

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----:
IN THE MATTER OF: :
: :
(Text Amendment to Chapter 17, :Case No.
1703 & 1711, to Allow :10-18
Additional Flexibility for :
Fast Food Establishments & :
Prepared Food Shops within :
Square 375) :
-----:

Thursday,
October 14, 2010

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

The Public Hearing of Case No.
10-13 by the District of Columbia Zoning
Commission convened at 6:30 p.m. in the
Office of Zoning Hearing Room at 441 4th
Street, N.W., Washington, D.C., 20001,
Anthony J. Hood, Chairman, presiding.

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO.null

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
KONRAD SCHLATER, Vice Chairperson
GREG SELFRIDGE, Commissioner
PETER MAY, Commissioner (NPS)
MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
ARLOVA JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.

The transcript constitutes the minutes from the Public Hearing held on October 14, 2010.

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

2 6:38 p.m.

3 CHAIRMAN HOOD: Good evening,
4 ladies and gentlemen. This is the public
5 hearing of the Zoning Commission for the
6 District of Columbia, for Thursday, October
7 14,2010.

8 My name is Anthony Hood. Joining
9 me are Vice Chairman Schlater, Commissioner
10 Selfridge, Commission May and Commissioner
11 Turnbull. We are also joined by the Office of
12 Zoning Staff, Ms. Sharon Schellin, as well as
13 the Office of Planning Staff, Ms. Steingasser
14 and Ms. Jackson.

15 This proceeding is being recorded
16 by a court reporter, and is also webcast live.

17 Accordingly, we must ask you to refrain from
18 any disruptive noises or actions in the
19 hearing room.

20 The subject of this evening's
21 hearing is Zoning Commission Case No. 10-18.
22 This is a request by the Office of Planning

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1 for text amendments to the Zoning Regulations
2 to allow additional flexibility for fast food
3 establishments and prepared food shops within
4 Square 375.

5 Notice of today's hearing was
6 published in the D.C. Register on July 23,
7 2010, and copies of that announcement are
8 available to my left on the wall near the
9 door.

10 This hearing will be conducted in
11 accordance with the provisions of 11 DCMR 3021
12 as follows: preliminary matters, presentation
13 by the Office of Planning, or Petitioner I
14 have here, reports of other Government
15 agencies, report of the ANC, organizations and
16 persons in support, organizations and persons
17 in opposition.

18 The following time constraints will
19 be maintained in this hearing: organizations
20 five minutes, individuals three minutes.

21
22 All persons appearing before the

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1 Commission are to fill out two witness cards.

2 When you are finished speaking,
3 please turn your microphone off, so that your
4 microphone is no longer picking up sound or
5 background noise.

6 The staff will be available
7 throughout the hearing to discuss procedural
8 questions.

9 Please turn off all beepers and
10 cell phones at this time so not to disrupt
11 these proceedings.

12 At this time, the Commission will
13 consider any preliminary matters. Does the
14 staff have any preliminary matters?

15 MS. SCHELLIN: No, sir.

16 CHAIRMAN HOOD: Okay, let's go
17 right to the Office of Planning for their
18 presentation.

19 MS. JACKSON: Good evening, Chair
20 and Fellow Commissioners.

21 For the record, my name is Arlova
22 Jackson with the Office of Planning.

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1 The text amendment before you is
2 being requested by OP on behalf of 733 10th
3 and G Street, LLC, to allow a wider range of
4 ground floor retail uses within a portion of
5 Square 375.

6 The request has been changed since
7 set down, and OP proposes to limit the text
8 amendment to the site of the proposed First
9 Congregational Church of Christ redevelopment
10 project, instead of the entire square, to
11 minimize its impact on other retail or art
12 spaces.

13 At this time, I'd also like to make
14 two technical corrections to the staff report.

15 First, Lot 823, as mentioned, was the
16 previous tax lot that occupied the southwest
17 corner of the square. However, in order to
18 facilitate the redevelopment of the site the
19 adjacent public alley to the east was closed
20 and its western half was combined with Lot 823
21 to create a new record lot, Lot 127. As such,
22 the reference to Lot 823 should be amended to

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1 say Lot 127.

2 Secondly, the width of this lot,
3 according to surveyors' records, is
4 approximately 109.04 feet wide. As such, the
5 reference to the 115 feet parallel to 10th
6 Street should also be updated to reflect the
7 correct lot width.

8 The proposed text amendment would
9 have a limited impact, in that it would only
10 span the types of uses that could be
11 considered as restaurants in this location.

12 The current regulations did not
13 anticipate or address casual dining or fast
14 casual dining restaurants, which accommodate
15 both carry out and sit down dining, and are
16 currently categorized as fast food
17 establishments, due to their style of
18 operation.

19 The proposed change would allow
20 these types of restaurants, along with
21 traditional fast food establishments and
22 prepared food shops, to be treated as

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1 restaurants and, therefore, as preferred uses
2 within a portion of Square 375, and in doing
3 so would allow them to occupy more than 20
4 percent of the ground floor gross floor area,
5 and satisfy the minimum 50 percent preferred
6 use requirement.

