

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: :
   
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Forest City SEFC, LLC : Case No.
   
: Z.C. 20-13
   
:
   
-----:

Thursday,
   
October 22, 2020

Video Teleconference

The Public Hearing of Case No. 20-13 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 G. MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOTT

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from the Public Hearing held on October 22, 2020.

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

4:01 P.M.

1  
2  
3 CHAIRMAN HOOD: Good afternoon, ladies and  
4 gentlemen. We are convened and broadcasting this public  
5 hearing by videoconferencing. My name is Anthony Hood.  
6 Accompanying me are Vice Chair Miller -- I kind of like when  
7 you all raise hand. That's good. Commissioner Shapiro,  
8 Commissioner May, and Commissioner Turnbull. We're also  
9 joined by the Office of Zoning staff, Ms. Sharon Schellin,  
10 as well as Mr. Paul Young who is handling all of our virtual  
11 operations.

12 We also have Office of the Attorney General and  
13 Office of Planning. They will announce themselves at the  
14 appropriate time when called.

15 Copies of today's virtual public hearing notice  
16 are available on the Office of Zoning's website. Please be  
17 advised that this proceeding is being recorded by a court  
18 reporter and is also webcast live, Webex, and YouTube Live.

19 The video will be available on Office of Zoning's  
20 website after the hearing. Accordingly, all those listening  
21 on Webex or attending by phone will be muted during the  
22 hearing and those who have signed up to testify will be  
23 unmuted at the appropriate time. In all cases, we ask that  
24 you sign up in advance so that you are sworn in. If you  
25 have not signed up, please contact the staff on the OG

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1 hotline number which will be given out shortly.

2           When speaking, please state your name and a home  
3 address before providing testimony. When you are finished  
4 speaking, please mute your audio so that your microphone is  
5 no longer picking up sound or background noise.

6           If you experience any technical difficulty or any  
7 problems during these proceedings, then please call our OZ  
8 hotline number at 202-727-5471 and the Office of Zoning staff  
9 will assist you.

10           If you wish to file written testimony or  
11 additional supporting documents during the hearing, then  
12 please be prepared to describe and discuss it at the time of  
13 your testimony.

14           This hearing will be conducted in accordance with  
15 provisions of 11Z DCMR Chapter 5 as follows: preliminary  
16 matters, presentation by the petitioner in this case, report  
17 of other government agencies, report of the ANC, testimony  
18 of organizations and individuals. The organizations will  
19 have five minutes and individuals will have three minutes.  
20 And we'll hear in the order of support, opposition, and  
21 undeclared. Excuse me one second.

22           While the Commission reserves the right to change  
23 the time limits for presentations if necessary, it intends  
24 to adhere to the time limits as strictly as possible, and  
25 note that no time shall be ceded. Again, any issues, please

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1 call the OZ hotline number at 202-727-5471.

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

5 MS. SCHELLIN: No, sir. I know that Mr. Avitabile  
6 will be the petitioner, record for the petitioner in this  
7 case. I was just reading an email from him. I don't know  
8 if he's in the attendee list yet or not. So he was trying  
9 to get on. I don't know if -- yes, he is on.

10 And just advise that OP has filed a report and  
11 NCPC filed a report. Other than that, staff has nothing  
12 further.

13 CHAIRMAN HOOD: Okay. All right. Thank you. So  
14 we will go straight to Mr. Avitabile who is representing the  
15 petitioner, unless I hear from anyone else.

16 Okay, Mr. Avitabile, you may begin.

17 MR. AVITABILE: Thank you very much, Chairman  
18 Hood, members of the Commission. It is good to see you all  
19 after a long absence, so I'm glad to be here.

20 We're here this afternoon for a text amendment to  
21 amend Southeast Federal Center special purpose zones, to  
22 allow for office use in the SEFC-3 zone. We're offering this  
23 proposed text amendment to enable a change that was approved  
24 as a part of the master plan, a swap of residential and  
25 office uses.

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1           We have with us today, Toby Millman from  
2 Brookfield, who will be providing some testimony. Hopefully,  
3 Toby is on and able to be brought in as a panelist and I  
4 think if we're able to that, I'll turn this over to Toby.

