

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :  
 :  
FOREST CITY SEFC LLC - TEXT : Case No.  
AND ZONING MAP AMENDMENTS : 17-12  
- SUBTITLE K, CHAPTER 2 :  
 :  
 :  
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Thursday,  
December 7, 2017

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

The Public Hearing of Case No. 17-12 by the  
District of Columbia Zoning Commission convened at 6:30  
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  
ROBERT MILLER, Vice Chair  
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)  
PETER MAY, Commissioner (NPS)  
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development  
Review & Historic Preservation  
BRANDICE ELLIOT

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

The transcript constitutes the minutes from  
the Public Hearing held on December 7, 2017.

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

(6:32 p.m.)

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission for the District of Columbia.

Today's date is December 7th, 2017. We're located at Jerrily R. Kress Memorial Hearing Room.

My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner Shapiro, Commissioner May and Commission Turnbull.

We're also joined by the Office of Zoning Staff Ms. Sharon Schellin. Also Planning Staff Ms. Steingasser and Ms. Elliot.

Did I get that right this time?

MS. ELLIOT: Yes.

CHAIRMAN HOOD: I finally learned. Right, Ms. Elliot, I finally got the name right. How many years has it been?

MS. ELLIOT: Five.

CHAIRMAN HOOD: Five, now come on, it ain't been five years.

(Laughter)

CHAIRMAN HOOD: Thank you, Ms. Elliot. Okay.

This proceeding is being recorded by a court reporter, it's also webcast live. Accordingly, we must ask

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1 you to refrain from any disruptive noise or access into the  
2 hearing room, including display of any signs of objects.

3 Notice of today's hearing was published in the  
4 D.C. Register and copies of that announcement are available  
5 to my left on the wall near the door.

6 The hearing will be conducted in accordance with  
7 11Z DCMR Chapter 5 as follows, preliminary matters, a  
8 presentation by the Petitioner, in this case a report written  
9 by Forest City, reports of other government agencies, report  
10 of the ANC, organizations and person in support,  
11 organizations and person in opposition, organizations and  
12 persons that are undeclared.

13 The following time constraints will be maintained  
14 in this meeting. The Petitioner has up to 60 minutes, but  
15 we have read the record, I think we can do this in ten or  
16 even less. Organizations five minutes, individuals three  
17 minutes.

18 All persons wishing to testify before the  
19 Commission in this evening's hearing are asked to register  
20 at the witness kiosk. If you need some assistance, you can  
21 see Ms. Schellin. And we also ask that you fill out two  
22 witness cards.

23 The staff will be available throughout the hearing  
24 to discuss procedural questions. Please turn off all  
25 electronic devices at this time so not to disrupt these

1 proceedings.

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

5 MS. SCHELLIN: No, sir.

6 CHAIRMAN HOOD: Okay.

7 MR. AVITABILE: Excuse me, Commissioner Hood, we  
8 did want to proffer one expert witness, Mark Gilliand from  
9 Shalom Baranes.

10 MS. SCHELLIN: Oh, yes.

11 CHAIRMAN HOOD: Okay.

12 MS. SCHELLIN: I'm sorry, yes.

13 MR. AVITABILE: Sorry.

14 MS. SCHELLIN: We do have the one proffered  
15 expert. I guess I was thinking because he was accepted so  
16 many other times.

17 CHAIRMAN HOOD: He's already been --

18 MS. SCHELLIN: He has been accepted before, yes.

19 CHAIRMAN HOOD: So what are we doing then?

20 MS. SCHELLIN: But you still need to accept him,  
21 yes.

22 CHAIRMAN HOOD: We need to acknowledge it. We  
23 need to acknowledge it, okay.

24 MS. SCHELLIN: Accept him in this case rather.

25 CHAIRMAN HOOD: Yes. We don't usually undo --

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1 Anybody wants to, any issues? Okay, so we will continue our  
2 status with him being an expert. Okay, you may begin.

