

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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IN THE MATTER OF: :

:

Horning Brothers d.b.a. : Case No.

Trinity Commercial LP and : 10-02

Heights Commercial LP- :

Text Amendment to Allow a :

Fast Food Establishment :

:

:

-----:

Thursday,

October 7, 2010

Hearing Room 220 South

441 4th Street, N.W.

Washington, D.C.

The Public Hearing of Case No.
 10-02 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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ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

STEVEN COCHRAN
JENNIFER STEINGASSER
KAREN THOMAS

The transcript constitutes the minutes from the Public Hearing held on October 7, 2010.

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1 P-R-0-C-E-E-D-I-N-G-S

2 6:31 p.m.

3 CHAIRMAN HOOD: Okay, let's go
4 ahead and get started.

5 Good evening, ladies and gentlemen.

6 This is a public hearing of the
7 Zoning Commission for the District of
8 Columbia, for Thursday, October 7, 2010.

9 My name is Anthony Hood. Joining
10 me are Vice Chairman Schlater, Commissioner
11 Selfridge, Commissioner May and Commissioner
12 Turnbull.

13 We are also joined by the Office of
14 Zoning Staff, Ms. Sharon Schellin, also the
15 Office of Planning Staff, Ms. Steingasser and
16 Ms. Thomas.

17 The opening statements will apply
18 to both of our cases tonight, which our first
19 case is Zoning Commission Case No. 10-02, and
20 our second case is Zoning Commission Case No.
21 70-16B.

22 This is where it differs. This

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1 proceeding is being recorded by a court
2 reporter, it's also webcast live.
3 Accordingly, we must refrain from any
4 disruptive noises or actions in the hearing
5 room. This is where it differs, the subject
6 of this evening's hearing is Zoning Commission
7 Case No. 10-02. This is a request from
8 Horning Brothers for a text amendment to the
9 Zoning Regulations to allow a fast-food
10 establishment without drive throughs in the C-
11 1 Zone, properties located in Square 3499, Lot
12 3, and Square 3664, Lot 820.

13 Notice of today's hearing was
14 published in the D.C. Register on June 25,
15 2010, and copies of that announcement are
16 available to my left on the wall near the
17 door.

18 The hearing will be conducted in
19 accordance with the provisions of 11 DCMR 3021
20 as follows: preliminary matters, presentation
21 by the Petitioner, in this case it's the
22 Horning Brothers, Report of Other Government

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1 Agencies, if any, Report of ANC 5-C,
2 Organizations and Persons in Support,
3 Organizations and Persons in Opposition.

4 The following time constraints will
5 be maintained in this hearing: Petitioner,
6 ten minutes, organizations, five minutes,
7 individuals, three minutes. The Commission
8 intends to adhere to the time limits as
9 strictly as possible, in order to hear the
10 case in a reasonable period of time.

11 All persons appearing before the
12 Commission are to fill out two witness cards.
13 Upon coming forward to speak to the
14 Commission, please give both cards to the
15 reporter sitting to my right before taking a
16 seat at the table.

17 When you are finished speaking,
18 please turn your microphone off, so that your
19 microphone is no longer picking up sound or
20 background noise.

21 The decision of the Commission in
22 this case must be based exclusively on the

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1 public record.

2 The staff will be available
3 throughout the evening to discuss procedural
4 questions. Please turn off all beepers and
5 cell phones at this time, so not to disrupt
6 these proceedings.

7 At this time, the Commission will
8 consider any preliminary matters. Does the
9 staff have any preliminary matters?

10 MS. SCHELLIN: With regard to Case
11 No. 10-02, we did receive a letter in support
12 from ANC 5-C.

13 CHAIRMAN HOOD: Okay, thank you
14 very much, and I think that's Exhibit --

15 MS. SCHELLIN: 23.

16 CHAIRMAN HOOD: -- 23, yes.

17 Okay, thank you, Ms. Schellin.

18 Okay, Mr. Tummonds, we will go
19 ahead and get started.

20 MR. TUMMONDS: Good evening, Mr.
21 Chairman, Members of the Commission, I'm Paul
22 Tummonds, with the law firm of Goulston and

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1 Storrs.