5           MR. MILLMAN: I am on. Thank you, Dave.

6           Good afternoon, everybody. As Dave indicated, my  
7 name is Toby Millman. I am Senior Vice President of  
8 Development for Brookfield Properties. As you may recall,  
9 Brookfield acquired Forest City about two years ago and  
10 stepped into its role as master developer of the Southeast  
11 Federal Center which is currently about halfway built out.

12           Dave indicated we are here before you for a zoning  
13 text amendment that would facilitate a direct swap of uses  
14 within the Southeast Federal Center between Parcels H and Q.  
15 Currently, Parcel H is designated as roughly half residential  
16 and half office. And Parcel Q is all residential. We are  
17 proposing that the residential use that is currently  
18 allocated to Parcel Q be shifted to Parcel H and the office  
19 use that's on half of Parcel H be shifted to Parcel Q.

20           The overall building parameters including height  
21 and FAR, as well as the provision of ground-floor retail,  
22 will remain the same for each site. It's only the primary  
23 uses of that would be swapped.

24           Because the FAR square footage on each of these  
25 sites is nearly the same, the swap would result in

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1 substantially no change in the overall square footage of  
2 office and residential within the Southeast Federal Center.

3           The reason for the swap, the reason we're asking  
4 for the swap is to allow for Parcel H to proceed with the  
5 consolidated residential project with ground-floor retail.  
6 The split used on Parcel H has proven to be very complex and  
7 is inhibiting the ability to move forward with any  
8 development on the site.

9           By consolidating the residential use on Parcel H,  
10 this will also have the benefit of accelerating the delivery  
11 of more housing units and specifically more affordable  
12 housing units. Parcel Q which had been contemplated as a  
13 for-sale condo would not have been required to provide  
14 affordable housing. By moving this residential use to Parcel  
15 H into a rental building, this will by default subject the  
16 residential units to be affordable housing requirements of  
17 the Southeast Federal Center.

18           An additional benefit of this swap is that the  
19 eastern half of The Yards, which is currently heavily  
20 residential, would get an office use that would generate a  
21 daytime population and help support the retail and restaurant  
22 businesses in that part of the neighborhood. It would also  
23 help with the flow of traffic into and out of this part of  
24 the neighborhood, given the complementary commuting patterns  
25 between office and residential uses. In short, we feel it

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1 shows good planning to further enhance mixing of uses.

2           Again, what is before you today would simply  
3 facilitate use lots. Of course, we will be back before you  
4 with the detailed building design for building Parcel H and  
5 Parcel Q when those are ready.

6           On the community front, we have been before ANC  
7 6D which voted in unanimous support of the swap. In  
8 addition, given the adjacency of Parcel Q to the Navy Yard  
9 facility, we have checked in with the Navy and they expressed  
10 no opposition to these swaps.

11           Finally, the use swap has gone through the SEFC  
12 master plan amendment review process and had no opposition  
13 from GSA or the consulting parties.

14           MR. AVITABILE: Great. Thank you, Toby. I think  
15 we did have a very, very brief sort of exhibit to have up  
16 while we're talking, Mr. Young. I think we submitted it.  
17 If you could pull that up that would be wonderful. Thank  
18 you.

19           And this is sort of the existing land-use plan  
20 with the current conditions where you can see Parcel H which  
21 is sort to the left was split as office and residential in  
22 orange, office in blue. Parcel Q in sort of the southeast  
23 corner of The Yards, residential and if you go to the next  
24 page it shows the change in use, H becomes all residential.  
25 Q becomes all office. And I just wanted to leave with that

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1 sort of image.

2 We are here again with agencies in support. As  
3 Toby mentioned, we've been to the Southeast Federal Center  
4 master planning process to which a number of consulting  
5 parties had input. The master plan change was approved by  
6 GSA and approved by NCPD. The Office of Planning and the ANC  
7 are here in support at the District level and we're available  
8 to answer any questions. Thank you.

9 CHAIRMAN HOOD: Thank you, Mr. Avitabile and Mr.  
10 Millman. I believe that at least from the record that I  
11 looked at I didn't see any opposition. I think we've noted  
12 that in your testimony. Is that correct? Okay. I see the  
13 shake of heads as yes.

14 All right, let's see if we have any questions or  
15 comments.

16 Commissioner May, any questions or comments?

17 COMMISSIONER MAY: I have no questions or  
18 comments.

19 CHAIRMAN HOOD: Commissioner Shapiro, any  
20 questions or comments?

21 COMMISSIONER SHAPIRO: Just a brief one.

22 Mr. Avitabile, the last thing you said was with  
23 the swap Parcel Q is going to be all office or is it office  
24 with retail underneath?

