

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----X
IN THE MATTER OF: :
: :
FC 1212, LLC & : Case No.
FC QALICB, LLC : 13-15
-----X

Thursday,
February 6, 2014

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

The Public Hearing of Case No. 13-15
by the District of Columbia Zoning
Commission convened at 6:35 p.m. in the
Jerrily R. Kress Memorial Hearing room at
441 4th Street, N.W., Washington, D.C.
20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair
MICHAEL G. TURNBULL, FAIA
Commissioner (AOC)
PETER MAY, Commissioner (NPS)
ROBERT MILLER, Commissioner

(Continued)

OFFICE OF THE ZONING STAFF PRESENT

DONNA HANOUSEK

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON

BRANDICE ELLIOTT

This Transcript constitutes the
minutes from the Public Hearing held on
February 6th, 2014.

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P R O C E E D I N G S

(6:35 p.m.)

CHAIRMAN HOOD: Okay. Good evening, Gentlemen -- well, Ladies and Gentlemen.

This is a public hearing of the Zoning Commission for the District of Columbia for February 6th, 2014.

My name is Anthony Hood. Joining me are Vice Chair Cohen, Commissioner Miller, Commissioner May and Commissioner Turnbull. We are also joined by the Office of Zoning Staff, Ms. Donna Hanousek. The Office of Planning, Mr. Lawson and Ms. Elliott.

This proceeding is being recorded by a court reporter. It is also webcast live.

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

Notice of today's hearing was published in the D.C. Register. Copies -- copies of that announcement are to my left on the wall near the door.

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The hearing will be conducted in accordance with provisions of 11 DCMR 3021 as follows. Preliminary matters, presentation by the Petitioner, or the Office of Planning, reports of the other government agencies, the ANC, report of the ANC, organizations and persons in support organizations and persons in opposition.

The following time constraints will be maintained. The Petitioner in this case will have -- we will work that organizations five minutes and individuals three minutes.

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

At this time the Commission will consider any preliminary matters.

Does the Staff have any preliminary matters?

MS. HANOUSEK: No, sir.

CHAIRMAN HOOD: Okay. Let's go right to the presentation of the Petitioner.

MR. BLANCHARD: Good evening, Chairman Hood, and Members of the

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Commission.

I am Lyle Blanchard, and I am here representing the Applicant, which is FC 1212, LLC, and FC QALICB, LLC, jointly filed a petition for a text amendment back on November 22nd.

We filed some additional materials on the 11th. I have given staff a brief testimony by Mr. Meiser, but we would, in the interest of time, just proceed to stand on the record, if that is all right with the Commission, and be available to answer questions.

CHAIRMAN HOOD: Okay. Thank you, Mr. Blanchard.

Commissioners do we have any questions?

Okay. I think this is pretty straightforward.

Let's go to the Office of Planning. Ms. Elliott.

MS. ELLIOTT: Good evening, Mr. Chairman, and the Zoning Commission.

There has -- I would only just like to note one minor correction that was

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made to the text, since it was advertised,
and not just the addition of boarding to --
let's see. It is 1803.16 Subsection D.

So, now it reads, veterinarian
boarding hospital to be consistent with the
remainder of the text. But, otherwise, I am
happy to stand on the record and we will
answer any questions you have.

CHAIRMAN HOOD: Okay. Thank you.

Colleagues, any questions as it
involves the plan?

COMMISSIONER TURNBULL: Mr.
Chair, I just have a couple of questions on
the wording. And that is in 1803.16(c).
The way it reads, it says, a veterinary
hospital may include the incidental boarding
of animals as necessary for convalescence.

My incidental basically means "by
chance, it is minor." That is the
definition of the word of "incidental."

But, in (h), we are talking --
our -- our -- but in (a), you have already
said that it could go up to 50 percent of
the gross floor area.

My -- my feeling is that that is

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a little -- it is just the choice of word. I don't think "incidental," then, would be the correct word to use.

I think it is -- there should be something different or it should be -- it should be just stricken. But I think -- I think that word "incidental" is probably a little misleading.

The only other aspect that I have is that under (h) it says pet grooming and the sale of pet supplies are permitted only as accessory uses, i.e., not as an independent line of business.

And I think that is fine except if 50 percent can be for boarding, that means that the other 50 percent is hospital or administrative use for the hospital.

I am just wondering if, for clarification, we might want to limit, just like we have had under different other stores, the amount of gross floor area that could be limited for sales, whether it is ten percent.

I mean, if it is a veterinary hospital, I don't want -- we are not looking

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that this is going to become a Petco or something else where people -- and it depends on what you mean by pet supplies.

Is that just grooming? Is that food? Is that everything else that goes with it that you would find at a store like that?

