

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: :

:

Office of Planning Text Amendment to : Case No.

Subtitle U, Chapters 510 & 516, : 20-10

MU Use Groups D & E, Fast Food :

Establishments & Prepared Food Shops :

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Tuesday,

July 21, 2020

Video-Teleconference

The Public Hearing of Case No. 20-10 by the

District of Columbia Zoning Commission convened at 4:00

p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development
Review & Historic Preservation
CRYSTAL MYERS

The transcript constitutes the minutes from
the Public Hearing held on July 21, 2020.

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

2 (4:00 p.m.)

3 CHAIRMAN HOOD: Good afternoon, ladies and
4 gentlemen. We are convening and broadcasting this public
5 hearing by videoconferencing.

6 My name is Anthony Hood. Joining me this evening
7 are Vice Chairman Miller, Commissioner Shapiro, and
8 Commissioner Turnbull. Commissioner May will read the
9 record in this case. We are also joined by the Office of
10 Zoning staff, Ms. Sharon Schellin, and Mr. Paul Young, who
11 handles all of our virtual operations.

12 Copies of today's virtual public hearing notice
13 are available on the Office of Zoning's website. Please be
14 advised this proceeding is being recorded by a court reporter
15 and is also webcast live; Webex and YouTube Live. The video
16 will be available on the Office of Zoning's website after the
17 hearing.

18 Accordingly, all those listening on Webex or by
19 phone will be muted during the hearing. And those who have
20 signed up to participate or testify will be unmuted at the
21 appropriate time. Please state your name and home address
22 before providing oral testimony.

23 If you have any difficulty during this proceeding,
24 please call 202-727-5471. Again, any difficulty please call
25 202-727-5471. Again, please state your name and home address

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1 before providing oral testimony, or your presentation. When
2 you are finished speaking, please mute your audio so that
3 your microphone is no longer picking up sound or background
4 noise.

5 All persons planning to testify either in favor
6 or in opposition, we encourage you to sign up in advance and
7 we will call your name at the appropriate time. If you wish
8 to file written testimony or additional supporting documents
9 during the hearing, then please be prepared to describe and
10 discuss it at the time of your testimony.

11 The hearing will be conducted in accordance with
12 provisions of 11Z DCMR Chapter 5 as follows, preliminary
13 matters, presentation, in this case submitted by the Office
14 of Planning, the report of other government agencies, report
15 of the ANC, which in this case is nation-wide -- I mean, I'm
16 sorry -- city-wide, testimony of organizations and
17 individuals; organizations will have five minutes,
18 individuals will have three minutes, respectively. And we
19 will hear in the order of those in support, opposition, and
20 undeclared.

21 While the Commission reserves the right to change
22 the time limits for presentations, if necessary, it intends
23 to adhere to the time limits as strictly as possible and
24 notes at no time shall exceed. Again, any issues, please
25 call our OZ hotline number, it's 727-5471.

1 At this time the Commission will consider any
2 preliminary matters. Does the staff have any preliminary
3 matters?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: Okay.

6 Let's bring the Office of Planning up. And before
7 we bring them up, what I would like to do is to do a moment
8 of silence, as we know we lost Mr. Barry Woody, who used to
9 work at Office of Planning, as well as, I think, the
10 Department of -- DMPED, and I'm not sure where he went after
11 that, so, if we could just -- out of respect for the work
12 that he has done and working with us as collegial, if we
13 could just take a moment of silence at this time.

14 (Moment of silence.)

15 CHAIRMAN HOOD: Thank you.

16 And we send the Office of Planning our thoughts
17 and prayers. I know a lot of them worked with him over the
18 years, as well as those at DMPED.

19 So, Ms. Myers, we will turn it over to you. You
20 may begin.

21 MS. MYERS: For the record, Crystal Myers with the
22 Office of Planning. Thank you for doing the moment of
23 silence.

24 Good afternoon, Commissioners, the Office of
25 Planning is pleased to bring forward these text amendments

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1 to MU use for its DME in Subtitle U. These amendments would
2 allow fast food establishments as a special exception use in
3 the MU-3 Zones and would ease restrictions on prepared food
4 shops in the low to moderate-density, mixed-use zones. This
5 text amendment is the same text amendment advertised in the
6 public hearing draft.