25 MR. AVITABILE: Sorry, there will also be ground-

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1 floor retail for the zoning master plan.

2 COMMISSIONER SHAPIRO: Okay, that's all I have,  
3 Mr. Chair. No other questions.

4 CHAIRMAN HOOD: Thank you.

5 (Audio interference.)

6 MR. TONDRO: Come in, Mr. Hood. Come in, Mr.  
7 Chair.

8 CHAIRMAN HOOD: Sorry, I go off and on sometimes.  
9 You know, I don't know, but anyway, any other questions or  
10 comments?

11 VICE CHAIR MILLER: Thank you, Mr. Chairman. I  
12 think I have one question.

13 Thank you, Mr. Avitabile, for your -- remind me,  
14 I think I saw it somewhere, so Parcel H is now going to have  
15 housing on it, right? And what's the capacity of the housing  
16 there and The Yards -- with The Yards set aside for  
17 affordable, I think it's 20 or 30 percent. I forget the AMI  
18 levels, if you can remind me of all that.

19 MR. AVITABILE: Sure, so H, we're currently, the  
20 design proposed is anticipated to have 500 units total.  
21 Twenty percent of those units or about 100 units would be  
22 affordable at 50 percent AMI per the development agreement  
23 with the District that sort of sets out the affordable  
24 housing requirements.

25 By comparison for Q, if we had built that out as

1 residential, we had forecasted about 170 units, so the swap  
2 yields sort of a net 8 additional -- 80 units of housing  
3 because we can just sit that many more units on Parcel H sort  
4 of the way it would be laid out and configured and the use  
5 of that property. And it is more affordable housing as well.

6 VICE CHAIR MILLER: Thank you. That anticipated  
7 my second question, so I appreciate that information. Thank  
8 you for the record.

9 CHAIRMAN HOOD: Mr. Turnbull, let me come back to  
10 you. When I looked at everybody, everybody went still, so  
11 I moved my problem. So Mr. Turnbull, any questions?

12 COMMISSIONER TURNBULL: I just had one. On Block  
13 2 now, so the nearest office is going to be north up to E1  
14 site, block E1? Is that the only other office in the area?

15 MR. AVITABILE: So in The Yards, yes. E1 is  
16 currently designated as office use in the master plan.  
17 However, of course, if you look beyond sort of The Yards per  
18 se, you've got the entire Navy Yard to the east which has  
19 quite a bit of office use in it. And the federal Department  
20 of Transportation headquarters sits sort of again just north  
21 along M Street there. So there's actually a bit of office.

22 And actually, there's office use within The Yards,  
23 the Lumber Shed building which sits in the park, the second  
24 floor of that building is also used as well. Until recently,  
25 Brookfield's offices were there. So there is a sort of mix

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1 of office and residential within this part of the  
2 neighborhood.

3 COMMISSIONER TURNBULL: Okay. Thank you.

4 CHAIRMAN HOOD: Okay. All right, again, sorry  
5 about that. Let's go to -- I don't have any questions. I  
6 think it's pretty straight forward. It's good to see the  
7 ANC's support.

8 Let's go to the Office of Planning.

9 MS. ELLIOTT: Good afternoon, Mr. Chairman,  
10 members of the Board. I'm Brandice Elliott at the Office of  
11 Planning and we are recommending approval of the proposed  
12 text amendment for SEFC-3 zone. I'm going to go ahead and  
13 stand on the record of our report, but I'm happy to answer  
14 any questions that you have.

15 CHAIRMAN HOOD: Okay, thank you, Ms. Elliott.

16 Commissioners, any questions or comments? Not  
17 seeing anyone, okay.

18 All right, does the applicant have any questions  
19 or comments of Ms. Elliott, Mr. Avitabile, Mr. Millman?  
20 Okay, thank you, very much, Ms. Elliott.

21 Other government reports? I didn't any. If were  
22 in there, somebody can bring it to my attention.

23 Let's go to the ANC. Do we have Chairperson Fast,  
24 who is going to testify tonight?

25 MS. SCHELLIN: She did not sign up, but let me see

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1 if she's on. I don't see her on.

