

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
 :
H Street Residential, LLC : Case No.
PUD Modification of : 10-03D
Significance @ Square 912 :
[901 H Street, N.E.] :
-----:

Thursday,
January 30th, 2020

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 10-03D by the District of Columbia Zoning Commission convened at 6:39 p.m. in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
PETER G. MAY, Commissioner (NPS)
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development
Review & Historic Preservation

JOEL LAWSON
KAREN THOMAS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.
ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from
the Public Hearing held on January 30th, 2020.

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P-R-O-C-E-E-D-I-N-G-S

6:30 p.m.

1
2
3 CHAIRMAN HOOD: Let's go into Case number 10-03D.
4 If everybody can come forward? Is there anyone here for the
5 first time? If you are, I have to read the statement all
6 over again. Oh, you want to say you was here?

7 Sorry. The statement hasn't changed. So, we'll
8 just incorporate that to the record. All right. So we will
9 incorporate that statement to the record. Ms. Schellin, do
10 we have any preliminary matters?

11 MS. SCHELLIN: Proffered expert witness, George
12 Spano. And he has not been accepted before, and from
13 Acoustics² and Acoustics Engineering. Ms. Bloomfield, are
14 you still proffering him as an expert?

15 MS. BLOOMFIELD: Yes. We might as well. He's
16 here tonight. His resume is at Exhibit 14B.

17 MS. SCHELLIN: Okay. And Mr. Erwin Andres, who
18 of course has been here many times. And we just ask the
19 Commission to accept him in this case. Is that --

20 CHAIRMAN HOOD: I think we will continue with Mr.
21 Andres, unless I hear something else. Okay.

22 MS. SCHELLIN: And other than that there are no
23 other preliminary matters.

24 CHAIRMAN HOOD: Hold on for a second. Wait. Any,
25 what was the gentleman's name again that we have? Spenner?

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1 What exhibit was that again? 14B, okay. Any objections,
2 Commissioners?

3 COMMISSIONER SHAPIRO: No.

4 CHAIRMAN HOOD: Okay. All right. So, not hearing
5 anything, we will accept him as an expert. Okay. Ms.
6 Schellin, anything else?

7 MS. SCHELLIN: No. I believe Ms. Bloomfield is
8 going to let you know she's going to stand on the record.
9 But I'll leave that to her.

10 CHAIRMAN HOOD: Okay. So, Ms. Bloomfield.

11 MS. BLOOMFIELD: Good evening, Commissioners. I
12 will rest on the record, but give you a brief summary of why
13 we're here, for the good of the order.

14 My name is Jessica Bloomfield, from the law firm
15 of Holland & Knight. We're pleased to be here tonight to
16 present our application for a modification of significance
17 to a PDA originally approved in 2010 for a property located
18 on the south side of H Street, N.E., between 10 8th and 10th
19 Streets.

20 The building was approved to have 419 residential
21 units, and approximately 51,000 square feet of retail on the
22 ground floor.

23 As you can see on the screen in front of you, this
24 is a photograph taken yesterday. The building is almost
25 finished construction. The applicant recently received its

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1 certificate of occupancy for the core and shell, as well as
2 conditional C of Os for the first three levels of retail, and
3 the garage.

4 The request we are here for tonight is to permit
5 veterinary hospital use in approximately ten percent of the
6 ground floor retail space, which amounts to about 5,300
7 square feet.

8 This space will be primarily dedicated to the vet
9 use, and will also include incidental services for daytime
10 boarding, grooming, and pet supplies, the sale of pet
11 supplies.

12 The application also requests a special exception,
13 since the veterinary use will technically abut several
14 residential units directly above it.

15 The materials already submitted to the record
16 demonstrate that the proposed use meets the special exception
17 criteria, and delivers a benefit to the neighborhood, with
18 an active storefront at the retail, at the ground level.

19 We believe the record is complete, with evidence
20 demonstrating how the veterinary hospital use will not create
21 any adverse impacts as it relates to traffic, parking, noise,
22 odor, waste, or any other conditions relative to the use.

23 We have reviewed the case with the Office of
24 Planning and DDOT, and are pleased to have support from both
25 of those agencies with no conditions.

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1 We've also engaged with both of the affected ANCs,
2 in this case 6A and 6C. And we also have letters from both
3 of them in support with no conditions.

4 Based on the clear support for this proposal we
5 therefore will rest on the materials already submitted to the
6 case record, although our team is here, available to answer
7 any questions. And that will conclude our direct
8 presentation.