7 Practically, the requested change
8 would result in a 3,946 square foot space that
9 could be devoted entirely to these types of
10 eating establishments, as opposed to 911
11 square feet, which the Zoning Regulations
12 would currently allow.

13 OP notes that the proposed text
14 amendment would not preclude the use of the
15 space for any of the other preferred uses
16 found in Section 1711, and we continue to
17 strongly encourage art uses downtown.

18 However, site conditions in this
19 square, and on this lot in particular, present
20 certain obstacles for their viability and
21 success, including the lack of ground floor
22 retail uses nearby, and the existing character

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1 of G Place and 10th Street, both of which are
2 dominated by the presence of loading zones and
3 parking garages in this area.

4 To add, the site was originally
5 developed with a church, which will return to
6 the ground floor of the new building, along
7 with an office building lobby, leaving little
8 space for required retail.

9 OP finds that the proposed
10 expansion of restaurant uses on this lot to be
11 appropriate and complimentary to the proposed
12 office uses on the site, and those nearby.

13 The property owner has indicated
14 that there is local support for, and growing
15 market interest, in locating a casual
16 restaurant use in this space.

17 In addition, the First
18 Congregational Church of Christ has also
19 submitted a letter of support for the request.

20 OP feels that the proposed text
21 amendment is appropriate in this location, due
22 to the existing characteristics of the square

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1 and as amended its limited impact on the
2 overall retail core and downtown arts
3 district.

4 The amendment is not inconsistent
5 with policies found in the Central Washington
6 Area Element of the Comprehensive Plan, in
7 that it will expand choices for retail
8 development.

9 OP recommends approval of the
10 requested amendment, and will take any
11 questions you have at this time.

12 CHAIRMAN HOOD: Thank you very
13 much, Ms. Jackson.

14 Commissioners, let's open it up for
15 questions for the Office of Planning.

16 Any questions?

17 COMMISSIONER TURNBULL: Yes, Mr.
18 Chair, I've just got one.

19 Are we looking at more than 20,
20 less than 50, or more than 50? I'm confused
21 what you had said earlier and what's in the
22 report here.

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1 MS. JACKSON: There is the current
2 limitation on fast food restaurants that would
3 not allow them to exceed 20 percent of the
4 ground floor area. So, they would be allowed
5 to exceed the 20 percent.

6 At the same time, there's a
7 requirement that preferred uses occupy at
8 least 50 percent of the ground floor area.
9 So, because it's not a preferred use, it can't
10 occupy more than 20 percent, and it doesn't
11 qualify for the type of use that needs to
12 occupy at least 50 percent.

13 COMMISSIONER TURNBULL: All right,
14 on page three, under Modifications, under 5,
15 the owner of the new building proposes -- he
16 wishes to have these occupy more than 50
17 percent of the ground floor retail space.

18 MS. JACKSON: Yes. I guess --
19 okay, I see what you are saying, I probably
20 should have said 20 percent, I'll clarify
21 that.

22 COMMISSIONER TURNBULL: So, he can

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1 go more than 50, but is there a cap?

2 MS. STEINGASSER: No. If this is
3 considered as a restaurant, a restaurant is
4 considered a preferred use.

5 COMMISSIONER TURNBULL: So, 100
6 percent of the ground floor could be all
7 restaurant?

8 MS. STEINGASSER: Yes.

9 COMMISSIONER TURNBULL: Okay, I'll
10 let my colleagues think about that.

11 MS. STEINGASSER: 100 percent,
12 that's part of why we are proposing that it be
13 narrowed down to just this lot.

14 The area that will be restaurant is
15 limited, it won't be 100 percent of the
16 square. There's also a church that is going
17 to be -- that was the original preferred use,
18 that's going to take up the bulk of the ground
19 floor, and then, of course, the office lobby.

20 COMMISSIONER TURNBULL: What would
21 prohibit some of the other lots on Square 375
22 from coming back and --

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1 MS. STEINGASSER: Well, that's why
2 we've proposed through our testimony this
3 evening that it be pared down just to this
4 lot, Lot 127. I think we originally called it
5 Lot 823.

6 COMMISSIONER TURNBULL: 823, right.

7 MS. STEINGASSER: The tax law says
8 Lot 127.

9 COMMISSIONER TURNBULL: Okay. All
10 right.

11 CHAIRMAN HOOD: Anybody else
12 questions?

13 Vice Chairman?

14 VICE CHAIRMAN SCHLATER: I guess
15 one question I would have here is, why is it
16 okay for there to be fast food establishments
17 on this lot, but not for the rest of the DD
18 overlay, because it could be viewed by some as
19 specialist treatment of one property owner.

20 MS. STEINGASSER: Well, that's not
21 uncommon for the DD to actually be somewhat
22 surgical and treat different squares

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1 differently, especially, when it involves
2 churches, that's one of the more common things
3 we see in the DD, where they've been called
4 out for special treatment.