2 CHAIRMAN HOOD: Okay, well, anyway, in our Exhibit  
3 17, Chairperson Fast of the ANC voted on October 13th and  
4 they unanimously supported by 7 to 0 to 0 to send this letter  
5 of support of this text amendment. They talk about the  
6 swapping and the affordable housing component as well in  
7 their letter, so they are in support, so it's always good to  
8 see.

9 I know ANC 6D has a lot of projects, some they  
10 support wholeheartedly and some they don't, some they have  
11 concerns on, but I really appreciate the work that's been  
12 done that they support this and I know they have a lot on  
13 their plate, so we appreciate that.

14 COMMISSIONER TURNBULL: Mr. Chair, Exhibit 2E is  
15 a report from NCPC, Julia Koster at NCPC, when she was there  
16 -- formerly she was at NCPC.

17 CHAIRMAN HOOD: Okay, great. Thank you, Mr.  
18 Turnbull and the staff. Thank you so much.

19 Yes, you're right. Okay. Thank you. Again, I  
20 don't believe we have anybody out there that wants to  
21 testify.

22 Ms. Schellin, can you check one more time?

23 MS. SCHELLIN: I just did, and there were no new  
24 sign ups.

25 MR. TORRES: All right, so with that, I think this

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1 is pretty straight forward. We'll close this hearing and  
2 I'll ask my colleagues, what is your pleasure in this case  
3 No. 20-13. I think it's pretty straight forward.

4 I'll let someone give a motion if they would like,  
5 whoever unmutes first.

6 COMMISSIONER MAY: I'd like to make a motion to  
7 approve Zoning Commission Case 20-13 Forest City SEFC Text  
8 Amendment Subtitle K. I guess it's not Forest City anymore,  
9 right? But it's still the same case.

10 CHAIRMAN HOOD: Right.

11 VICE CHAIR MILLER: Second.

12 CHAIRMAN HOOD: Okay, it's been moved and properly  
13 seconded. Any further discussion?

14 All right, Ms. Schellin, would you please do a  
15 roll call vote?

16 MS. SCHELLIN: Commissioner May?

17 COMMISSIONER MAY: Yes.

18 MS. SCHELLIN: Commissioner Miller?

19 VICE CHAIR MILLER: Yes.

20 MS. SCHELLIN: Commissioner Hood?

21 CHAIRMAN HOOD: Yes.

22 MS. SCHELLIN: Commissioner Shapiro?

23 COMMISSIONER SHAPIRO: Yes.

24 MS. SCHELLIN: Commissioner Turnbull?

25 COMMISSIONER TURNBULL: Yes.

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1 MS. SCHELLIN: The vote is 5 to 0 to 0 to take  
2 proposed action of Zoning Commission Case No. 20-13.

3 CHAIRMAN HOOD: Okay, I am going to thank you, Mr.  
4 Avitabile and Mr. Millman, a very quick night tonight. We  
5 greatly appreciate all the work you're doing in that  
6 neighborhood and also with that community and the ANC as  
7 well.

8 MR. AVITABILE: Thank you very much.

9 CHAIRMAN HOOD: Ms. Schellin, do we have anything  
10 else before us?

11 MS. SCHELLIN: Nothing else tonight.

12 CHAIRMAN HOOD: So Commissioners, I think we have  
13 our next meeting will be October 29th at 4 p.m.

14 MS. SCHELLIN: The 26<sup>th</sup>.

15 CHAIRMAN HOOD: It's the 26th?

16 MS. SCHELLIN: Yes, Monday.

17 CHAIRMAN HOOD: That's not the one I canceled?

18 MS. SCHELLIN: No. You canceled the --

19 CHAIRMAN HOOD: Okay. So anyway, our next hearing  
20 will be Monday, the 26th. Thank you, Ms. Schellin, because  
21 I wouldn't have showed up until Thursday. Monday, the 26th,  
22 Case No. 20-18, 1319 South Capitol Owner, LLC. This is a  
23 design review case and we will be doing it on Monday at 4  
24 p.m.

25 So without further ado, I don't hear any other

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1 comments, I'm going to thank everyone for this special night  
2 and this hearing is adjourned. Good night.

3 MS. SCHELLIN: Thank you.

4 (Whereupon, the above-entitled matter went off the  
5 record at 4:19 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: 10-22-20

Place: teleconference

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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Court Reporter

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