7 OP requests flexibility to work with the Office
8 of Attorney General on refining the final version of the
9 text.

10 Thank you.

11 CHAIRMAN HOOD: Thank you Ms. Myers.

12 And again, I did not read this. I wrote this out,
13 so I am going to read it now. This is zoning -- as Ms. Myers
14 already stated -- this is Zoning Commission Case Number 20-
15 10. I don't think I read this, but I'm going to read it
16 again, because I wrote it.

17 Amendments to Subtitle U, Chapter 510 to 518 for
18 the fast food establishments and prepared food shops in the
19 MU Use Groups B and E Zones.

20 So, with that, let's open up questions for Ms.
21 Myers and I think the report was very sufficient. I know
22 I have a few, maybe two questions, but let me go to
23 Commissioner Shapiro.

24 COMMISSIONER SHAPIRO: Thank you Mr. Chair.

25 I thought the report was quite clear. I don't

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1 have any questions.

2 CHAIRMAN HOOD: Okay. Commissioner Turnbull?

3 COMMISSIONER TURNBULL: I really don't have any
4 questions. The only thing -- the results that are in your
5 report about animal shelters, is that, just happens to be
6 part of -- is that what we are also considering, or is that
7 something separate?

8 MS. MYERS: No, I didn't mention this in my
9 presentation, but I do want to make known the fact, because
10 we were looking at these sections we also noticed there was
11 some alphabetizing issues that existed in the regs, and so
12 we just reorganized to be alphabetized to just make it
13 clearer to read. And we noted that in the notice, but, just
14 to make it clear -- we are not touching animal boarding with
15 this amendment.

16 COMMISSIONER TURNBULL: I sort of figured that,
17 but I'm like, well, you know, am I missing something here?
18 I mean, we are talking about fast food then you see animal
19 boarding and I'm like, maybe I'll ask the question, stupid
20 or not, but, thank you.

21 CHAIRMAN SHAPIRO: If I can, Mr. Chair?

22 I'm glad you asked, because I was merging the two
23 and it got a little messy in my head. It seemed unpleasant
24 when you merged the two.

25 CHAIRMAN HOOD: Okay.

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1 Any other questions, Mr. Turnbull?

2 COMMISSIONER TURNBULL: No, I'm good.

3 CHAIRMAN HOOD: Vice Chair Miller?

4 VICE CHAIR MILLER: Thank you, Mr. Chairman.

5 No, I concur with my colleagues, and I would thank
6 OP for their report and it could present as a -- state in
7 their report that they are looking at whether relaxing some
8 of the other restrictions on fast food establishments, at
9 least on a temporary basis during this pandemic period such
10 as all of the drive-through restrictions that exist, that
11 maybe they can be allowed if, through a special exception
12 process, if the neighborhood doesn't have a problem with it
13 -- they might actually want it, but anyway, so, no, I'm good
14 with what we have.

15 CHAIRMAN HOOD: Okay, Ms. Myers, I guess I'm only
16 one that might have a few questions. And these are just
17 clarifying questions so that I can make sure I'm
18 understanding exactly what we are doing here.

19 Reading your report -- and I'm looking directly
20 at your report -- the second bullet on page -- this is page
21 2, it says, in the MU Use Groups B and E, the proposed
22 amendment would remove the 18-seat limit on prepared food
23 shops allowed as a matter right because occupancy is already
24 regulated by the Building and Fire Codes. In both MU use
25 groups, all prepared food shops would continue to be

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1 permitted as a matter right.

2 So, I'm just curious. Why did we do that anyway,
3 if it is already -- and I'm just curious -- I know we are
4 going back, and I know we came up on MU, and I don't know if
5 MU came after we dealt with this some years back, but I'm
6 just curious, why are we even put that in there anyway if it
7 is already somewhere else? I'm just curious.

8 MS. MYERS: I mean, I don't know the history. I
9 mean, perhaps, Jennifer Steingasser could weigh in, if she
10 knows a little bit more of the history on that, though.

11 But at this point, when we looked at it, we
12 realized that having an 18-seat limit, it didn't seem
13 necessary anymore. You know, the building code can handle
14 the capacity issue, and so we thought it would be easier just
15 to remove it. And it might be noted in the report, too, DCRA
16 was very happy to have that removed. They said it -- this
17 will make it easier with the review process, too.