So, I am just questioning what is the -- how much can a veterinary hospital have, what percentage of the gross floor area could be allowed for pet supplies before it starts to become a -- before it does become?

And I am just throwing that out as a talking point. I don't know the answer. I am just -- I am just curious as if -- if the regulation -- if you think it is fine the way it is or do we need to strengthen (h).

I am just throwing it out -- I just throw it out for comment.

VICE CHAIR COHEN: Mr. Chairman.

Commissioner Turnbull, I would just suggest that most veterinary hospitals will just want to keep certain food and pills and drugs that are available to their

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patients.

I don't think they want to get into the retail part of owning, you know, a shop. That is really not their purpose. I don't think we need to regulate it. I really do think it is a modest amount of space.

COMMISSIONER TURNBULL: Well, I am just -- I guess what I am saying is, do you even need that section. Do we need to even talk about pet grooming and sale of pet supplies if it is primarily a veterinary hospital?

Do we need to even go there, and is it a permitted use? I -- again, I am just throwing that out.

COMMISSIONER MAY: Commissioner Turnbull, I would just suggest that -- defining it as an accessory use necessarily means that is going to occupy 20 percent or less of the -- of the floor area.

So, it is not going to become a predominant line of business. And, secondly, you know, even if there -- I mean, pet grooming supplies and things like that,

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I mean, it is not going to be onerous impacts any more so than any other retail.

So, I don't think it is really much to worry about.

COMMISSIONER TURNBULL: I was going to say, I -- when I threw it out there as a discussion point.

COMMISSIONER MAY: Sure, right. And we are not in deliberation in here. I am trying to argue the case.

CHAIRMAN HOOD: Thank you, Commissioner May, because we are not deliberating. I think really the question - - let me just refocus it.

I think Commissioner Turnbull's question is to Ms. Elliott in the Office of Planning and, you know, depending upon her answer, you are right, Mr. Turnbull, we will deliberate at the appropriate time on your exact point.

COMMISSIONER TURNBULL: Right.

CHAIRMAN HOOD: Okay. Do you have an answer for that, Ms. Elliott, or a response or do you want us to deliberate it?

MR. LAWSON: Well, we will take

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our lead from you, Mr. Chair, but just to -- just to chime in, I think that Commissioner May's points were very good.

The zoning administrator has, you know, has standards by which something is considered an accessory use. We added it in here to make sure that the -- that that kind of use, which is normally incidental, and I -- you know, incidental, you know, is kind of a term that is sometimes used in the zoning regulations, although I -- I agree with Commissioner Turnbull that in this instance, it is probably not the word in number (c), and we will work with OAG to change that, but we want to make sure that those -- that those accessory sales uses were -- were permitted and that the zoning administrator would not have a problem issuing permits if there was accessory sale of -- of pills and other kinds of things that hospitals normally offer.

So, we are fairly --

COMMISSIONER TURNBULL: I am fine with that. I am fine with that.

CHAIRMAN HOOD: Okay. Thank you,

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Mr. Turnbull. You have one more thing? One more issue?

COMMISSIONER TURNBULL: Yes.

Those were the two issues. Was on (c) and (h).

CHAIRMAN HOOD: Okay. (c) and (h). Okay.

Commissioner Miller, did you have something?

COMMISSIONER MILLER: No. I will wait for -- I will wait till we deliberate.

CHAIRMAN HOOD: Okay. All right.

COMMISSIONER MILLER: Which might be very soon.

CHAIRMAN HOOD: I think so. I didn't think so a minute ago, but you are right. It will be very soon.

Okay. Reports of other government agencies. Oh, I am sorry. Did the Office of Planning, did you all finish?

Oh, okay. Reports of other government agencies.

(No response.)

CHAIRMAN HOOD: Report of the ANC. We don't have any.

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(No response.)

CHAIRMAN HOOD: Do we have any persons -- organizations or persons here in support?

(No response.)

CHAIRMAN HOOD: Any organizations or persons here in opposition?

(No response.)

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: Mr. Chairman, I think we did get a report from the ANC.

COMMISSIONER TURNBULL: Exhibit 18.

CHAIRMAN HOOD: Forgive me. I am not going to say where my -- my package is, my original package. Okay. Great.

Okay. We have ANC 6-D, and we also -- and I appreciate this underlined, too. 6-D -- 6-O in support. ANC 60 recommends the Zoning Commission approve the application, as requested, that these recommendations be accorded great weight. And that is from Chairman Moffett.

Also, we have -- it basically says DDOT has no objection to the approval

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of the requested text amendment. Again, this is from the District Department of Transportation.

Do we have anything else? I actually left my packet in my office, so I am not sure -- I can't remember what was in it.

Do we have anything else?

(No response.)

CHAIRMAN HOOD: Okay. Great. Oh, you know what, we also were supposed to waive the rules of our Office of Planning report. We can do that by general consensus.

