

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

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THURSDAY

JULY 20, 2023

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The Public Hearing of the District of Columbia Zoning Commission convened via teleconference, pursuant to notice at 4:00 p.m., EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
PETER MAY, Commissioner
JOSEPH S. IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

ELLA ACKERMAN, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING LEGAL COUNSEL:

JACOB RITTING, Esquire

The transcript constitutes the minutes from the Regular Public Hearing held on July 20, 2023.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 13-16B

Forest City SEFC, LLC , 4

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

(9:30 a.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. Today date is July the 20th, 2023. We are convening and broadcasting this public hearing by video conferencing.

My name is Anthony Hood and I'm joined by Vice Chair Miller, Commissioner May and Commissioner Imamura. We're also joined by the Office of Zoning Staff Ms. Ella Ackerman and possibly Ms. Sharon Schellin, I think it's Ms. Ackerman this evening, and Mr. Paul Young who'll be handling all of our virtual operations and also our Office of Zoning legal division, Mr. Jacob Ritting. I'll ask all others to introduce themselves at the appropriate time.

The virtual public hearing Notice is available on the Office of Zoning's website. This proceeding is being recorded by court reporter and the platforms used are WebEx and YouTube Live. The video will be available on the Office of Zoning's website after the hearing. All persons planning to testify should have signed up in advance and will be called by name at the appropriate time. At the time of signup, all participants will complete the Oath or Affirmation required by Subtitle Z 4817. Accordingly, all those listening on WebEx or by phone will be muted during the hearing and only those who have signed up to participate or testify will be unmuted at the appropriate time. When called, please state your name before providing your

1 testimony. When you are finished speaking, please mute your
2 audio. If you experience difficulty accessing WebEx or with your
3 telephone call-in, or have not signed up then please call our OZ
4 hotline number 202-727-0789. If you wish to file written
5 testimony or additional supporting documents during this
6 proceeding, then please be prepared to describe and discuss the
7 entirety of your testimony.

8 The hearing will be conducted in accordance with
9 provisions of 11Z DCMR Chapter 4 as follows: preliminary matters,
10 applicant's case -- I believe tonight we really have a short
11 version, I don't think, and I didn't see any opposition but
12 anyway, we'll see as we move on -- ten minutes or less, report
13 of other government agencies, the report of the Department of
14 Transportation and the Office of Planning. Also we will have,
15 the report in this case is the report of 8F, and then we have
16 testimony of organizations and individuals, organizations five
17 minutes and the individuals three minutes, and we will hear in
18 the following order for those in support, opposition or
19 undeclared. Then we will have rebuttal and closing by the
20 applicant. Again, the OZ hotline number is 202-727-0789 for any
21 difficulties or problems during these proceedings.

22 At this time the Commission will consider any
23 preliminary matters. Ms. Ackerman, do we have any preliminary
24 matters?

25 MS. ACKERMAN: Hi. So (indiscernible) Forest City

1 SEFC, LLC will be represented by David Avitabile and Derick
2 Wallace of Goulston % Storrs. Their presentation will be two to
3 three minutes or ten minutes in full, if you would like. I was
4 told Commissioner Daniels will be here today to speak, and there
5 are no proffered expert witnesses. That is all for preliminary
6 matters.

7 CHAIRPERSON HOOD: Okay. Thank you, Ms. Ackerman.
8 Let's bring everybody up. Mr. Avitabile, once you get on and
9 you're settled you can go ahead and begin and I think unless,
10 and also as we go through this I didn't see any opposition in
11 this case to continued use, you can just mention that and we can
12 probably keep it to two or three minutes.

13 So, let me go to you, Mr. Avitabile.

14 MR. AVITABILE: Thank you very much, Chairman Hood and
15 members of the Commission. David Avitabile with Goulston & Storrs
16 here on behalf of the Applicant. I'm joined by my colleague,
17 Derick Wallace. We're also joined by Rich Fernicola from
18 Brookfield Properties and John Lecker also from Brookfield. John
19 is joining by phone only. He's the 4-4-3 number. He'll be
20 available to answer questions as is Rich.

21 So, I think that's right. We have no opposition today.
22 The ANC is in support. The Office of Planning is in support.
23 DDOT also doesn't object to this as is indicated in the Office
24 of Planning's report and it's a very simple request so I'll just
25 briefly summarize it for you all.