9 CHAIRMAN HOOD: Okay. Thank you, Ms. Bloomfield.
10 Let me open it up. Any questions or comments, Commissioners?

11 COMMISSIONER MAY: No.

12 CHAIRMAN HOOD: Oh, okay. All right. So, again,
13 I don't see anyone here from the ANC. But we do have some
14 letters as noted. Let's go to the Office of -- Oh, I'm
15 sorry. Are you from ANC?

16 MS. MICK: No, I'm not from the ANC.

17 CHAIRMAN HOOD: Okay. So, we're going to, I'm
18 going to call for the residents. Are you here in opposition
19 or support?

20 MS. MICK: You know, I'm not --

21 CHAIRMAN HOOD: You're not sure?

22 MS. MICK: -- very familiar with --

23 CHAIRMAN HOOD: Okay. We'll call you up in a
24 minute.

25 MS. MICK: Thank you.

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1 CHAIRMAN HOOD: We'll call you up. Okay. Let's
2 go to the Office of Planning's report, Ms. Thomas.

3 MS. THOMAS: Good evening, Mr. Chair, Members of
4 the Commission. Karen Thomas for the Office of Planning.
5 We will rest on the record of our report. The applicant has
6 satisfied the criteria for the special exception. Thank you.

7 CHAIRMAN HOOD: Okay. Thank you. We have, did
8 our report, which is Exhibit 23. Twenty-two?

9 COMMISSIONER SHAPIRO: Yes.

10 CHAIRMAN HOOD: Oh, 22. I'm looking at something
11 else. Okay. I'm looking at the final report. I'm going to
12 ask one of my colleagues to give us a synopsis on what the
13 Office of Planning report said. Just what the, did they
14 support it, not support it?

15 COMMISSIONER MAY: They do support it, Mr. Chair.

16 CHAIRMAN HOOD: Okay.

17 COMMISSIONER MAY: They recommend approval of the
18 requested modification of significance.

19 CHAIRMAN HOOD: All right. Vice Chair, you had
20 something you wanted to add?

21 MS. BLOOMFIELD: Do you mean the DDOT report?

22 CHAIRMAN HOOD: What did I say?

23 MS. BLOOMFIELD: You said OP.

24 CHAIRMAN HOOD: Did OP support it too? Okay.

25 COMMISSIONER MAY: That's the one I was referring

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1 to.

2 CHAIRMAN HOOD: Okay. Well, I meant DDOT. Thank
3 you, Ms. Bloomfield. I was trying to do all the talking,
4 because sometimes when you take a break you get yourself
5 together. And I'm not doing that right now. But anyway,
6 with the first one --

7 VICE CHAIR MILLER: Mr. Chairman, I just wanted
8 to ask, not ask, but comment to the Office of Planning. I
9 appreciate your report. It's very clear and concise in
10 support of the modification of significance and special
11 exception.

12 I just wonder for the future, maybe OP should,
13 might want to, I don't know if my colleagues would agree with
14 this, might want to look at the special exception criteria.

15 You know, there's a special exception from the
16 requirement that the veterinary use not abut a residential
17 use or zone. The criteria that says exceptional
18 circumstances.

19 I just think that might need to be tweaked or
20 refined a bit to acknowledge what's in this case, which is
21 the mixed use building. That in a mixed use building
22 situation where ground floor use, which you note as a
23 justification for this, satisfaction of this particular
24 criteria, exceptional circumstances.

25 Maybe it shouldn't use that variance like terms,

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1 exceptional circumstances, which conjures up a high bar. And
2 maybe acknowledge that there's a lesser threshold in a mixed
3 use building, if all the other criteria are being made. Just
4 something to look at for the future.

5 MS. STEINGASSER: Are you suggesting a future text
6 amendment?

7 VICE CHAIR MILLER: Yes.

8 MS. STEINGASSER: Okay.

9 VICE CHAIR MILLER: When you are in that area,
10 this area of looking at Zoning Regulations. Because it just
11 uses that term, which is a variance term, which, and it's not
12 the same definition here. So, and there's a different
13 situation.

14 CHAIRMAN HOOD: Okay. Do you want to tell us
15 about DDOT?

16 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Yes,
17 the DDOT report, DDOT says they have no objection to the
18 approval of this modification.

19 CHAIRMAN HOOD: Okay. So, with that I will go and
20 speak on the ANC. ANC 6A voted unanimously to support. ANC
21 6C voted unanimously in support. 6A is Exhibit 14F in the
22 record, and 6C is 12 in the record.

23 And a letter in support from the neighborhood
24 residents in Exhibit 21. And there are some others. I
25 didn't see any letters in opposition in the, at least I

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1 didn't see it I the record.

2 Okay. So now I'll go to testimonies of
3 organizations and persons who are in support. Organizations
4 or persons who are in opposition. Organizations and persons
5 who are undeclared.