3 MR. AVITABILE: Great, thank you, Chairman Hood  
4 and Members of the Commission. Thank you.

5 For the record, David Avitabile with Goulston and  
6 Storrs, which is Counsel to the Petitioner, Forest City. To  
7 my left is Peter Calkins from Forest City, to my right is  
8 Mark Gilliland from Shalom Baranes Architects.

9 We're happy to stand on the record and move right  
10 to questions. I think the application is rather succinct.

11 And it's more of a zoning text adjustment rather  
12 than an amendment per say, but we're happy to answer  
13 questions. Thank you.

14 CHAIRMAN HOOD: Okay, thank you. Commissioners,  
15 do we have any questions? Commissioner May.

16 COMMISSIONER MAY: Yes, do we need to have a new  
17 category of text changes for adjustments to accommodate Mr.  
18 Avitabile? I mean, he's quite the expert at language.

19 No, I don't have any real questions, I just wanted  
20 to give Mr. Avitabile a hard time because, well, why not.

21 (Laughter)

22 CHAIRMAN HOOD: Okay, on this text change, any  
23 questions up here? Okay. Let's go to the Office of  
24 Planning.

25 MS. ELLIOT: Good evening, Members of the

1 Commission. I'm Brandice Elliot representing the Office of  
2 Planning.

3 And as noted in our report we did have some  
4 concerns regarding the actual text and we would call it an  
5 amendment because there is a gain of 500,000 square feet, but  
6 that's just kind of a minor technicality I supposed.

7 But, as noted at the beginning of our report, we  
8 were a little concerned about some of the language in the  
9 text amendment that references a development agreement.

10 There is a development agreement between the  
11 District and the developer that mandates the provision of  
12 Affordable Housing. And I think the Commission is well aware  
13 that residential developments, that are rental, provide 20  
14 percent Affordable Housing at 50 percent MFI. In Southeast  
15 Federal Center.

16 So, the Applicant, in working with the ANC, has  
17 made an adjustment, and one that OP is very much in favor of,  
18 that requires all of the three-bedroom units gained through  
19 this bonus density, to be provided at the 50 percent MFI  
20 category.

21 And the issue that we have is that the text itself  
22 references the development agreement. The development  
23 agreement isn't something that we've ever seen. It's not  
24 maintained in our files. We don't use it when we're  
25 reviewing these projects.

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1           And we're uncertain of the terms that are included  
2 in the development agreement. So our condition actually  
3 suggests that the terms of the development agreement be  
4 incorporated into the text. Including the 50 percent MFI,  
5 the administration of the units by DCHD, and then also the  
6 tenure of the affordable units.

7           We spoke with OAG this morning and they gave us  
8 full authority to say that incorporation of the development  
9 agreement, by reference into the text amendment, is  
10 inappropriate. And that they would also prefer to see more  
11 specific text, as we recommended in our report, taken from  
12 the development agreement.

13           So, I'm happy to answer any questions that you  
14 have. I feel like otherwise OP is supportive of this text  
15 amendment and what it aims to achieve. We just have this  
16 issue with the way it's worded at this point.

17           CHAIRMAN HOOD: Okay. Thank you, Ms. Elliot. Any  
18 questions?

19           COMMISSIONER TURNBULL: Just one. Ms. Elliot, so  
20 are you saying that you need refinements to the language that  
21 you've got here or that the language that you have here is  
22 what you want to see?

23           MS. ELLIOT: Well, I think the language that we  
24 included is fairly vague because we don't have all of the  
25 terms. So we are looking for more --

1 MS. SCHELLIN: It's obvious --

2 MS. ELLIOT: -- specificity from the Applicant.

3 COMMISSIONER TURNBULL: -- more specificity.

4 MS. ELLIOT: Regarding how it's administered in  
5 the tenure and the affordability.

6 COMMISSIONER TURNBULL: One of the aspects is  
7 regarding the three-bedroom units. There's a note that says  
8 that the reduction or elimination of this requirement may be  
9 permitted by the Commission, upon a showing by the Applicant,  
10 that exceptional circumstances affecting the property make  
11 compliance with this requirement difficult or impossible.