5 But, it's not uncommon for the DD,
6 because of its complexity, and, you know, it
7 was written in the '80s. As the buildings
8 become more and more mature, and the sites get
9 redeveloped, there is a lot of massaging
10 that's going on.

11 And, it's currently a permitted
12 use, it's just limited in its scope of how
13 it's going to be.

14 VICE CHAIRMAN SCHLATER: Right.

15 I guess I don't have a serious
16 problem with the impact that this language
17 would have, I'm just a little concerned about
18 special treatment for one square, in that, why
19 are we doing it for this square, but not all
20 the other property owners within the DD.

21 MS. STEINGASSER: Well, I can tell
22 you, we wouldn't do it for all the property

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1 owners in the DD, because it wouldn't have the
2 same impact. This square has particular
3 circumstances to it, in the way 10th Street and
4 G Place are treated in use. The north side of
5 G Place, as we know, is a secured Federal
6 facility, it's all loading and parking through
7 there.

8 VICE CHAIRMAN SCHLATER: Where is
9 the retail space planned for on this building?

10 MS. STEINGASSER: It's at the
11 corner of G Place and 10th Street.

12 VICE CHAIRMAN SCHLATER: Okay.

13 MS. STEINGASSER: So, it could come
14 out onto G Street, as a cafe.

15 VICE CHAIRMAN SCHLATER: Does it
16 wrap down to G Street -- I mean --

17 MS. STEINGASSER: G Place, yes.

18 VICE CHAIRMAN SCHLATER: -- I guess
19 it might be helpful to just have some
20 information of what they are planning to do.
21 I know the building is under construction, so
22 there must be some plan for where the retail

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1 space is going to be.

2 MS. STEINGASSER: Here we go. It
3 takes the entire -- the entire corner, it's
4 this orange patched area.

5 VICE CHAIRMAN SCHLATER: Yes.

6 MS. STEINGASSER: All right.

7 VICE CHAIRMAN SCHLATER: Because
8 one thing --

9 MS. STEINGASSER: If we could enter
10 that into the record.

11 VICE CHAIRMAN SCHLATER: -- one
12 thing -- one concern I might have is, the
13 current conditions there are on that street
14 are not there for all time, and that's what we
15 are doing here by changing the regs, it is for
16 all time, and we've got -- is there anything
17 at the southwest corner of 10th and G that's
18 retail?

19 MS. JACKSON: No, across the street
20 is the hotel, and it's like a string of curb
21 cuts for parking garage entrances and loading
22 entrances. There's no retail on 10th.

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1 I think there's something at 10th
2 and H.

3 VICE CHAIRMAN SCHLATER: Okay.

4 MS. JACKSON: That's like a
5 restaurant within the hotel.

6 VICE CHAIRMAN SCHLATER: Is there
7 any retail plan for 10th and H? I think
8 there's a retail mixed use development plan
9 about a block north.

10 MS. JACKSON: At the old Convention
11 Center site?

12 VICE CHAIRMAN SCHLATER: Yes.

13 MS. JACKSON: Yes, there's quite a
14 bit of retail.

15 VICE CHAIRMAN SCHLATER: And, I
16 guess the character of 10th Street might
17 change when that development is -- moves
18 forward.

19 MS. JACKSON: It might, but what we
20 are talking about is the back of the Hilton
21 and the Secret Service, so the probability
22 that that would change would be equal in

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1 timing to the probability that this would
2 change. I would not say that this is forever,
3 but these will come down, these are
4 substantial buildings that we have no reason
5 to think are going to be coming down any time
6 soon, as the building on H Street is only a
7 few years old.

8 VICE CHAIRMAN SCHLATER: So, how
9 much retail space is there --

10 MS. JACKSON: Close to --

11 VICE CHAIRMAN SCHLATER: that's
12 planned?

13 MS. JACKSON: -- 4,000.

14 VICE CHAIRMAN SCHLATER: 4,000
15 square feet?

16 MS. JACKSON: It's a little less
17 than that.

18 VICE CHAIRMAN SCHLATER: And, do
19 you know if any specific tenants have been
20 identified?

21 MS. JACKSON: No. We've been told
22 that there has been interest from a couple of

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1 casual dining establishments.

2 VICE CHAIRMAN SCHLATER: Okay, no
3 further questions.

4 CHAIRMAN HOOD: Any other
5 questions?

6 Commissioner May?

7 COMMISSIONER MAY: Yes, is the
8 basic point of this that at 4,000 square feet
9 it's not viable for an actual sit-down
10 restaurant use?

11 MS. JACKSON: That's part of it.
12 Part of it is the location, and the fact that
13 there -- it's not likely to attract foot
14 traffic. And, the other arts uses that are
15 preferred would also have a hard time given
16 the constraints of the site.

17 COMMISSIONER MAY: So, it's because
18 it's kind of off the beaten track, although,
19 you know, I'm not sure that that's an argument
20 against it being a regular restaurant. That's
21 why I'm a little --

22 MS. STEINGASSER: I think you are

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1 looking at what's the most marketable here,
2 and I'm not sure that -- I think there's also
3 an issue of ceiling height that's going to
4 come into play, and the building's
5 representative is here to answer some of these
6 questions.