6 MS. MICK: At this point --

7 CHAIRMAN HOOD: Okay. Come forward.

8 MS. MICK: Okay. Do I sit, or stand, or --

9 CHAIRMAN HOOD: You can have a seat.

10 MS. MICK: Okay.

11 CHAIRMAN HOOD: Introduce yourself.

12 MS. MICK: Thank you.

13 CHAIRMAN HOOD: Turn your mic on, and you may
14 begin.

15 MS. MICK: All right. Good evening,
16 Commissioners. My name is Leslie Mick. And I'm a resident
17 directly across the street from 901 H Street.

18 At this time I have, I'm not declared in terms of
19 whether I support or oppose, because I really don't know
20 enough about this. I will express to you what my concern is,
21 it's noise.

22 It's a veterinary clinic. It's already been
23 stated that they plan to board animals. They plan to treat
24 animals. And that's a good thing.

25 But what's not a good thing is the potential for

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1 noise. I don't know at what position the veterinary clinic
2 will be located. But I'm on 10th Street. And since they've
3 completed building this building, all sounds are amplified,
4 because of how it's now situated.

5 Because the building is taller, the sound just
6 stays right in that short little corridor. And so, I don't
7 know if someone can just tell me where that veterinary clinic
8 will be -- Oh, I see it right there, five and six.

9 MS. BLOOMFIELD: I'll clarify it. H Street's on
10 the bottom.

11 MS. MICK: Right.

12 MS. BLOOMFIELD: So, it's actually kind of upside
13 down.

14 MS. MICK: Okay. I see.

15 CHAIRMAN HOOD: So, can we answer Ms. Mick's
16 questions? I think that would be very helpful. We can take
17 a few moments and do that. I don't think it will be that
18 long.

19 MS. BLOOMFIELD: Yes.

20 CHAIRMAN HOOD: I think we should do that to --

21 MS. BLOOMFIELD: Absolutely. It's nice to meet
22 you.

23 MS. MICK: Good to meet you.

24 MS. BLOOMFIELD: We are excited to come to the
25 neighborhood. The veterinary use has established a couple

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1 of -- It's a new franchise, I want to say.

2 There's a couple of them. There's one in
3 Pennsylvania now. And I think they're trying to expand.
4 They are not offering any overnight boarding. It's just
5 during the day. So, just daycare.

6 MS. MICK: Okay.

7 MS. BLOOMFIELD: They will not have any animals
8 overnight. They also are not having any animals outside.
9 So, there won't be any walking of dogs, for example, in the
10 neighborhood.

11 They have an interior play area that will be
12 inside, you know, it's a courtyard. So, it's completely
13 contained within that retail space, which is shown as red on
14 the plan on the screen right now. So, that's where it will
15 be. 10th Street is to the left.

16 MS. MICK: Right.

17 MS. BLOOMFIELD: The, we have a, we did a full
18 evaluation of the noise. So, we have a report in the record
19 that evaluates what happens if, the worst case scenario.

20 All of the dogs that are at the vet at the same
21 time are barking all at once. We evaluated that. And we
22 have committed to putting in sound mitigation construction
23 measures --

24 MS. MICK: Okay.

25 MS. BLOOMFIELD: -- throughout the space, so that

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1 what ends up happening is that if all those dogs are barking,
2 the sound everywhere else in the residential units above
3 particularly, but also outside the building, it will be
4 exactly the same as if it was a regular retail space. So,
5 we have committed to doing those construction mitigation
6 measures.

7 Also, the last thing I would say is that the
8 windows are not operable. So, it's not, the windows won't
9 be open during the day, when dogs may be barking. So, there
10 will be a door. But surrounding the door is right at, it's
11 not --

12 MS. MICK: That's the interior floor plan?

13 MS. BLOOMFIELD: This is the interior floor plan,
14 yes.

15 MS. MICK: Okay. And so, okay, I see that. And
16 the, all right. So, that's the front door at the bottom of
17 the page there, correct?

18 MS. BLOOMFIELD: Mm hmm.

19 MS. MICK: All right. And so, what are you
20 explaining to me about the configuration now?

21 MS. BLOOMFIELD: So, for example, that interior
22 courtyard, that's all --

23 MS. MICK: Right.

24 MS. BLOOMFIELD: -- inside. There's a daycare
25 play area also inside. Everything's going to be contained

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1 within the space so that there won't be any reason for the
2 animals to go outside, other than neighbors walking their
3 dogs to drop them off or pick them up.

4 MS. MICK: Got you. Got you. Last question.
5 What is the maximum number of animals that you'll be boarding
6 in the day, do you think?

