

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

+ + + + +

MONDAY

OCTOBER 21, 2024

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT E. MILLER, Vice Chair
JOSEPH IMAMURA, Commissioner
GWEN WRIGHT, Commissioner
TAMMY STIDHAM, Commissioner

OFFICE OF ZONING STAFF PRESENT:

PAUL YOUNG, Zoning Data Specialist
ELLA ACKERMAN, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, Esquire

ALSO PRESENT:

SHEPARD BEAMON, Office of Planning
DAVID AVITABILE, ESQUIRE, Counsel for Applicant
OLIVIA TORRES, ESQUIRE, Counsel for Applicant
AUGUSTUS HANEY, Brookfield Properties
BRETT STEIN, Brookfield Properties

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The transcript constitutes the minutes from the
Regular Public Hearing held on October 21, 2024

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

Case No. 24-08
FC Lumber Shed, LLC 5

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by videoconferencing. My name is Anthony Hood. Joining me this evening are Vice Chair Miller, Commissioner Wright, Commissioner Imamura, and we'll be joined shortly by Commissioner Stidham. We're also joined by Office of Zoning Staff, Ms. Ella Ackerman, as well as our Office of Zoning Legal Division, Ms. Hillary Lovick. I will ask all others to introduce themselves at the appropriate time.

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

Please state your name and home address before providing all testimony on your presentation. When you are finished speaking, please mute your audio so that your microphone is no longer picking up sound or background noise. If you experience difficulty accessing Webex or with your telephone call-in, then please call our OZ Hotline number at 202-727-0789

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1 to sign up or to receive Webex log-in or call-in instructions.
2 Also from our staff, Mr. Paul Young, who will be handling all of
3 our virtual operations, is who you will be working with.

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

9 The subject of this evening's hearing is Zoning
10 Commission Case Number 24-08, FC Lumber Shed, LLC, Text Amendment
11 to Subtitle K, Section 230.4 on Square 771, Lot 809. Again,
12 today's date is October the 21st, 2024.

13 The hearing will be conducted in accordance with the
14 provisions of 11-Z DCMR Chapter 5, as follows: Preliminary
15 matters, presentation by the Petitioner, we will have the report
16 of the Office of the Attorney General or other government
17 agencies, if we have it, and report of the ANC. This applies --
18 this actually applies nationwide -- I mean, not nationwide --
19 citywide. Testimony of organizations and individuals each have
20 five and three minutes, respectively, and we will hear an order
21 from those who are in support, opposition, or undeclared. While
22 the Commissioner reserves the right to change the time limit for
23 presentations, if necessary, it intends to adhere to the time
24 limits as strictly as possible and no time shall be ceded. Again,
25 any issues, please call our OZ Hotline number at 202-727-0789.

1 At this time, the Commission will listen to any preliminary
2 matters. Does the staff have any preliminary matters?

3 MS. ACKERMAN: The applicant tonight is FC Lumber Shed,
4 LLC. They plan to take ten minutes to present. They are
5 represented by Olivia Torres and David Avitabile of Goulston and
6 Storrs. There are no expert witnesses tonight. Since set down
7 on July 25th, we have had a report come in at Exhibit 16 from
8 the Office of Planning, which will be presented by Shepard Beamon.
9 He plans to take five minutes. We have not received a report
10 from ANC 8F. I have reached out to them this morning, but I
11 haven't heard anything back from them. There are no other
12 preliminary matters tonight.

13 CHAIRPERSON HOOD: Okay. Ms. Ackerman, do we know of
14 any opposition in this case?

15 MS. ACKERMAN: I'm not aware of any.

16 CHAIRPERSON HOOD: Okay. All right. Mr. Avitabile,
17 if you can come up, do you know of any opposition in this case?

18 MR. AVITABILE: Good evening, Mr. Chairman and other
19 members of the Commission. I am not aware of any. We actually
20 did present to the ANC back in June, and they voted to support,
21 but they have not gotten their report in yet, but we -- but I'm
22 not aware of any opposition.