7 But, the project was originally put
8 in for construction, the hole was dug, as you
9 can see in one of these images that we have
10 here, and then it got held for over a year
11 while the financing got renegotiated.

12 During that time, this space was
13 originally to be part of the church ground
14 floor, and the church then took less space,
15 part of the refinancing, and this space then
16 became subject to the DD.

17 So, it had not originally been
18 designed, nor anticipated, being part of the
19 DD arts uses, and having this restriction on
20 it. So, it's kind of between not having been
21 designed and anticipating it, plus the unique
22 circumstances of what's going on around it.

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1 COMMISSIONER MAY: So, does the
2 church use qualify as a preferred use in the
3 DD? I didn't see it in the list. Did I miss
4 it somewhere?

5 MS. JACKSON: It's exempt from the
6 -- there's a section --

7 COMMISSIONER MAY: Well, there's an
8 exemption within 1703.3(c).

9 MS. JACKSON: There's also one in
10 1702, 1702.6.

11 COMMISSIONER MAY: Which we don't
12 have here. What does that say?

13 MS. JACKSON: If a church or other
14 place of worship that is in use on January 18,
15 1991, is later included in a redevelopment,
16 the portion that continues as a church shall
17 be exempt from the requirements of this
18 section.

19 COMMISSIONER MAY: Of that -- of
20 just that section.

21 MS. JACKSON: Of 1702.

22 COMMISSIONER MAY: Of 1702.

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1 MS. JACKSON: And, in 1703.3, as
2 you mentioned.

3 COMMISSIONER MAY: Well, but 1703.3
4 applies when the entire building is devoted to
5 use as a church, right, because if it actually
6 -- isn't that what it says? Ground floor use
7 shall -- requirements shall not apply to a
8 building that is devoted entirely to hotel or
9 apartment house use, or to a church, or other
10 place of worship.

11 I mean, if that were to apply only
12 if there were -- only if the 1st floor were a
13 church, but it's otherwise exempt from 1702.

14 MS. JACKSON: Yes.

15 MS. STEINGASSER: Being informed
16 that the Zoning Administrator has made a
17 ruling that it would not apply to any portion
18 that's occupied by the church.

19 COMMISSIONER MAY: Right, under
20 1702, under 1702, though, right?

21 MS. STEINGASSER: I think across
22 the board.

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1 COMMISSIONER MAY: So, none of this
2 applies to the area that is a church.

3 MS. STEINGASSER: Exactly.

4 COMMISSIONER MAY: Right. So, the
5 only part that it applies to is -- so, in
6 effect, when -- from the ZA's perspective, if
7 this were to pass, and that 4,000 square feet
8 of retail space were to become fast food
9 establishments, that would pretty much, except
10 for the office building lobby, it would be 100
11 percent of the use, right?

12 MS. JACKSON: Yes.

13 COMMISSIONER MAY: Yes. Okay.

14 CHAIRMAN HOOD: Any other questions
15 or comments?

16 Commissioner Selfridge.

17 COMMISSIONER SELFRIDGE: You
18 mentioned there's local support for this use.

19 MS. JACKSON: Yes.

20 COMMISSIONER SELFRIDGE: I see the
21 letter from ANC 6D, they let the record --
22 there was a record open to, actually, comment.

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1 Who else has weighed in on it?

2 MS. JACKSON: Well, ANC 6D is not
3 affected, is not the affected ANC. We are not
4 quite sure why, they are on the other side of
5 the U.S. Mall, so we are not quite sure what
6 their interest is, or why they wanted the
7 record left open.

8 The affected ANC has chosen not to
9 object or to support. They do understand
10 what's coming forward, I understand that the
11 downbid has submitted a letter in support,
12 but, Sharon, have you seen anything, has the
13 Office of Zoning received anything?

14 MS. STEINGASSER: Nothing.

15 MS. JACKSON: And then, of course,
16 First Foundation.

17 COMMISSIONER SELFRIDGE: Yes,
18 there's a general letter from the bid, but
19 they are not -- I mean, but they are a service
20 provider, no other property owners weighed in,
21 though, in support?

22 MS. STEINGASSER: No.

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1 CHAIRMAN HOOD: Any other
2 questions?

3 That's a good point that
4 Commissioner Selfridge raises, I highlighted
5 Chairman McBee wanted to leave the record
6 open. I think we are even in another -- this
7 is not even Ward 6, am I correct? What ward
8 are we in?

9 MS. STEINGASSER: 2.

10 CHAIRMAN HOOD: 2, yes this is Ward
11 2.

12 Okay, well, any other questions?

13 Okay, reports of other Government
14 agencies?

15 No, I'm sorry, I skipped over --
16 no, I didn't -- reports of other Government
17 agencies?

18 I just want to call off -- and
19 reports of ANC -- we do have a letter from ANC
20 6D, asking us to leave the record open. ANC
21 6D voted 3-0-1 to request that the record for
22 this case remain open for ten days to allow

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1 the Commission to submit its responses
2 regarding this case.