12 What, if you could, what do you see would be an  
13 exceptional circumstance?

14 I mean, I have a feeling that that's sort of like  
15 an escape clause not to have three-bedroom units.

16 MS. STEINGASSER: That language is from the  
17 original case of 14-08, 14-03.

18 COMMISSIONER TURNBULL: That is from the original.

19 MS. STEINGASSER: That's from the original. Or  
20 there was concern that there might be more three-bedroom  
21 units than the market could actually absorb. And so they  
22 agreed, both the ANC and the Commission agreed --

23 COMMISSIONER TURNBULL: Oh.

24 MS. STEINGASSER: -- to provide language where the  
25 Applicant could come back and request relief from --

1 COMMISSIONER TURNBULL: But we really haven't seen  
2 that so far.

3 MS. STEINGASSER: We have not, no.

4 COMMISSIONER TURNBULL: Okay.

5 MS. STEINGASSER: Nothing has been built that  
6 would include those three-bedroom units.

7 COMMISSIONER TURNBULL: All right, thank you.

8 CHAIRMAN HOOD: Any other questions or comments  
9 or clarifications up here? Vice Chair.

10 VICE CHAIR MILLER: So, Mr. Avitabile, do you have  
11 any problem with those, that specificity just being written  
12 into the text amendment?

13 MR. AVITABILE: Yes, we do have a couple of  
14 concerns, Commissioner Miller. And I should note that right  
15 now the zoning regulations have virtually identically  
16 language in them.

17 The existing IZ exemption that's in Subtitle C,  
18 Chapter 10 talks about reference to Southeast Federal Center  
19 properties that are subject to a land disposition or  
20 development agreement or are subject to IZ. So we were just  
21 mimicking that existing language.

22 But, I think we were being a little more precise  
23 here in referring to the development agreement rather than  
24 a land disposition or development agreement. But the  
25 concepts the same.

1           That's the first. I think we were just mimicking  
2 what the current structure is. But my bigger concern is that  
3 the only one of these three items that actually spelled out  
4 in the development agreement is the requirement to set aside  
5 20 percent of the units at 50 percent AMI.

6           The rest of that provision of the development  
7 agreement, which I should add, I did not participate in  
8 negotiating or drafting of, it's just a document that I've  
9 inherited. But it just then goes on to talk about that it  
10 will be financed in a certain way.

11           The terms regarding the duration of the Affordable  
12 Housing and the Administration, those all come in through  
13 federal financing tax credit provisions. They're not spelled  
14 out in the development agreement.

15           And so I think the concern that I'd have is, if  
16 the feds change the way they administer tax credits and  
17 change the duration or change the way it's administered or  
18 something else changes in a, in an agreement between the  
19 District and Forest City, we have a situation where the  
20 regulations might be out of step with what the agreement now  
21 requires.

22           And I think the last thing is, I certainly  
23 understand the idea of spelling it out. But the, it's an  
24 agreement between the District of Columbia and Forest City.

25           So the District is already party to controls that

1 agreement. Any changes to it have to be approved by the  
2 District of Columbia. So I think the Districts interests are  
3 protected, from my perspective.

4 VICE CHAIR MILLER: So I guess my question for the  
5 Office of Planning and for the Applicant is, I mean, is this  
6 language that can be just worked between the Office of  
7 Planning, OAG and the Applicant or do we have to wait and see  
8 that before we act? Or is this something you all can work  
9 out together?

10 MS. STEINGASSER: We would request, since there  
11 is a meeting Monday, this coming Monday, that the Commission  
12 postpone final vote on this till we have an opportunity to  
13 engage Office of Attorney General, who has been unable to  
14 attend this evening. But that would give us a day or two to  
15 work with the Office of Attorney General.