18 CHAIRMAN HOOD: Yes, I'm just -- I'm glad we are
19 taking it back out, because when I read this -- and I
20 actually was a part -- and I'm sure others were too -- a part
21 of this when we did this, and I'm thinking, well, why are we
22 doing this? It sounded good at the time, but I'm glad that
23 we are now pulling that back out because it is taken care of
24 somewhere else.

25 This whole discussion about --- goes to what the

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1 Vice Chair -- this whole discussion --- I think I said this
2 just set down -- this whole discussion about drive-through.
3 And I understand in some areas we don't have drive-throughs,
4 but we need to really watch the prohibition of drive-
5 throughs, as I stated earlier.

6 I know some folks who are younger and they didn't
7 want drive-throughs, but now that they are older, you know,
8 maybe this is not the specific areas, but sometimes we need
9 to make sure we balance that. I know drive-throughs operate,
10 but this all-out prohibition on drive-throughs -- I have some
11 serious issues with that, because we want to make sure that
12 when we have to zone this stuff, we want to make sure that
13 everybody is able to use some of their amenities as far as
14 food. And so I don't know if they can take that back. I'm
15 sure Ms. Steingasser is listening.

16 You know what, I'd rather hear Ms. Steingasser --
17 I would like for Miss -- or you, Ms. Myers -- whoever wants
18 to comment on that -- that statement.

19 MS. MYERS: I mean, all I'll say is, you know, we
20 can look at the issue, but we didn't think it was appropriate
21 to really bring that, or some of the other thoughts, in this
22 text amendment. We thought that something like drive-
23 throughs requires more consideration and more analysis, and
24 should be done in a different -- you know, in a different
25 amendment, if we were going to go in that direction.

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1 I would also note that DDOT had specifically said
2 that that would be a concern for them, if this were to
3 include a drive-through. So, at least in this amendment we
4 didn't think it was appropriate, but perhaps in a future
5 amendment it may be something to look at. So, we've decided
6 on this amendment, this wasn't the right vehicle for that
7 type of consideration.

8 CHAIRMAN HOOD: Okay, and I think that is what I
9 read in your report. I know DDOT was very happy that this
10 was not showing up, and I probably would agree with it, but
11 I just want to make sure that this is -- from a planning
12 prospective, and moving forward, we want to make sure that
13 we are able to be able to accommodate all age groups.

14 Now this is my last question. It would probably
15 help me -- I was trying to figure a lot of this out. In the
16 MU Use Group B, the proposed amendment would distinguish
17 between fast food use as a single tenant in a detached
18 building, and fast food within a shopping center or multi-
19 tenant building in the MU 4 Zone. Can you explain that
20 sentence to me in layman's terms?

21 MS. MYERS: So, what we did -- both in E and for
22 D -- we made it so that there is now a separation between a
23 fast food establishment in a multi-tenant building -- so
24 something like a shopping center, and something that would
25 be --- a difference between that and like a free-standing

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1 building, like just the service itself, like just the
2 McDonald's or, you know, just a Chipotle.

3 So we tried to make a distinction between the two
4 and the reason why is because we thought they would have
5 different demands, different -- it would have a different
6 impact. So, if you are going to a shopping center, there is
7 a variety of other things in there besides just the fast food
8 establishment, and so it would have a lesser impact.

9 So for Group D, so MU-3 Zone, that is the only
10 type of fast food establishment that we think is appropriate
11 for a special exception; is one that is in a building with
12 other uses in it, because it would have a lower draw to it.

13 But in the MU group -- Use Group E, we do allow
14 for a detached ones; so just a McDonald's or, you know, just
15 a Chipotle, or whatever the fast food establishment may be,
16 but it would be a special exception. But we think that the
17 requirement should be different.

18 So like a 25-foot distance requirement from the
19 residential zones, that is applicable for cases where you
20 have a free standing, detached, fast food establishment. But
21 if it is in a multi-tenant building, that is not the case
22 because that would be a challenge when you have other uses
23 that don't have as much of an impact.

24 So, we try to look at a little bit more refinement
25 than in the previous way that we have looked at this section.

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1 CHAIRMAN HOOD: Okay. Thank you, Ms. Myers. Very
2 well done. I really appreciate your report and the way it
3 was written and also, I just wanted to try to make sure I
4 understood exactly what you said, so thank you very much for
5 answering my questions and all of our questions.