3 I would -- looking back at this
4 first I recommended we do that, but I think,
5 depending upon how we move, I think that
6 there's another term, Ms. Schellin, in which
7 we can make a response within that 30-day
8 comment period.

9 MS. SCHELLIN: Correct.

10 CHAIRMAN HOOD: We could just -- if
11 we could just notify them to make a comment at
12 that point, depending upon how we move forward
13 tonight.

14 Also, as I already mentioned, we do
15 have a letter from the Downtown Business
16 Improvement District, which I understand is
17 general. I have not had a chance to read it.

18 Commissioner Selfridge, is this a
19 very general letter, or is it --

20 COMMISSIONER SELFRIDGE: Yes, I
21 think it just generally states that they are
22 supportive of outdoor cafes, which I am as

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1 well, for the record.

2 CHAIRMAN HOOD: Okay, because, yes,
3 the last line says, whereas, the Zoning
4 Commission supports actions that will provide
5 more outdoor cafes in downtown D.C.

6 Also, we have a letter from the
7 First Congregational United Church of Christ.

8 "I would appreciate your consideration of our
9 comments and request the Zoning Commission
10 approve the text amendment."

11 Also, we have a letter from the
12 Downtown Clusters Congregation, in short, "I
13 strongly support the proposed text amendment
14 as it will facilitate jobs, community serving
15 uses, and enhance activity from the
16 neighborhood. I appreciate your consideration
17 of my comments."

18 And, that's from the Executive
19 Director, I'm not sure it's necessarily from
20 the group, but it's from the Executive
21 Director, I guess, who represents the group,
22 so we'll take it it's from the group.

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1 Am I omitting anything, any other
2 letters my colleagues may have seen that I
3 have not seen?

4 Okay, again, Report of the ANC, I
5 did mention the one letter that we did have.
6 Do we have any organizations or persons who
7 are here who'd like to testify in support?

8 If you'd come forward and identify
9 yourself. Do you want to have a seat. Turn
10 your microphone on, and let us know who you
11 are.

12 MR. WARD: Good evening, I'm Robert
13 Ward. I am the Executive Vice President of
14 Skanska Commercial Development.

15 CHAIRMAN HOOD: Okay. You have
16 some testimony you want to provide for the
17 record?

18 MR. WARD: I do.

19 Good evening, Chairman Hood, and
20 Fellow Commissioners, thank you for taking the
21 time to listen to us this evening.

22 I'd like to begin just with a brief

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1 introduction of my company. We are the owner
2 of the mixed use project here that's being
3 discussed. We are, Skanska, if you are not
4 familiar, is a relatively large international
5 development company, and construction company.

6 About two years ago, we launched
7 our development arm here in the U.S.
8 Washington, D.C., is one of three cities we
9 selected for our development business, and, in
10 fact, this project is our first project, not
11 only in the City, but in the U.S. So, it's a
12 very important project to us, and one we are
13 very passionate about.

14 A little background on the project.

15 The mixed use project was something that was
16 set up as a partnership between the church and
17 PN Hoffman Development several years ago. The
18 church was, in fact, demolished in 2007, and
19 the development partner at that point in time
20 started construction, or excavation I should
21 say, in 2008.

22 The financial markets and economic

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1 occurrences in late 2008 caused them to lose
2 their financing and to stop the project, and
3 at that point the hole was excavated, but no
4 forward progress.

5 We became involved in the project
6 last fall, in October of 2009, and we were
7 able to structure a partnership with the
8 church, and an agreement remove the other
9 developer from the project financially.

10 Given the economic conditions and
11 what we thought was the viability of this
12 project, we elected to move forward with the
13 project with 100 percent of our own equity,
14 there's no extra debt or financing on the
15 project.

16 We started it speculatively with no
17 pre-leasing in April, and construction is
18 moving on very well.

19 In October of '09, when we acquired
20 the project, one thing came up with the church
21 as a small issue, and that was upon
22 reevaluating their space needs they realized

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1 that the current design accounted for more
2 space than they actually required, and they
3 came to us and asked if there was something we
4 could do about that extra space and, perhaps,
5 make a financial adjustment.

6 The space in question here, which
7 is on the northwest corner of the building,
8 it's not an attractive retail location, nor
9 was the space planned to be retail initially.

10 It was going to be ancillary church space.

11 The ceiling heights are quite low,
12 and relative to marketable retail you to have
13 8'4" clear, with a 10 foot slab to slab, which
14 is well below the market for a quality retail
15 space. It's also not on the right corner, if
16 you will, if you were a retailer.

17 But again, it wasn't anticipated to
18 be retail space.

19 We did take over that space and we
20 made a financial arrangement with the church
21 that was acceptable to them, and that left us
22 with the space we are discussing, which is

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1 roughly 4,500 square feet gross, about 4,000
2 square feet of leasable space.

3 It does have the challenges of the
4 ceiling height, the small amount of space
5 which makes it a little bit difficult on that
6 corner for it to be bifurcated or separated
7 into smaller users, and its location on the
8 block, again, is a challenge.