16 VICE CHAIR MILLER: This is something that  
17 requires two votes anyway or --

18 CHAIRMAN HOOD: I think it's two votes.

19 MS. SCHELLIN: It would be proposed.

20 MS. STEINGASSER: So it would be proposed.

21 VICE CHAIR MILLER: So we could do proposed today  
22 and do, no?

23 MS. SCHELLIN: -- final on Monday.

24 MS. STEINGASSER: No, no, no. I was suggesting  
25 so that there was a sense --

1 VICE CHAIR MILLER: Okay.

2 MS. STEINGASSER: -- that we understood what  
3 exactly we were voting on, that this vote could wait till  
4 Monday.

5 VICE CHAIR MILLER: Okay.

6 MS. STEINGASSER: But if the Commission is  
7 comfortable taking a proposed action, we could work with OAG  
8 prior to final vote.

9 CHAIRMAN HOOD: But if we wait then, we have to  
10 go back out for another advertisement, right?

11 (Off microphone comment)

12 CHAIRMAN HOOD: Yes. So I would recommend, unless  
13 I'm missing something, that we wait. So if we vote on this  
14 then puts us in another and we have to advertise again.

15 But let's see how the rest of the hearing goes  
16 first, I think. Okay, let's just see how the rest of it  
17 goes, okay?

18 All right, are we finished?

19 MR. AVITABILE: Yes.

20 CHAIRMAN HOOD: Okay, any other comments up here?  
21 Oh, that's right, that's the rulemaking, hold on.

22 Okay, reports of other government agencies. I  
23 think we do have a report from the ANC. Is Commissioner  
24 Fascett, I think, is here? Okay.

25 We did have a report from ANC 6D. The Advisory

1 Neighborhood Commission 6D voted 5-0-0 to support Zoning  
2 Commission Case Number 17-12, Forest City, Southeast Federal  
3 Center, LLC, text and Map amendments to, and goes on tells  
4 that. This is dated by Chairman Litsky, ANC 6D.

5 All right, we do have a DDOT report as well. I  
6 guess I'll give that.

7 MS. SCHELLIN: Exhibit 22.

8 CHAIRMAN HOOD: Yes, Exhibit, this is Exhibit 22.  
9 I'm just trying to see what --

10 District Government reviewed the Applicants  
11 request and determined that based on the information  
12 provided, this proposal action will have minimal impacts on  
13 the travel, conditions and Districts transportation network.

14 Since the Applicant will be required to obtain  
15 design review approval from the Zoning Commission, which they  
16 are doing, for each parcel seeking a density, okayed later,  
17 DDOT will work with the Applicant as each parcel develops to  
18 evaluate impacts on the transportation network and the public  
19 space design. As such, DDOT has no objection to approval of  
20 this text and map amendments at this time.

21 And at this time was my language because obviously  
22 there is going to be some more overview and oversight from  
23 DDOT.

24 Let me see, do we have any organizations and  
25 persons who are here who would like to testify in support?

1 Any organizations or persons who are here who  
2 would like to testify in opposition? I think --

3 MS. SCHELLIN: Captain Draeger.

4 CHAIRMAN HOOD: Draeger?

5 CAPT. DRAEGER: Yes, sir.

6 CHAIRMAN HOOD: Captain Draeger, you are  
7 undeclared, right? Or you're in opposition?

8 (Off microphone comment)

9 CHAIRMAN HOOD: Have a seat and identify yourself.  
10 Let me let you --

11 (Off microphone comment)

12 CHAIRMAN HOOD: He raised his hand for opposition,  
13 but --

14 (Off microphone comment)

15 CHAIRMAN HOOD: Turn on your microphone and  
16 identify yourself. I'm going to give you a chance to tell  
17 us where you are.

18 CAPT. DRAEGER: Good evening, Chairman Hood and  
19 Members of the Commission. We submitted, as testimony,  
20 neutral. And if anything, we are supportive of this in  
21 concept.

22 Thank you for the opportunity to speak with you  
23 this evening. I'm Captain Jack Draeger, the Commanding of  
24 Naval Support Activity Washington. Which includes the  
25 Washington Navy Yard, here to speak on Case Number 17-12.