23 CHAIRPERSON HOOD: Okay. I didn't see any in the
24 record. What I would suggest, unless my colleagues disagree,
25 that we have the quick version -- the quickest version and hit

1 the highlights of what's being asked for, and then we'll ask our
2 questions, if we have any. So, with that, I'll turn it over to
3 you Mr. Avitabile.

4 MR. AVITABILE: Great. Thank you very much. Good
5 afternoon, Commissioners, again. David Avitabile with Goulston
6 and Storrs. Mr. Young, if you could please bring up the
7 presentation, we'll fly through it.

8 (PowerPoint presentation shared on screen.)

9 MR. AVITABILE: I'm joined by my colleague, Liv Torres,
10 and also by Augustus Haney and Brett Stein from Brookfield, who
11 are the owners of the property that we're talking about this
12 evening. So this is a petition for a text amendment -- next
13 slide please -- for a property located within the area known as
14 The Yards, and it's known as The Lumber Shed Building. It's a
15 historic structure -- historic landmark, and what we're seeking
16 is approval to allow office use on the second floor of this
17 building on an ongoing, perpetual basis.

18 Briefly, The Yards -- I think I'm to give a little more
19 of an overview. Chairman Hood, I know you know all of this and
20 some of the other Commissioners have heard many of these
21 buildings. We also have new Commissioners. Welcome,
22 Commissioner Wright and others. So just two minutes. So The
23 Yards is former federal land and is the Southeast Federal Center.
24 It's been developed pursuant to a Master Plan approved by the
25 National Capital Planning Commission. And the Master Plan which

1 is shown here identifies the Lumber Shed Building as mixed use
2 office and residential development.

3 Next slide please. So the property is located in what
4 is called the SEFC-4 zone. This was a special purpose zone
5 created expressly for The Yards, and the SEFC-4 zone was created
6 to govern the development of what we all know as Yards Park and
7 the buildings within Yards Park. Now, at the time of the initial
8 approvals for Yards Park in 2008 and 2009 -- next slide please --
9 the Lumber Shed Building was contemplated as a two-story retail
10 pavilion. However, the then-developer, Forest City Washington,
11 concluded that leasing the second floor for retail was too
12 challenging in that market, while if we were able to lease the
13 second floor as office use, that would provide steady revenue to
14 finance the development.

15 And so if we can go to the next slide -- just skip that
16 and go to the next slide. So this is what we were trying to
17 jumpstart, was basically the enclosure of this two-story Lumber
18 Shed Building that was built as part of the Navy Yard Annex to
19 literally dry lumber and find a way to repurpose and reuse the
20 building. And so what we did back at the time in 2011 is we
21 requested Zoning Commission approval to amend the text of the
22 SEFC-4 zone to allow for office use, and the Commission approved
23 it with the condition that the office use would be limited to a
24 term of 20 years, because the thinking at the time was that office
25 use was perhaps an interim use, and long-term the market would

1 arrive for retail use to fill both stories of this building and
2 so there would be no need for it.

3 And so if we go to the next slide, this was the
4 completed building. Get to the next slide. One more slide.
5 Thank you. The completed building was successful. The building
6 was redeveloped. It leased out very well; office use on the
7 second floor and some great retail on the ground floor, which has
8 been really very successful. And so what we're now seeking is
9 amendment -- further amendment of that provision to essentially
10 allow the office use to remain there permanently, get rid of that
11 20-year term.

12 So if we can go to the next slide, this is what we
13 propose doing, just deleting that provision right there that
14 permitted it only for 20 years. And then if we can go to the
15 next slide, briefly, you know, what this will allow us to do is
16 allow us to continue providing office use within the building.
17 It's actually a use that fits well within the historic structure,
18 which has these very open spaces that we're required to maintain,
19 and so office layout works well within it and creates an active
20 daytime use that helps activate this corner of The Yards, which
21 is otherwise relatively residential. And, finally, the way we've
22 designed it does not preclude retail use being on that second
23 floor in the future, should the market be there. That's another
24 condition of the Commission's original approval, and we would
25 continue that condition going forward.