9 Now, since we became involved in
10 the development, though, we have been in
11 active discussions with our neighbors, and I
12 understand the comments are really relative to
13 the number of letters and things, but we have
14 had good discussions. We know that the Secret
15 Service, the Director, have toured the
16 building with some of their folks, and
17 overwhelmingly they were asking us to put some
18 type of fast casual food service in there, as
19 they feel like they have to walk several
20 blocks for an affordable meal, quite frankly.

21 The quadrangle development across
22 the street tenants there, as well as the

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1 management company there, made the same, you
2 know, plea or request to us, and then 975 F
3 Street, which backs to us on the other side of
4 the street by St. Patrick's Cathedral, a
5 number of the tenants there we've been in
6 discussions with, are very much in favor of
7 some type of fast casual option, as there's
8 plenty of white tablecloths around, but not a
9 lot of good sandwich places within a close
10 walk.

11 We did, in fact, attend Advisory
12 Neighborhood Commission 2C's meeting on
13 October 6th, and presented the project and an
14 update on the project to them. We discussed
15 this potential text amendment, and the impact
16 thereof. There was no objections to the
17 flexibility that this text amendment would
18 offer, and, in fact, the overwhelming
19 consensus was very positive that this type of
20 adjustment and requested use would be very
21 well received in the neighborhood and would
22 provide a much needed retail item there, as

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1 well as in light on the block ideally from
2 what was originally planned, which would have
3 been sort of back of the house church space.

4 So, with that, we'd certainly
5 appreciate the Zoning Commission's
6 consideration of this, and I'm happy to answer
7 any other questions you may have.

8 CHAIRMAN HOOD: Okay, thank you
9 very much.

10 Commissioners, if you have any
11 questions that you have, if he hasn't already
12 answered them, this is the time to ask.

13 Vice Chairman Schlater?

14 VICE CHAIRMAN SCHLATER: Mr. Ward,
15 do you have any tenants in mind, when you are
16 talking about a sandwich place, what are we
17 sort of thinking of?

18 MR. WARD: I would start by saying
19 that the term "fast food," I think, probably
20 conjures up an image in each of your minds,
21 and there's probably some brands that come to
22 mind.

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1 I can tell you, those are not what
2 we are thinking. I think the term we would
3 prefer is probably fast casual, although it's
4 not, necessarily, a legal term.

5 What we are looking at here is a
6 situation where a restaurant, sit-down
7 tablecloth restaurant, is a preferred use, and
8 is allowable. A bar and nightclub would
9 qualify as well as a preferred use. But, a
10 Panera Bread, or a Cozy, or a cafe of that
11 sort, would not qualify under the current
12 definition of a restaurant, and that's more
13 what we are thinking, a nice deli.

14 We've been in conversations -- and
15 to answer your question, we have not had any
16 specific tenants in mind. A number have
17 responded to the retail advertisements. Most
18 of the people that have any sort of positive
19 response, and there have not been many,
20 candidly, our local entrepreneurs with, you
21 know, smaller shops around town that would
22 like to expand their operations.

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1 VICE CHAIRMAN SCHLATER: Some of
2 the letters indicated there would be sidewalk
3 cafes are something you are looking at doing?

4 MR. WARD: It's something that we
5 are certainly open to, obviously. I would say
6 we would cross that bridge when we get to it.

7 Some of the potential tenants have
8 asked if that was a possibility, and we've
9 explained that currently no, but it's
10 certainly something that could be explored if
11 they became a tenant in the space.

12 And, I think that was what happened
13 with the bid as well, they asked, you know,
14 will there be outdoor dining? We said it's
15 certainly something that is a possibility.
16 They liked the idea of a small cafe, and that
17 block is a bit dead, candidly, so to have a
18 little cafe or something like that, with a
19 couple outdoor seats, would, I think, improve
20 the block significantly.

21 VICE CHAIRMAN SCHLATER: And, what
22 do you think the implications would be if we

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1 were to vote down this text amendment tonight
2 and you weren't allowed to put fast casual in
3 that space?

4 MR. WARD: I mean, I think the
5 implications would probably be, you know,
6 difficulty in leasing the space, period. I'm
7 not sure what type of users would be
8 interested, outside of that.

9 We've been marketing actively for a
10 year. The national chains, so to speak, and
11 the white tablecloth restaurants, have said
12 floor heights are too small, it's on the wrong
13 corner, not enough foot traffic. Art
14 galleries and other folks that are more, you
15 know, arts related in the literal sense of the
16 term have also said not enough foot traffic,
17 not on the right location, not enough ceiling
18 height for us to display art and things of
19 that nature.

20 So, I'm not sure what the answer
21 would be, but I think we'd be in a pretty
22 difficult situation, and likely be in a

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1 situation with some dead space on that block.

2 VICE CHAIRMAN SCHLATER: Thank you
3 very much.

4 MR. WARD: Sure.

5 CHAIRMAN HOOD: Any other
6 questions?

7 Commissioner Selfridge.

8 COMMISSIONER SELFRIDGE: Thank you,
9 Mr. Chairman.

10 What other types of -- or have any
11 other types of retail responded? You said
12 that there had been some responses to your
13 initial offering of the space, anybody besides
14 kind of these local fast casual type
15 entrepreneurs?

