward to the Commission's consideration of this matter.

Respectfully submitted,



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David M. Avitabile

cc: Peter Calkins (for Forest City)  
Henderson Brown (for DC Water)  
Gail Fast, ANC 6D01  
Cara Shockley, ANC 6D 02  
Ronald Collins, ANC 6D03  
Andy Litsky, ANC 6D04  
Roger Moffat, ANC 6D05  
Rhonda Hamilton, ANC 6D06  
Meredith Fascett, ANC 6D07

## Certificate of Service

I certify that on August 16, 2017, I delivered a copy of the foregoing document via hand delivery, first class mail, or electronic mail to the addresses listed below.



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David M. Avitabile

Joel Lawson / Brandice Elliott (2 copies)  
District of Columbia Office of Planning  
1100 4<sup>th</sup> Street, SW, Suite 650E  
Washington, DC 20004

Anna Chamberlin (2 copies)  
Policy and Planning  
District Department of Transportation  
55 M Street, SE, 5<sup>th</sup> Floor  
Washington, DC 20003

Advisory Neighborhood Commission 6D (1 copy)  
1101 4th Street SW, Suite W130  
Washington, DC 20024

**CERTIFICATION OF COMPLIANCE WITH SUBTITLE Z, SECTION 501 OF THE  
ZONING REGULATIONS**

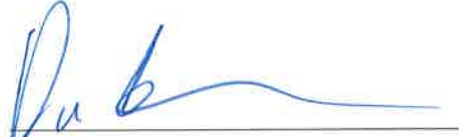
Forest City SEFC, LLC. (“Applicant”) hereby certifies that this pre-hearing submission, which has been filed with the Zoning Commission on August 16, 2017, complies with the provisions of Subtitle Z, Section 501 of the Zoning Regulations as set forth below, that the application is complete, and that no further changes are expected to be submitted prior to the public hearing on this application, other than the changes discussed in detail below.

At its July 24, 2017 Public Meeting, the Commission voted to set down the application for a public hearing. In response to comments made by members of the Commission during the public meeting and in the Office of Planning Setdown Report dated July 13, 2017, the Applicant has provided additional information regarding the proposed text and map amendments. The additional information included herein addresses the potential impact of the text amendment on housing and affordable housing in the Southeast Federal Center as well as further information regarding the anticipated cultural use on Parcel E includes:

In all other respects, the project is the same as filed on June 16, 2017.

<b><u>Subsection (Subtitle Z)</u></b>	<b><u>Page</u></b>
501.1(a) Information Requested by the Commission; Updated Materials Reflecting Changes Requested by the Commission	Pre-Hearing Submission
501.1(b) Witnesses	Pre-Hearing Submission
501.1(c) Summary of Testimony of Applicant’s Witnesses	Exhibit C
Resumes of Expert Witnesses	Exhibit B
501.1(d) Additional Information, Reports or Other Materials Which the Applicant Wishes to Introduce	Pre-Hearing Submission
501.1(e) Reduced Plans	Application
501.1(f) List of Publicly Available Maps, Plans, and Other Documents	Pre-Hearing Submission (Exhibit D)
501.1(g) Estimated Time Required for Presentation of Applicant’s Case	1 Hour

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'D. Avitabile', with a long horizontal flourish extending to the right.

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David Avitabile