Any problems?

(No response.)

CHAIRMAN HOOD: Okay. All right. Typically, Mr. Blanchard, we don't have any closing, but did you want to add anything before we --

MR. BLANCHARD: I would like to add that we don't -- we don't have any problem with, you know, incidental use. It could be accessory. However, you know, whatever works best for OP and the

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Commission in letter (c).

As to letter (h), we understand that the proposed lease with our -- our possible tenant would be in the ten percent area. So, 10 to 20 percent would be fine.

I haven't been to a veterinary hospital in a long time and I don't imagine they are morphing into like a pet version of CBS that has bandages and things like that, or bowls or grooming things, but some reasonable amount of space would be --

CHAIRMAN HOOD: Okay.

All right. Thank you very much.
Okay.

Commissioners, let's open it up for discussion.

Mr. Miller.

COMMISSIONER MILLER: Well, I think this is a good text amendment. It is going to be providing a veterinary and boarding services in this new Southeast Federal Center.

The yards, neighborhood, which are needed, and I am glad that the Applicant has brought it forward.

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I would agree with Mr. Turnbull that the convalescents only as an incidental boarding does seem a little strange, and I would support -- OP says they are going to look -- work with OAG.

Maybe removing it altogether -- removing the word "incidental" altogether or -- or coming up with a different word. And I have no problem with the pet grooming and sale of pet supplies being permitted, on if accessory uses.

I don't even have a problem if it did morph into a Petco. I think they probably need that in the neighborhood, too. But -- but that is not the intent. It is a -- would be accessories to the principal uses of boarding and hospital uses.

So, I am prepared to move forward on making a motion to approve it if that is appropriate. I would move to approve Zoning Commission Case No. 13-15, text amendments allow veterinary boarding hospital and veterinary hospital in Southeast Federal Center/CR District, and ask for a second.

COMMISSIONER MAY: It has been

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moved and properly seconded.

Mr. Turnbull, let me -- let me go to you now, I would agree. Any further discussion? I do have discussion. I would agree with comments on (c).

Mr. Turnbull, now, let's look at (d). It has been moved and properly seconded. Let's talk -- let's -- not (d). (h). Let's peruse (h) a little more.

You assigned -- maybe we should just write this from the record, the whole -- all of (h).

COMMISSIONER TURNBULL: No. If everyone else feels comfortable that the -- that the Zoning Administrator and that the current regulations put a limit that it won't go over 20 percent as an accessory use and it is in the regs to cover that, then I am comfortable.

CHAIRMAN HOOD: Okay. That is all I needed.

All right. Any further discussion?

COMMISSIONER MAY: Yes. I would just like to say that I am perfectly fine

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with the word "incidental," and I checked the definition to and it says that it a minor consequence.

So, it is -- I mean a minor consequence of the convalescence is boarding.

COMMISSIONER TURNBULL: Fifty percent. Fifty percent is not incidental.

COMMISSIONER MAY: No. I think -- I think it can be. I mean, I don't know how they are arranged. I don't think it is a problem.

COMMISSIONER TURNBULL: I give -- you know, I have given my piece. You know my -- where I stand on this, and 50 percent, to me, is not incidental.

CHAIRMAN HOOD: And I think -- I think there are three Commissioners at least, Commissioner Mays --

COMMISSIONER MAY: That is fine. I just want to -- three to one, I didn't check with the vice chair.

Vice Chair. Don't get nervous because you are sitting by him. He is already out -- he has already lost that

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battle. Right?

COMMISSIONER MAY: It can be four to one.

VICE CHAIR COHEN: I just want to say that I think the word "incidental" is meaningful in this context, so I don't think it is any big deal.

CHAIRMAN HOOD: Okay. Right.

VICE CHAIR COHEN: So I would just say "Aye."

CHAIRMAN HOOD: It doesn't appear to be a show-stopper for anyone. We will come and see what the Office of Planning comes back when we do the second reoffer -- before final, we do the second review. Okay.

It has been moved an properly seconded. Any further discussion?

(No response.)

CHAIRMAN HOOD: All those in favor?

(Ayes.)

CHAIRMAN HOOD: Not hearing any opposition, Ms. Hanousek, would you record the vote?

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MS. HANOUSEK: Yes. The Commission approves Zoning Case No. 13-15 by a 5-0-0 vote upon a motion from Commissioner Miller, as seconded by Commissioner May, and approved by Hood, Cohen and Turnbull.

CHAIRMAN HOOD: All right. So, do we have anything else, Ms. Hanousek?

MS. HANOUSEK: No, sir.

CHAIRMAN HOOD: All right. I want to thank everyone for their participation, and this hearing is adjourned.

(Whereupon, the above-entitled matter went off the record at 6;50 pm.)

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