16 MR. WARD: In terms of a positive
17 response, no. There was some -- some, you
18 know, questions or initial response from a
19 number of different groups, including a few
20 art galleries and groups of that nature. No
21 positive response from anything other than the
22 local fast casual establishments.

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1 My sense is that we've effectively
2 been eliminated from the national high credit
3 players, and in order to tenant the space it's
4 likely that we would need to take a bit of a
5 risk on a lower credit local entrepreneur, and
6 invest in tenant improvement dollars for
7 someone like that to put a business in there.

8 But, we think that's an okay thing
9 to do. It's a reasonable risk, and, quite
10 frankly, it's probably the right thing for the
11 space.

12 COMMISSIONER SELFRIDGE: It was
13 suggested, OP suggested that, perhaps, this
14 wasn't a long-term use, but it sounds like
15 from your testimony that, actually, the space
16 is fairly constrained, that it may, actually,
17 be a long-term use, because you have low
18 ceiling height and it's relatively small
19 space.

20 So, do you see this as maybe kind
21 of a long-term use of this, or do you think
22 that it's just transitional until that street

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1 and area improves?

2 MR. WARD: I'm a little confused
3 with that. I didn't realize that that was the
4 point being made, is that it was not a long-
5 term use.

6 I anticipate that it is.

7 MS. STEINGASSER: OP fully
8 anticipates that it would be a long-term use.

9 COMMISSIONER SELFRIDGE: I may have
10 misunderstood. I understood from Chairman
11 Schlater's point that as the street
12 potentially changes that that doesn't mean
13 that this space could change.

14 But, I certainly didn't want to put
15 words in your mouth.

16 But, you do view it, perhaps, is a
17 better way to put it, as a long-term use for
18 this space.

19 MR. WARD: Yes, sir, I do believe
20 that's a long-term use for the space, given
21 that it's on the corner of 10th Street and G
22 Place, with the majority of the glass frontage

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1 really being on G Place, which for all intents
2 and purposes is really an alley with some
3 garages for the Secret Service and for the
4 building.

5 I think that's going to be a long-
6 term use, and, quite frankly, when we talk
7 about retailers, regardless of what you might
8 charge them, you want them to be successful,
9 and I think the groups that could be
10 successful here are a small local group that
11 could feed off that building and the
12 surrounding buildings. It's not a location
13 for destination retail.

14 COMMISSIONER SELFRIDGE: Thank you.

15 CHAIRMAN HOOD: Any other
16 questions, comments?

17 Okay. I don't have any, thank you
18 very much.

19 Do we have anyone here -- I'm
20 sorry, did you want to -- okay, do we have
21 anyone here who is here in opposition,
22 organizations in opposition, or persons in

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1 opposition to this case?

2 Okay, let's go ahead,
3 Commissioners, I'm not sure what you all
4 think, but I think, actually, we can move
5 forward tonight.

6 After listening to OP and
7 understanding it's not spot zoning, and some
8 other issues, and knowing that we have done
9 some particular things in this case, dealing
10 with specific squares in this City. This is
11 not the first time we've singled out a square
12 to make it allowable to be a little more than
13 what normally is done.

14 So, I don't have any hesitation of
15 moving forward, especially, after Ms.
16 Steingasser said this is not just a marking,
17 it's a long-term use, I would be in favor of
18 moving forward tonight, but let me open it up
19 and see what my other colleagues want to do.

20 Anybody have any comments?

21 Vice Chairman Schlater.

22 VICE CHAIRMAN SCHLATER: Mr.

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1 Chairman, I think there is an argument why
2 this is a special case, given the fact that
3 the project was inherited, basically,
4 midstride, and they are not designing it from
5 scratch.

6 It was intended to be church space,
7 you've got low ceiling heights that aren't
8 conducive to great retail, and it's a small
9 space in an odd location.

10 I think all of that is true, and I
11 certainly understand why they are asking for
12 what they are asking for.

13 I do have some reservations, making
14 a, you know, parcel-by-parcel exception on
15 these use restrictions. I think it could, in
16 some people's view of spot zoning, it could be
17 viewed in that way.

18 And, it's certainly not a practice
19 that we want to undertake on a regular basis.

20 And so, I guess I just get a little
21 uneasy treating one property owner or property
22 different from the rest of the -- in this

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1 case, the DD district, and I would feel more
2 comfortable if we move forward in a manner
3 where we just lifted the restriction for the
4 entire DD, or not at all.

5 You know, I guess, I feel like
6 people should be treated equally, and it's
7 nothing against this specific applicant,
8 because I understand the case, and, actually,
9 it's a pretty compelling one, and I guess I'm
10 on the fence on this one.