1 And then the next and last slide, just briefly, this
2 text amendment we believe is consistent with the overall planning
3 guidance. The Master Plan for the Southeast Federal Center, as
4 amended, specifically identifies office use on the site, so it's
5 consistent with the Master Plan. FLUM identifies the site as
6 mixed use, high-density residential and commercial, so it's
7 consistent with the FLUM. It's also consistent with the
8 Generalized Policy Map, which calls The Yards, as a whole, as a
9 Regional Center, so office uses and bringing workers to these
10 areas is important to sort of maintaining that Regional Center
11 use. And then based on our survey of the various district
12 elements and the area element, we did not identify provisions
13 that this would be inconsistent with.

14 So, with that, I will stop, and we are happy to answer
15 any questions. We are happy to have the support of the Office
16 of Planning and, as I noted, we did present the application to
17 ANC 8F, which is the ANC in which we're located, and they didn't
18 communicate any objections to us when we met with them, but,
19 obviously, you do not have a report in front of you, so that is
20 what it is. Thank you very much.

21 CHAIRPERSON HOOD: Thank you, Mr. Avitabile. And I
22 don't know if I mentioned it, but we also have our Office of
23 Zoning Legal Division, Ms. Hillary Lovick. I may not have
24 mentioned that. We don't have a lot of rulemaking and I need to
25 try to tweak it -- tweak my opening statement. All right. So,

1 with that, I will tell you, I will -- I'm going to the Vice Chair
2 first, but let me say, Mr. Avitabile, I really appreciate the
3 slide presentation, especially I think it was 11 or 12, the next-
4 to-the-last one that you showed. It tells me exactly what we're
5 doing, so I don't have any questions. It's pretty
6 straightforward. Even if I tried to be creative, I don't have
7 any questions. All right. So, with that, Vice Chair Miller.

8 VICE CHAIR MILLER: And, thank you, David Avitabile,
9 for this presentation. And I agree with the Chairman, that it's
10 fairly straight -- it's a straightforward text amendment to
11 eliminate that 20-year limitation on the second floor being used
12 for office as an option. Let me just ask, what's -- how much
13 square footage is that office -- is that second-floor office
14 space?

15 MR. AVITABILE: Boy, that's a good question and one I
16 should have had off the top of my head.

17 VICE CHAIR MILLER: Just approximately, ballpark.

18 MR. AVITABILE: It's -- I don't know. Aughey, if you're
19 on, do you have that?

20 MR. HANEY: Yes. It's just about 20,000 square feet.

21 MR. AVITABILE: There we go. Thank you.

22 VICE CHAIR MILLER: And the current user is not that
23 that's necessarily relevant to our standard review, but just out
24 of curiosity.

25 MR. AVITABILE: Yeah, it's tenant called Xylem,

1 correct, Mr. Haney?

2 MR. HANEY: Yes.

3 MR. AVITABILE: Yes. And before that, originally,
4 Forest City was actually the tenant in the space.

5 VICE CHAIR MILLER: Yeah, that's what I recall, that
6 the property owner was using the --

7 MR. AVITABILE: And then Brookfield took that over.

8 MR. HANEY: And Xylem is a water technology firm who
9 works with D.C. Water, so there's a reason why they're down at
10 The Yards and want to continue to be down at The Yards.

11 VICE CHAIR MILLER: Well, that makes sense. And you
12 said we put that interim use condition as an interim use back
13 in -- I guess in the 2011 order, so it goes until '31. Is that
14 what it does? I don't know. I don't know when it was published,
15 but you want to get rid of it now because you can see that it's
16 being used and you maybe want a long-term lease. I don't know.

17 MR. AVITABILE: That's exactly right. We're now within
18 the second ten years, and so to the extent that we would either
19 renew a lease with Xylem or any other possibilities, office leases
20 are generally in terms of ten years or more, so we need to have
21 the certainty to be able to have it in perpetuity so that we can
22 lease it going forward.