6 Let's see if we have any follow-up questions of
7 Ms. Myers?

8 Not seeing anybody.

9 Okay, let's go to -- and thanks again Ms. Myers --
10 do we have any other requests of other government agencies?
11 We already mentioned DDOT. I didn't see anything else as I
12 looked at the file, which was not a whole lot, since this is
13 very well done, from the standpoint of the citizens' comment.

14 Okay, testimony of organizations -- of
15 organizations or individuals. Do we have anybody on the line
16 in support, anybody on the line who is in the opposition, or
17 anybody on the line who is undeclared?

18 I don't believe we do. Not seeing anything from
19 Ms. Schellin.

20 MS. SCHELLIN: No one signed up to testify in any
21 group.

22 CHAIRMAN HOOD: Okay.

23 MS. SCHELLIN: Or, any category. I'm sorry.

24 CHAIRMAN HOOD: So, with that, this is two-fold
25 case I believe, correct?

1 MS. SCHELLIN: It is.

2 CHAIRMAN HOOD: Okay.

3 Commissioners, I think this is pretty straight
4 forward. So let me see how we want to proceed. I think we
5 are prepared to take a vote tonight on this.

6 I'll entertain a motion. Does anyone want to make
7 a motion?

8 VICE CHAIR MILLER: Yes, Mr. Chairman.

9 I would move that the Zoning Commission take
10 proposed action, Zoning Commission Case Number 20-10,
11 Proposed Zoning Text Amendments to Subtitle U, Chapters 510
12 to 518 for fast food establishments and prepared food shops
13 in the MU Use Group D and E Zones, and ask for a second.

14 COMMISSIONER SHAPIRO: Second.

15 CHAIRMAN HOOD: Okay. It has been moved and
16 properly second. Any further discussion?

17 Ms. Schellin, would you do a roll call vote,
18 please?

19 MS. SCHELLIN: Commissioner Shapiro?

20 COMMISSIONER SHAPIRO: Yes.

21 MS. SCHELLIN: Commissioner Miller? Sorry, I've
22 reversed the ---

23 COMMISSIONER MILLER: Yes.

24 MS. SCHELLIN: Commissioner Hood?

25 CHAIRMAN HOOD: Yes.

1 MS. SCHELLIN: Commissioner Turnbull?

2 COMMISSIONER TURNBULL: Yes.

3 MS. SCHELLIN: And Commissioner May is not here,
4 so the vote would be 4 to 0 to 1, to approve proposed action
5 in Zoning Commission Case Number 20-10.

6 CHAIRMAN HOOD: Okay. Thank you, again. Thank
7 you, Ms. Myers, job well done.

8 Ms. Schellin, do we have any dates, or do we do
9 dates on this?

10 MS. SCHELLIN: We do not. We'll publish it in the
11 D.C. Register, we will work with OAG and get a proposed
12 rulemaking prepared, get it published in the D.C. Register
13 for a 30-day comment period. And I would say, now that we
14 are getting close to August, that we probably will not put
15 this up for final until the October meeting.

16 CHAIRMAN HOOD: Okay.

17 All right, Commissioners, any other questions or
18 comments for tonight?

19 Okay. Thank you, Ms. Schellin. Thank you
20 everyone. And with that this record -- the record in this
21 case is closed.

22 I do note it as another comment period and that
23 will be at the appropriate time.

24 I will say -- Ms. Steingasser, did you want to say
25 anything? Okay. I will say that the Zoning Commission is

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1 taking tomorrow night, but we will be back Thursday.

2 Thursday is Zoning Commission Case Number 09-03F.
3 This is Skyland Holdings LLC, PUD modifications significant
4 at Square 5633 Lot 22, intersection Good Hope Road and Naylor
5 Road and Alabama Avenue, Southeast. So, we will be dealing
6 with this on Thursday at 4:00 -- 4:00 p.m. in the afternoon.

7 So, with that, I want to thank everyone for their
8 participation tonight, and we appreciate Office of Planning's
9 work on this, and with that this hearing is adjourned.

10 (Whereupon, the above-entitled matter went off the
11 record at 4:17 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: Public Hearing

Before: DCZC

Date: 07-21-20

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



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