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1 NSA Washington and the U.S. Navy appreciate the  
2 revitalization that has occurred at the Southeast Federal  
3 Center. We recognize the positive impacts that the  
4 development has had on the neighboring community and the  
5 Washington Navy Yard.

6 The Southeast Federal Center provides many  
7 desirable amenities for the community, including our  
8 personnel, making it more attractive for current and  
9 potential employees. This is very important to the Navy  
10 because people are our greatest resource.

11 The Washington Navy Yard is the primary  
12 headquarters for the U.S. Navy in the National Capital Region  
13 and supports many of its commands and operational missions.  
14 The Navy Yard workforce numbers approximately 18,000 people.

15 We're supportive of continued redevelopment of the  
16 Southeast Federal Center, however, the dense urban  
17 development presents security challenges for the Washington  
18 Navy Yard. Increased building heights, specifically on  
19 Parcel E, result in both permanent new site lines into the  
20 Washington Navy Yard Campus and the increase in nearby  
21 vehicular and pedestrian traffic.

22 The view directly into the Navy Yard and its  
23 facilities may impact the ability to use these facilities to  
24 support both existing and future missions. Increased traffic  
25 without appropriate security standoff detracts from the

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1 Navy's ability to protect from attacks using vehicles and  
2 small weapons.

3           We support the text amendments in concept, but  
4 recommend minor modifications to lessen the impacts and  
5 current and future Washington Navy Yard missions. Better  
6 enabling the Navy to continue to be a successful partner in  
7 this vibrant community.

8           The recommended changes are that Parcel E not be  
9 eligible for a zoning commission approved increase from the  
10 90 to 110 feet maximum height limit, unless the proposed  
11 development primarily supports the federal use. Not allowing  
12 the additional height for private development will reduce the  
13 creation of new sight lines into the Navy Yard.

14           Should the Commission feel unable to incorporate  
15 this recommended change, the Navy requests the Commission  
16 make the increased height subject to a design review by the  
17 Navy as a condition of approval.

18           According to the Developer, due to historical,  
19 safety and security concerns, Parcel E is not appropriate for  
20 residential development. The Navy recommends the Commission  
21 limit development on Parcel E to non-residents or uses with  
22 a maximum of 3.0 FAR.

23           Thank you again for the opportunity to speak and  
24 to work cooperatively with you to support the community and  
25 the Navy. I'm happy to answer any questions, any again,

1 thank you.

2 CHAIRMAN HOOD: Okay, Captain Draeger. Any  
3 questions up here? Commissioner Shapiro.

4 COMMISSIONER SHAPIRO: Thank you, Mr. Chair and  
5 thank you, Captain Draeger. Question about the  
6 communications with you had either the Applicant or with the  
7 Office of Planning about your concerns or is this the first  
8 time they're hearing of it?

9 CHAIRMAN HOOD: Microphone. Turn your mic on.

10 CAPT. DRAEGER: I think we've had general  
11 communications with the Office of Planning and some with the  
12 Developer as well. We mainly wanted to make sure that this  
13 standing concern that the Navy has is on the record.

14 We continue to work with them. We're committed  
15 to some compatible development opportunities right next door  
16 to the Navy Yard. But they are not without a challenge to  
17 us and the tenant commands that I'm responsible for  
18 supporting.

19 COMMISSIONER SHAPIRO: Okay, thank you. Thank you  
20 very much. Thank you, Mr. Chair.

21 CHAIRMAN HOOD: Okay, any other questions up here?  
22 Okay.

23 Before you leave, Mr. Avitabile, you've heard the  
24 comments, have you had a chance to look at the letter?

25 MR. AVITABILE: We did have a chance and have a

1 couple of thoughts if you'd like to hear them.

2 CHAIRMAN HOOD: Oh, I was hoping you'd work it out  
3 with them, but --

4 MR. AVITABILE: Oh.

5 CHAIRMAN HOOD: -- only thing I wanted to hear was  
6 it was worked out. But anyway, go ahead.

7 MR. AVITABILE: We talked a little bit outside  
8 before the hearing and talked a little bit about our  
9 perspective and their perspective. This is at least the  
10 first time that I was brought into the discussion.