23 VICE CHAIR MILLER: Right. The retail on the second
24 floor above has always been desirable, but challenging from a
25 marketing and other perspectives. We've learned that the hard

1 way downtown and other places. So thank you. I think this --
2 you know, I think the case has clearly been made that it's
3 necessary, it's desirable. As far as the comprehensive plan
4 goes, it's not inconsistent with future land use map designation
5 of mixed use high-density commercial and high-density
6 residential. This office fits in with that, so I'm prepared to
7 support this, Mr. Chairman. Thank you.

8 CHAIRPERSON HOOD: Mr. Avitabile, for the record, you
9 called a person -- I think a person answered the question twice.
10 Could they identify themselves for the court reporter please?

11 MR. HANEY: Yeah. I apologize. My colleague, Brett
12 Stein, and I are sitting in a conference room together, so Brett
13 Stein is the other registered speaker who's here with me in the
14 room.

15 CHAIRPERSON HOOD: Could you just repeat your name? I
16 couldn't hear it myself. I want to make sure the court
17 reporter --

18 MR. STEIN: Yeah. My name is Brett Stein and I'm with
19 Brookfield overseeing the project.

20 CHAIRPERSON HOOD: And you were the only person that
21 spoke, right? Did somebody else speak?

22 MR. HANEY: No. It's just -- it's just myself and
23 Brett in this room together.

24 CHAIRPERSON HOOD: Okay. All right. And I'm sure if
25 they have questions, they'll reach out to Mr. Avitabile. Okay.

1 Thank you. Commissioner Imamura, any questions or comments?

2 COMMISSIONER IMAMURA: Chairman, I agree with
3 everything that Vice Chair Miller stated and just want to
4 underscore that the text amendment does not preclude retain use
5 on the second floor in the future, so I think that's important
6 to underscore there, and I'm prepared to vote in support. Pretty
7 straightforward.

8 CHAIRPERSON HOOD: All right. And Commissioner Wright,
9 any questions or comments?

10 COMMISSIONER WRIGHT: I certainly support this text
11 amendment. It's very exciting to support a property owner who
12 wants to continue an office use. That is very refreshing. and I
13 think it's -- I think it's an excellent proposal, and I think
14 you've made your case about why it's consistent with the plan,
15 so I am very happy to support.

16 CHAIRPERSON HOOD: Okay. Give me one moment. So let's
17 go to -- Ms. Ackerman, do we have any other government report?
18 I know about the Office of Planning. Do we have anything from
19 OAG or any other government agencies, or is anybody here to
20 testify? That's the question.

21 MS. ACKERMAN: I'm checking now. No, we didn't -- the
22 Office of Planning is here, but nobody from the ANC or DDOT or
23 anything like that.

24 CHAIRPERSON HOOD: Okay. Sounds good. Let's bring up
25 Mr. Beamon from the Office of Planning. Mr. Beamon, we will take

1 | your suggestion about staying on the record, unless you just want
2 | to introduce yourself and ask any questions.

3 | MR. BEAMON: Unfortunately, my camera is not working,
4 | but I am here to answer any questions. We do stand on the record.

5 | CHAIRPERSON HOOD: Sounds good. Thank you. All right.
6 | Most of us have seen you, I think maybe with the exception of
7 | Commissioner Wright, so we're looking to -- she'll see you the
8 | next time. Let's see, any questions of the Office of Planning,
9 | Vice Chair Miller?

10 | VICE CHAIR MILLER: No, thank you. Thank you, Mr.
11 | Beamon.

12 | CHAIRPERSON HOOD: And Commissioner Imamura.

13 | COMMISSIONER IMAMURA: No questions. Thank you, Mr.
14 | Beamon.

15 | CHAIRPERSON HOOD: Commissioner Wright.

16 | COMMISSIONER WRIGHT: No questions. Thank you.

17 | CHAIRPERSON HOOD: And I have no questions as well.
18 | Thank you, Mr. Beamon. We appreciate your report. Ms. Ackerman,
19 | do we have -- we don't normally have anybody from DDOT, so I'm
20 | just going to keep on going. We don't have anything from the
21 | ANC. Do we have any persons or organizations here who would like
22 | to testify either in support, in opposition, or undeclared?