7 (Off microphone comments)

8 MS. MICK: Okay. Okay.

9 (Off microphone comments)

10 MS. MICK: Got you. Got you.

11 CHAIRMAN HOOD: I'm hoping whatever you're saying
12 that you'd want to repeat it, so we have it on record. Or
13 he can up and identify himself, and put it on the record.

14 MR. SHIEL: Good evening. My name is Alex Shiel.
15 I'm with Rappaport. It is my understanding that this
16 particular location can house anywhere, 26, but it could be
17 29. Memory doesn't serve me perfectly, for the daycare
18 component.

19 Again, that does not factor in a dog going to just
20 see the vet, not being dropped off for the day, for the
21 daycare component. But they can only house 26 to 29 dogs at
22 this particular location.

23 MS. MICK: Okay. I have a greater understanding.

24 CHAIRMAN HOOD: Okay.

25 MS. MICK: Yes. Thank you.

1 CHAIRMAN HOOD: So, is there somebody that she
2 can, can we make sure that there's somebody that, since she
3 took time to come down here.

4 MS. MICK: Yes. Thank you.

5 CHAIRMAN HOOD: And it looks like the record shows
6 that, and I know I'm going to support this.

7 MS. MICK: Yes.

8 CHAIRMAN HOOD: But does it look like there's
9 somebody that she can talk to if she has concerns? Can we
10 make that arrangement tonight?

11 MS. MICK: Thank you.

12 MS. BLOOMFIELD: Yes. We'll make sure --

13 MS. MICK: Thank you.

14 MS. BLOOMFIELD: -- we exchange contact
15 information.

16 MS. MICK: I appreciate you taking the time to
17 help me to understand this. And I feel a lot better. Thank
18 you.

19 CHAIRMAN HOOD: Okay. That's good.

20 MS. MICK: All right.

21 CHAIRMAN HOOD: Our oversight hearing is February
22 the 23rd, Ms. Mick. I'm just joking with you.

23 MS. MICK: Okay.

24 CHAIRMAN HOOD: I'm just having fun.

25 MS. MICK: All right.

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1 CHAIRMAN HOOD: All right. So, anything else?

2 MS. MICK: Thank you.

3 CHAIRMAN HOOD: Any questions? No one's here from
4 ANC. Okay. Any questions of Ms. Mick from anybody? Okay.
5 All right. No, we're good. We just --

6 All right. So with that, I'm going to close this.
7 You have a closing statement?

8 MS. BLOOMFIELD: No. We would just thank you,
9 thank the Commissioners for their time this evening. And we
10 hope that you all vote to support this application.

11 CHAIRMAN HOOD: Okay. All right, thank you. Is
12 this two votes, Sharon? One? Does anybody need anything?
13 Okay. In that case I will entertain a motion.

14 COMMISSIONER SHAPIRO: Want me to do it?

15 CHAIRMAN HOOD: Yes.

16 COMMISSIONER SHAPIRO: Mr. Chair, I move that we
17 approve Case number 10-03D, H Street Residential, LLC PUD
18 modification of certificates at Square 912, 901 H Street.
19 Look for a second.

20 COMMISSIONER MAY: Second.

21 CHAIRMAN HOOD: Okay. It's been moved and
22 properly seconded. It's been moved by the birthday guy for
23 the day. So, we're going to get on with it, so we can let
24 him and enjoy his birthday. Happy birthday, Commissioner
25 Shapiro.

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1 COMMISSIONER SHAPIRO: Thank you.

2 CHAIRMAN HOOD: Moved and properly seconded. Any
3 further discussion?

4 COMMISSIONER SHAPIRO: I'll show you a picture of
5 my dog.

6 CHAIRMAN HOOD: All in favor?

7 (Chorus of aye)

8 CHAIRMAN HOOD: Any opposition?

9 (No response)

10 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,
11 would you please record the vote?

12 MS. SCHELLIN: Yes. Staff records the vote five,
13 to zero, to zero, to approve final action on Zoning
14 Commission Case number 10-03D. Commissioner Shapiro moving,
15 Commissioner May seconding. Commissioners Hood, Miller, and
16 Turnbull in support. And if we could get a draft order? The
17 sooner you get it in --

18 (Off microphone comments)

19 MS. SCHELLIN: Two weeks? Okay. Thank you. By
20 3:00 p.m. please.

21 (Off microphone comments)

22 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
23 anything else?

24 MS. SCHELLIN: No, sir.

25 CHAIRMAN HOOD: All right. With that I want to

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1 thank everyone for their participation tonight, and this
2 hearing is adjourned.

3 (Whereupon, the above-entitled matter went off the
4 record at 6:55 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Case No. 10-03D

Before: DCZC

Date: 01-30-20

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

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