11 And to remind you all, projects that are in the  
12 yards in the Southeast Federal Center go through a pretty  
13 complicated and lengthy review process. GSA is responsible  
14 for the first part of that review process. They take all  
15 projects in the historic corps, and that includes all of  
16 Parcel E.

17 First, that 15 percent design, they take them to  
18 the State Historic Preservation Office for review and  
19 comment. That often results in comments about adjusting the  
20 height and scale of buildings, bring them down to respect  
21 adjacent and nearby historic properties and view sheds. And  
22 this is certainly a parcel where that could come into play.

23 Then, as the design advances at 35 percent design,  
24 again, GSA brings the project to all of the consulting  
25 parties. The Navy is one of those consulting parties.

1           And again, give all of those consulting parties  
2 an opportunity to comment. And then GSA is able to take that  
3 commentary into effect and will tell Forest City, we think  
4 you should pay attention to these comments and adjust.

5           Then the project goes to the National Capital  
6 Planning Commission, as well as the Commission of Fine Arts,  
7 at that same 35 percent level for their review and comment.  
8 And again, there is another opportunity for the Navy to  
9 participate formally, as well as informally with us, as we  
10 review projects to address their concerns. Many of which I  
11 think are well suited for the discussion of a specific  
12 project.

13           Then certainly, finally at the Zoning Commission,  
14 we could again have this discussion if it hasn't already been  
15 worked out. But I think with all of these checkpoints along  
16 the way, there's a strong likelihood it will.

17           We have, you know, I think our position is, one,  
18 the language that the Navy is proposing to adjust isn't  
19 language that we were proposing to modify in this  
20 application, it's language that's been in there since the  
21 original amendment.

22           Now, we're amending things so we're not suggesting  
23 that the language is in by any means, but I think all this  
24 language does, the provision on height says 90 feet is the  
25 permitted height and 110 could be allowed, with review and

1 approval by the Zoning Commission.

2           So I think it's already built into the regulations  
3 that if we want to go to 110 feet in height we need to make  
4 the case. And that will be only after we have convinced the  
5 Historic Preservation Office, NCPC, CFA, GSA, et cetera. All  
6 that height, that additional height, is appropriate.

7           As far as the density piece goes and the use I  
8 should say, while we think residential use could be  
9 challenging over here, we don't want to preclude residential  
10 use as an option. At the end of the day, residential use  
11 could be the best use here, we don't know.

12           And because this is such a constrained site with  
13 all these considerations, we wouldn't want to close the door  
14 on a particular use, if that ultimately would be the best and  
15 most appropriate use of the property.

16           I think the last point I'd want to make is that  
17 when it comes down to it, when you're developing this part  
18 of the yards with all these design constraints and review  
19 constraints, we often end up far under a 6 FAR.

20           The project that has been built over here, 12-12,  
21 which was Parcel D, that's the project that the Harris Teeter  
22 that we all discussed, it was back in 2010 and it's been up  
23 for a couple of years now, that project is a 3.84 FAR. It's  
24 two towers that are 110 feet tall, but it's under a 4 FAR.

25           And I think that speaks to the fact that in this

1 part of the yards you often do end up cut back considerably,  
2 from what the regulations might require. So I just think  
3 with all of those considerations in mind, the most, I think  
4 the Navy's concerns are appropriate.

5 We cited concerns about security in our initial  
6 request here. We don't disagree that those are important  
7 issues, but I think those issues are probably best addressed  
8 in the review of individual buildings through the many  
9 different processes that we have.

10 CHAIRMAN HOOD: Okay. Any follow-up questions or  
11 comments on that?

12 COMMISSIONER TURNBULL: Right. My only comment,  
13 I think the Captain is looking for maybe a little more  
14 reassurances that something would be added to this language  
15 that would offer some other review or give some other  
16 consistencies for them, worried very much about security.