1 Mr. Young, if we could bring up the very short
2 presentation.

3 Thank you, and if you go to the second page. The
4 Commission has seen this map many, many times before. This is
5 the master plan for The Yards and it shows you all the different
6 parcels and as well as their proposed uses, and the two parcels
7 we're talking about today are the ones that are highlighted with
8 the yellow arrows, parcel F which is on the west side of The
9 Yards. Parcel F is currently slated for an office development
10 that this Commission approved back in early 2021. We proceeded
11 with permitting on that building. We are just waiting for a
12 tenant so that we can move it forward and then the other parcel
13 is parcel Q which is in the southeast corner of The Yards
14 adjacent to Yards Park which the Commission recently approved a
15 text amendment to allow office use.

16 These two parcels have been used as parking lots for
17 the past ten years in both cases and pursuant to Zoning Commission
18 approval, and we are here today to ask for another five years.
19 The zoning regulations expressly allow for an applicant to
20 request a parking lot here in the southeast Federal Center zones
21 for a period up to five years and they allow for them to be
22 renewed. These are the two remaining surface parking lots. The
23 last time we were here we were really not only these two lots
24 but also those parcels H and I which are immediately south of F
25 and G and those are well underway with construction. Parcel I,

1 the building's nearly complete. Parcel H, the hole is very, very
2 deep and it is well underway.

3 Again, we've sort of met all the standards. OP's report
4 summarizes it as well. We're here with support from the ANC and
5 we appreciate it. We had a very good dialog with ANC 8F. It's
6 nice to have an ANC that's focused exclusively on the east side
7 of South Capitol Street and we are happy to answer any questions.

8 So, thank you.

9 CHAIRPERSON HOOD: Thank you for the update and thank
10 you for the presentation. I think the record is pretty
11 straightforward in this case. We may have some questions. Let's
12 see. Let me do it like this. Anybody have any questions? No
13 particular order. I don't see, let me get my screen straight, I
14 don't see the Vice Chair. I see everybody but, okay. Anybody
15 have any questions?

16 VICE CHAIR MILLER: I have a question.

17 CHAIRPERSON HOOD: Okay. Go to the Vice Chair.

18 VICE CHAIR MILLER: Do you see me?

19 CHAIRPERSON HOOD: I see you now. I'm trying to adjust
20 my --

21 VICE CHAIR MILLER: Okay. I didn't know if it was me
22 or you. Okay.

23 CHAIRPERSON HOOD: No, it was probably me.

24 VICE CHAIR MILLER: Okay. Thank you, Mr. Avitabile,
25 for your presentation today. I agree with the Chairman, it's

1 very straightforward.

2 I just had a question about one of the parcels, F, F
3 as in Frank, where a building, it's the subject of a design review
4 order that we approved a couple of years ago and the building
5 permit, application for that approved building has, which is I
6 think is a mixed use building, has already been filed. What is
7 the status of when that construction is going to begin or is that
8 unknown at this time? The other one seems more indefinite but
9 on parcel that's -- you've got the building permit application,
10 you've got to do something with that I guess at some point.

11 MR. AVITABILE: Yes, Rich, do you want to address that?

12 MR. FERNICOLA: Sure. Thank you, David, and thank you
13 Commissioners for entertaining the application in extensions
14 (phonetic). As David elaborated earlier, parcel F is a building
15 (indiscernible) be based on, you know, office leasing
16 (indiscernible) progress here. We face (Indiscernible) window
17 (phonetic). So we do need, we need to get (indiscernible)
18 actually start construction on. So no exact date to start. You
19 know, we do feel good obviously about The Yards (indiscernible)
20 and parking, but we do have to, we need to get (indiscernible)
21 to start building.

22 VICE CHAIR MILLER: Okay, thank you. Thank you for
23 that response. Appreciate it.

24 MR. AVITABILE. Yes. And just to expand a little bit
25 on it just because you'll, you know, depending on how things go

1 in the next nine months you may see an application for an
2 extension of that approval if we're not able to, you know, get a
3 tenant and start construction.