2 Zoning Commission Application No.
3 10-02 seeks approval of a text amendment that
4 will apply to the Trinity Square Shopping
5 Center on Michigan Avenue, N.E., and the
6 Heights Shopping Center, located at the
7 intersection of Hawaii Avenue and Taylor
8 Street, N.E.

9 The proposed text amendment would
10 allow fast-food establishments with no drive
11 throughs to be permitted as a matter of right
12 at each of those centers.

13 As noted in the Applicant's written
14 statement, the proposed text amendment is
15 consistent with the purposes and intent of the
16 Zoning Regulations, and the Zoning Enabling
17 Act of 1938. The proposed text amendment
18 would help provide for the continued economic
19 vitality and viability of these commercial
20 centers, which are located on significant
21 commuter routes in close proximity to large
22 institutional uses.

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1 This text amendment is consistent
2 with and furthers numerous goals and policies
3 enumerated in the Comprehensive Plan, which
4 are discussed in more detail in the written
5 application.

6 The proposed text amendment will
7 not adversely impact the use of adjoining or
8 nearby properties, as these fast-food type of
9 uses have existed in these centers since they
10 were constructed, and there have been no
11 complaints from the surrounding neighbors.

12 In addition, no discernible
13 additional traffic is expected on either
14 Michigan Avenue, Hawaii Avenue or Taylor
15 Street, as a result of this text amendment
16 application.

17 The Office of Planning filed a
18 report dated September 13, 2010 recommending
19 approval of this text amendment application,
20 and in that report OP highlighted the
21 pertinent policies of the Comprehensive Plan
22 that are relevant to this application and

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1 support approval of the application.

2 The Applicant is pleased to note
3 that ANC 5-C adopted a resolution in support
4 of this application, as you noted in your
5 previous statement.

6 I will now have our only witness
7 this evening, David Roodberg, CEO of Horning
8 Brothers, present his testimony.

9 MR. ROODBERG: Good evening, Mr.
10 Chairman, and Members of the Commission.

11 I am David Roodberg, CEO of Horning
12 Brothers, the owner of two properties that are
13 the subject of the text amendment hearing
14 before you this evening.

15 The Trinity Square Shopping Center
16 is located on Michigan Avenue, across the
17 street from Trinity University, and the
18 Heights Shopping Center is located at the
19 intersection of Taylor Street, N.E., and
20 Hawaii Avenue, N.E.

21 Horning Brothers developed both of
22 these properties as multi-neighborhood

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1 commercial centers, based on their location
2 along the significant commuter corridors of
3 Michigan Avenue, N.E., and Taylor
4 Street/Hawaii Avenue, N.E.

5 Trinity Square was constructed in
6 1985, and Heights was constructed in 1980.
7 Since each center has opened, we have strived
8 to operate these strip commercial centers in a
9 manner that has enhanced the surrounding
10 neighborhood. We have always sought to create
11 a thriving shopping and dining experience,
12 that catered to the needs and desires of the
13 surrounding community and those that drive by
14 these centers on a daily basis.

15 Since both of these centers opened,
16 there has been a consistent demand for the
17 deli style restaurants and what are now deemed
18 to be fast food establishments by the Zoning
19 Regulations. We have always sought to
20 maintain a healthy balance of retail,
21 restaurant, and small office tenants at each
22 center.

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1 We will continue to do so if this
2 application is approved. However, we believe
3 that one of the most important things we can
4 do to keep these centers as thriving active
5 uses for the neighborhood is to help assure
6 that they do not have vacant retail spaces.

7 As noted in our written statements
8 supporting this application, our recent
9 experience in leasing for both of these
10 centers has revealed that there remains a very
11 strong demand for the deli style restaurants
12 and fast food establishments in these centers,
13 especially, in those locations where such uses
14 previously existed.