17 Although I understand your stance Mr. Avitabile  
18 and everything else, but I'm just wondering if you would, if  
19 there was language added to this that might somehow reference  
20 the Navy, I'm not sure if the Office of Planning would be,  
21 I just could, I mean it's a very, we live in very sensitive  
22 times right now and I think the Navy is very concerned.

23 MR. AVITABILE: I don't disagree. I mean, I think  
24 from my perspective GSA has to bring the application first  
25 before all of these bodies and the Navy and GSA would

1 probably have that conversation about what's most  
2 appropriate.

3 I don't know, truthfully, there's already a  
4 significant federal process that's established here, and it  
5 seems to me that that might be the more appropriate place for  
6 those conversations to have happen and be prescribed in here.

7 We can certainly continue to consider it, again,  
8 we just got the letter this afternoon, so --

9 COMMISSIONER TURNBULL: Yes, if you could. I  
10 think the Captain has tried to make the case that he is,  
11 they're very concerned about 110 feet.

12 CHAIRMAN HOOD: Actually, I think the Captain has  
13 made the case to me.

14 MR. AVITABILE: Yes.

15 CHAIRMAN HOOD: But let me hear, the Captain, he  
16 going to say something.

17 CAPT. DRAEGER: Yes, sir, Mr. Chairman, I just  
18 wanted to add that I think the Zoning Commission has enacted  
19 a similar condition of approval in response to the Navy's  
20 security concerns in another case, Zoning Case 3-12G. And  
21 we appreciate your support on that and appreciate your  
22 understanding this evening.

23 CHAIRMAN HOOD: Okay, so it has been done, we do  
24 have some history of doing something similar.

25 MR. AVITABILE: We can certainly look at that.

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1 That was a PUD so it's a slightly different circumstance.  
2 That would be within the context of a plan unit development  
3 review rather than in text, but I'm happy to take a look at  
4 that --

5 CHAIRMAN HOOD: Let's do this, let's take a look  
6 at it. And I know we had some things that we're going to be  
7 dealing with on, is it Monday? Yes, Monday. Let's see if  
8 we can accomplish all those requirements and see what we can  
9 do at this level, because we don't want the Captain to have  
10 to run around all those different bodies, we're going to have  
11 to do all that.

12 He may have to go to some of them, but we want to  
13 see what we can do to help mitigate, make sure that  
14 discussion happens at this point. Okay? Because that's very  
15 important what he's bringing to us tonight.

16 Okay. Any other questions or comments up here?  
17 Commissioner May.

18 COMMISSIONER MAY: I just wanted to clarify, I  
19 mean this text then is going to get referred to NCPC anyway,  
20 right?

21 So there will be another opportunity for feedback  
22 at the federal level. And Department of Defense is  
23 representing NCPC so they'll be other avenues where you're  
24 able to speak up for this no matter what we decide.

25 So between our first decision on it and the second

1 decision on it you'll get to weight in then at the federal  
2 level.

3 CHAIRMAN HOOD: Anything else? All right, anybody  
4 else? That's it. All right, thank you all very much.

5 MS. SCHELLIN: So, are we putting this on Monday's  
6 agenda, the proposed action?

7 CHAIRMAN HOOD: Yes, Monday. Because they're  
8 supposed to be working out the language and now we're going  
9 to include that, so what we need to do with that as well.

10 MR. AVITABILE: Yes.

11 CHAIRMAN HOOD: And I know that there are some  
12 other bites to the apple, but if we can deal with things here  
13 too, as well, we want to make sure we reinforce it. Okay.

14 MR. AVITABILE: Yes, sir.

15 CHAIRMAN HOOD: All right, do we have anything  
16 else tonight?

17 MS. SCHELLIN: No.

18 CHAIRMAN HOOD: That's it?

19 MS. SCHELLIN: That's it.

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

23 MR. AVITABILE: Thank you.

24 (Whereupon, the above-entitled matter went off the  
25 record at 6:58 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Forest City, LLC

Before: DCZC

Date: 12-07-17

Place: Washington, DC

was duly recorded and accurately transcribed under  
my direction; further, that said transcript is a  
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