4 The deadline by which we have to start construction is
5 I think in May of 2024 so we'll, you know, if we haven't been
6 able to get started by then we'll be before you. But, you know,
7 I think until then and, you know, being able to continue to use
8 the lot for surface parking is a good and important use.

9 VICE CHAIR MILLER: And the surface parking lot is
10 mostly being used by the ball park and Yards patrons?

11 MR. AVITABILE: Yes. I think that's right, Rich. I
12 don't know if there's anyone else that's using it regularly but
13 that's largely who's using it.

14 MR. FERNICOLA: Yes. Absolutely. People keep coming
15 down to utilize the open space of The Yards and retail
16 (indiscernible).

17 VICE CHAIR MILLER: And that parcel, like a lot of the
18 parcels, will have underground, has underground parking as part
19 of the approval? Yes.

20 MR. FERNICOLA: That's (indiscernible).

21 CHAIRPERSON HOOD: Mr. Avitabile, I don't necessarily
22 have a question in this case but I will do this. I always seize
23 the moment. The gentleman, I think you said Wallace, who's
24 sitting next to you?

25 MR. AVITABILE: Yes.

1 CHAIRPERSON HOOD: What's his name again? Introduce
2 him to us.

3 MR. AVITABILE: Derick Wallace.

4 CHAIRPERSON HOOD: Mr. Derick Wallace. When is he
5 going to present?

6 MR. AVITABILE: We're getting there. You know, I figure
7 it's been about a year so we're about ready for Derick to start
8 presenting. Next time.

9 CHAIRPERSON HOOD: You know, I remember when you
10 started presenting and I remember when you sat where he is.

11 MR. AVITABILE: That's right.

12 CHAIRPERSON HOOD: Always asked these questions and you
13 sat for a while, and I always asked these questions. I just want
14 to know when is Mr. Wallace going to present. I hope it's sooner
15 than later.

16 That's all the questions I have. I think this case is
17 pretty straightforward. Let's see. Any follow-up questions or
18 comments? Not seeing any.

19 Ms. Ackerman, do we have anyone here from ANC 8F?

20 MS. ACKERMAN: One moment. I don't see anyone.

21 CHAIRPERSON HOOD: Okay. I'll do the report. I saw
22 they're in support. Let's move with the agenda. Looks like it's
23 going to be pretty quick, although I probably shouldn't jinx
24 myself on this.

25 Okay. Ms. Ackerman, again I'm going to call for you

1 now. I don't think we have any report from the Office of Attorney
2 General or any other government agencies?

3 MS. ACKERMAN: I just see a report from OP and the ANC.

4 CHAIRPERSON HOOD: Yes, yes. Any others
5 (indiscernible). All right. Let's go to -- do we have anyone
6 here from DDOT?

7 MS. ACKERMAN: No.

8 CHAIRPERSON HOOD: Okay. If not, let's go to the Office
9 of Planning.

10 MS. ACKERMAN: Okay. Paul, do you want to let them in?

11 CHAIRPERSON HOOD: Mr. Lawson?

12 MR. LAWSON: Hi. Good afternoon. I'm not sure if my
13 video's working or not but this is Joel Lawson from the Office
14 of Planning. We agree that this case is pretty straightforward
15 and I'm happy to stand on the record in support.

16 Thank you, and I'm available for questions.

17 CHAIRPERSON HOOD: Okay. Thank you, Mr. Lawson.
18 Colleagues, any questions? All right. Again, I don't think we
19 have anyone from ANC 8F. Does the Applicant have any questions?

20 MR. AVITABILE: No, sir.

21 CHAIRPERSON HOOD: Okay. I'm trying to think. Did we
22 have a DDOT report in this case?

23 MR. AVITABILE: There's no report from DDOT. The Office
24 of Planning report on page 4 refers to emails from DDOT saying
25 they didn't have any objections but there's no report from DDOT

1 here.

2 CHAIRPERSON HOOD: Okay. Thank you. Bear with me
3 second. I'm trying to open up the ANC report and everything else
4 is opening up. Okay. There we go. We don't have any -- need
5 some help over here. My granddaughter, or somebody could come
6 and help me.

7 All right. Let me just say the ANC report, and I
8 appreciate, even though I know we're talking about continuing use
9 of a parking lot, Commissioner May lives in ANC 8F. I appreciate
10 their letter which is our Exhibit No. 14. They say therefore
11 the ANC is in support of the continued use of the property and
12 surface parking lots.