23 | MS. ACKERMAN: No.

24 | CHAIRPERSON HOOD: Okay. Not seeing anyone, thank you,
25 | Mr. Avitabile. Again, we think this is pretty straightforward.

1 Colleagues, I think we can go ahead and dispose of this one, but
2 let me hear from others. And even with that, if somebody would
3 like to make a motion.

4 VICE CHAIR MILLER: I'll be happy to make a motion.
5 Did -- Commissioner Stidham has joined us. Do you want to --

6 CHAIRPERSON HOOD: I had told Commissioner Stidham that
7 we'd be finished by the time she would get here, but she made
8 it. She just got here.

9 VICE CHAIR MILLER: Well, I noticed that she hand, and
10 I just wanted to recognize her.

11 CHAIRPERSON HOOD: So let me do this. Commissioner
12 Stidham, I know you've already read the record. Do you have any
13 questions? You're on mute. You're still on mute, but shake your
14 head. I think you said no, you don't have any questions.

15 COMMISSIONER STIDHAM: No.

16 CHAIRPERSON HOOD: Okay. There you go. There you go.
17 All right. So she's going to participate in the vote. She's
18 already read the record. This has been pretty straightforward.
19 Okay. Vice Chair Miller.

20 VICE CHAIR MILLER: Okay. Thank you, Mr. Chairman. I
21 would move that the Zoning Commission take action -- I think it's
22 one vote --

23 CHAIRPERSON HOOD: This is two votes -- two votes.

24 VICE CHAIR MILLER: Two votes. Okay. I would move
25 that the Zoning Commission take proposed action on Zoning

1 Commission Case Number 24-08, FC Lumber Shed, LLC, Text Amendment
2 to Subtitle K, Section 230.4 on Square 771, Lot 809, known as
3 the Lumber Shed Building, and ask for a second.

4 COMMISSIONER IMAMURA: Second.

5 CHAIRPERSON HOOD: It's been moved and properly
6 seconded. Any further discussion?

7 (No response.)

8 CHAIRPERSON HOOD: Not hearing any, Ms. Ackerman, could
9 you do a roll call? We've got five. Can you do a full -- a roll
10 call vote please?

11 MS. ACKERMAN: Okay. So Commissioner Miller.

12 VICE CHAIR MILLER: Yes.

13 MS. ACKERMAN: Commissioner Imamura.

14 COMMISSIONER IMAMURA: Yes.

15 MS. ACKERMAN: Commissioner Hood.

16 CHAIRPERSON HOOD: Yes.

17 MS. ACKERMAN: Commissioner Stidham.

18 COMMISSIONER STIDHAM: Yes.

19 MS. ACKERMAN: And Commissioner Wright.

20 COMMISSIONER WRIGHT: Yes.

21 MS. ACKERMAN: Okay. I have never had five people on
22 here, so this is exciting. All right. The hearing has been
23 approved for proposed action, five to zero to zero, for Case
24 Number 24-08.

25 CHAIRPERSON HOOD: All right. Do we have anything else

1 before us tonight?

2 MS. ACKERMAN: No, we do not.

3 CHAIRPERSON HOOD: All right. Let me just remind the
4 Commission, we meet again October the 24th. We have various
5 agenda items for our meeting and -- well, I better not -- I was
6 going to say that's going to be quick, but I better not say that.
7 Anyway, I want to thank everyone for their participation tonight.
8 Unless anyone has anything else to say, this meeting is
9 adjourned -- I mean, this hearing is adjourned. Thank you, Mr.
10 Avitabile, to your team as well.

11 MR. AVITABILE: Thank you so much. Have a good evening.

12 (Whereupon, the above-entitled matter went off the
13 record at 4:21 p.m.)

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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 Hearing

Before: DC Zoning Commission

Date: 10-21-24

Place: Webex Videoconference

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



Deborah B. Gauthier