11 So, I'm willing to hear from the
12 other Commissioners.

13 CHAIRMAN HOOD: Anybody else?

14 Commissioner May?

15 COMMISSIONER MAY: Yes. I guess
16 I'm -- I don't feel the overwhelming need to
17 be absolutely uniform within the DD. I mean,
18 there's lots of existing circumstances within
19 a given -- within any given block, that can
20 drive, I guess, exceptions to the rules that
21 have been designed to promote active retail
22 and street life and so on.

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1 And, you know, it's easy enough to
2 imagine that there are going to be anomalous
3 situations like this, and this is -- this is a
4 fairly anomalous situation, by virtue of
5 having a church on the ground floor. I think
6 that makes it a big dent in the amount of
7 space you could successfully use as retail or
8 preferred uses.

9 I think that I would be more
10 comfortable with it if we -- you know, if we
11 were to move ahead with this and approve it,
12 that we make sure that whatever decision is
13 written that it be written very carefully,
14 that it expresses exactly why this is an
15 anomalous situation, so we don't invite a lot
16 of other applications for exceptions to the DD
17 regulations.

18 And, I think that, I mean, it's
19 almost like this is a BZA kind of case, where
20 you want to make a time-limited special
21 exception or something like that, but I don't
22 think that we have that really available to

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1 us, those circumstances.

2 But, you know, like I said, I think
3 if we write it -- if the decision is written
4 well, and the reasons are understood, and the
5 reluctance, or the concerns that we have are
6 expressed, I think it can be done
7 successfully.

8 Now, that having been said, I'm not
9 in a rush to act on it tonight, but if the
10 Commission is so moved I'd go along with
11 voting tonight.

12 CHAIRMAN HOOD: Okay, anyone else?
13 Commissioner Turnbull?

14 COMMISSIONER TURNBULL: Thank you,
15 Mr. Chairman.

16 I think Ms. Steingasser and Ms.
17 Jackson, you know, there are aspects of both
18 -- of Commissioner Schlater and Mr. May that I
19 agree with, but I would like -- I think this
20 is not -- what they are looking at is not
21 inconsistent with the Comprehensive Plan, and
22 I think that there are extenuating

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1 circumstances with the physical conditions
2 within this portion of the square that are
3 going -- that limit the feasibility of
4 developing this particular spot.

5 I'm not opposed to granting this.
6 I think it's -- I don't think it is spot
7 zoning. I think it's dealing with the
8 realities of what's left of this site that
9 they inherited on this, and I think that I'm
10 not -- I'm not pre-disposed to just grant
11 these things, you know, on the cuff and just
12 go ahead with these, I think that there's -- I
13 think that there is a meaningful use in doing
14 this. And, I think that it would be nice to
15 have more consistency, but I don't, you know,
16 the City is the way it is, and this particular
17 DD is the way it is, it's a very mixed use
18 area. I mean, it's a very convoluted area.

19 So, I'm not opposed to this, and I
20 would be in favor of moving ahead tonight.

21 CHAIRMAN HOOD: Any other comments?

22 Let me just associate myself with

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1 all my colleague's comments. I think, though,
2 when this is presented to us by the Office of
3 Planning, I think it's well thought out, and I
4 don't think it's just some blanket that it's
5 going to be done.

6 And also, they have to make a case,
7 and I think it's very well done by Ms. Jackson
8 and Ms. Steingasser, and I think this is
9 unique.

10 I also shared some of the comments
11 of Vice Chairman Schlater some time back, why
12 are we just doing this square, a couple of
13 years ago. But, I've noticed that when they
14 come down these are thought out plans, it's
15 just not a blanket.

16 And, I also look at, over the years
17 I've been here, I said, well if we just do a
18 blanket what else are we doing, what other
19 damage are we causing. So, I'm just not --
20 I'm not, actually, in favor, I agree with my
21 Vice Chairman halfway, but just to do a
22 blanket and say, just get rid of the DD, then

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1 what other trickle-down effects are we having
2 on the DD, and what it was established to
3 achieve.

4 So, while I agree in part with that
5 comment, I also would be ready to move on this
6 tonight, unless I hear any other comments I'm
7 prepared to make a motion.

8 I would move that we approve Zoning
9 Commission Case No. 10-18, and I would ask for
10 a second.

11 COMMISSIONER TURNBULL: Second.

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

14 Any further discussion?

15 Any further discussion?

16 Are you ready for the question?

17 All those in favor?

18 (Ayes.)

19 CHAIRMAN HOOD: Not hearing any
20 opposition, Ms. Schellin, would you record the
21 vote?

22 MS. SCHELLIN: Yes, staff records

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1 the vote 5-0-0 to approve proposed action in
2 Zoning Commission Case No. 10-18, Commissioner
3 Hood moving, Commissioner Turnbull seconding,
4 Commissioners Schlater, Selfridge and May in
5 support.

6 CHAIRMAN HOOD: Okay. Ms.
7 Schellin, do we have anything else before us
8 tonight?

9 MS. SCHELLIN: No, sir.

10 CHAIRMAN HOOD: Okay, I want to
11 thank everyone for their participation, very
12 great discussion, good discussion, and with
13 that this hearing is adjourned.

14 (Whereupon, the above-entitled
15 matter was concluded at 7:19 p.m.)

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