13 I know most of the time, Mr. Avitabile and others, I'm
14 saying this as a general statement. In particular ANC 8F and I
15 think it's 6D where this is primary is, or I've been able to
16 gather, I know they typically have a lot of issues with certain
17 things that we deal with down in that area. So I'm hoping that
18 we can continue collaboration like we do with the parking lot so
19 when I start reading this, I'm like, okay, I hope that this is
20 the same thing we can get to in some of those projects that we
21 have down in that area. So I just wanted to throw that out there.
22 Nobody really needs to comment and I'm just saying that actually
23 for applicants, not just this applicant tonight, but all
24 applicants as well as the community.

25 So let's see, oh, well, we don't have anybody to ask

1 about the ANC unless you want to ask me a question. All right.
2 So, the ANC voted five to zero to zero and I appreciate all that
3 ANC 8F does.

4 All right. Let's continue to move on. Ms. Ackerman,
5 do we have anyone who's here either in support, opposition or
6 undeclared?

7 MS. ACKERMAN: No.

8 CHAIRPERSON HOOD: Okay. Thank you, Ms. Ackerman. Mr.
9 Avitabile, let me see. Colleagues, any other questions? Not
10 seeing any, Mr. Avitabile, do you have any closing?

11 MR. AVITABILE?: No, I don't. Just to thank the
12 Commission for your time. Thank you.

13 CHAIRPERSON HOOD: Thank you. Colleagues, I think this
14 is pretty straightforward. I don't necessarily think that we
15 need to delay this and as usual I believe that this, if it's
16 approved, I think it warrants our approval. I think as has
17 already been recommended we can do a summary order. But let me
18 see if one of my colleagues would like to make a motion to
19 approve?

20 COMMISSIONER IMAMURA: I'll make a motion, Mr.
21 Chairman.

22 CHAIRPERSON HOOD: Thank you.

23 COMMISSIONER IMAMURA: I move that the Zoning
24 Commission approve case No. 13-16B Forest City SEFC, LLC design
25 review at Square 743, Lot 856 and Square 827, Lot 1, and ask for

1 a second.

2 CHAIRPERSON HOOD: I'll second that. It's been moved
3 and properly second. Any further discussion? Not hearing any,
4 Ms. Akerman, could you do a roll call vote, please?

5 MS. ACKERMAN: Commissioner Imamura?

6 COMMISSIONER IMAMURA: Yes.

7 MS. ACKERMAN: Commissioner Hood?

8 CHAIRPERSON HOOD: Yes.

9 MS. ACKERMAN: Commissioner Miller?

10 VICE CHAIR MILLER: Yes.

11 MS. ACKERMAN: Commissioner May?

12 COMMISSIOENR MAY: Yes.

13 MS. ACKERMAN: Zoning case No. 13-16B is approved for
14 final action four to zero to one. If the Applicant could submit
15 a draft order within the next three weeks, that would be great.
16 Thank you.

17 CHAIRPERSON HOOD: All right. Ms. Ackerman, do we have
18 anything else before us tonight?

19 MS. ACKERMAN: No, we don't.

20 CHAIRPERSON HOOD: Okay. Thank you. I just have two
21 quick announcements. On July the 24th the Zoning Commission will
22 be meeting again on case No. 775 Holdings, LLC, Zoning Commission
23 case 23-05.

24 Also, I see they took Mr. Wallace and Mr. Avitabile
25 down. We also have something on July the 31st. I'm hoping that

1 whether we have a case or not you'll be here and the fortunate
2 thing for Mr. Avitabile and Mr. Wallace tonight is that I'm going
3 to be looking for them because they were the two here tonight.
4 So on the 31st, unless they have something else to do, I'm going
5 to be looking for them to join us. I'm going to look for their
6 names to join us on the 31st.

7 So with that, I want to thank everyone for their
8 participation in this case tonight and their continued work, and
9 with that this hearing is adjourned. Good night everyone.

10 (Whereupon, the above-entitled hearing was adjourned.)
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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: ZC

Date: 07-20-2023

Place: Teleconference

was duly recorded and accurately transcribed under my
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record of the proceedings.

JULIE SOUZA