15 We are not aware of any opposition
16 to this application. The Office of Planning
17 filed a report in the case, evidencing its
18 support for the text amendment application.
19 Similarly, ANC 5-C reviewed this application
20 and adopted a unanimous resolution in support
21 of this case, after their September 21, 2010
22 public meeting.

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1 We are confident that the proposed
2 text amendment will not create any adverse
3 impacts on the adjacent properties. No
4 additional development will occur on either
5 site as a result of this application.

6 We expect that each center will
7 continue to operate exactly as it has in the
8 past, and as it continually operates.

9 The purpose of this application is
10 solely to provide us with the flexibility to
11 operate these centers in a manner that allows
12 them to flourish without adversely impacting
13 the surrounding community.

14 That concludes my prepared remarks
15 this evening. I'm available to answer any
16 questions that you may have.

17 MR. TUMMONDS: That concludes our
18 presentation.

19 CHAIRMAN HOOD: Excellent, thank
20 you both for your presentations. They were
21 straight to the point, appreciate it.

22 Let me say this. Mr. Tummonds, let

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1 me ask you this. 701.4Q, that's all we're
2 being asked to do tonight, right?

3 MR. TUMMONDS: That is correct.
4 And, in fact, we noticed in talking to Ms.
5 Schellin before, it should, in fact, be --
6 there has been a subsequent renumbering, so
7 its 701.4W, is now the correct, re-
8 alphabetizing, I'm sorry, of that. The
9 language is exactly the same, but in answering
10 your question, yes, that's all we are talking
11 about.

12 CHAIRMAN HOOD: Okay. Let me open
13 it up for questions.

14 Commissioners, any questions? No
15 questions.

16 Okay, well, let's move right on.

17 Do we have anyone here from --
18 well, Report of Other Government Agencies?

19 Report of ANC 5-C?

20 I think I left the Office of
21 Planning out.

22 MS. THOMAS: That's okay.

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1 CHAIRMAN HOOD: You all don't mind
2 being left out some time, but not when it's
3 positive, so right ahead, Ms. Thomas, I'm
4 sorry.

5 MS. THOMAS: Good evening, Mr.
6 Chairman, and Members of the Commission.

7 The Office of Planning is in
8 support of this application, and we'll be
9 happy to stand on the record.

10 Thank you.

11 CHAIRMAN HOOD: Thank you very
12 much, Ms. Thomas.

13 Does anyone have any questions of
14 the Office of Planning?

15 Okay, thank you.

16 Report of Other Government
17 Agencies?

18 Report of ANC 5-C? As already
19 stated, our Exhibit 23, we have a letter that
20 says, "Now, therefore, let it be resolved ANC
21 5-C, and it's properly noticed meeting on
22 September 21, 2010, voted unanimously to

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1 support the amendment." And, it also mentions
2 that ANC 5-C is composed of 12 Commissioners
3 and, therefore, seven Commissioners constitute
4 a quorum, 11 Commissioners were present at
5 this particular meeting on September 21st, and
6 of those present it was unanimously voted to
7 support this application, or this text
8 amendment. And, that's signed by the
9 Chairperson, Anita Bonds, and Silas Grant is
10 the Recording Secretary.

11 Okay, do we have any organizations
12 or persons here in support?

13 Any organizations or persons in
14 opposition?

15 Okay, Commissioners, I would
16 recommend that we would go ahead and move
17 forward with this this evening. I think it's
18 pretty straightforward, and again, the only
19 thing we really are working with is 701.4, and
20 I understand re-alphabetized it's W, as
21 opposed to Q.

22 I would move that we approve Zoning

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1 Commission Case No. 10-02, the Horning
2 Brothers text amendment at 701.4W, and ask for
3 a second.

4 COMMISSIONER SELFRIDGE: Second.

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

7 Are you ready for the question?

8 All those in favor aye.

9 (Ayes.)

10 CHAIRMAN HOOD: Not hearing any
11 opposition of those that are present, those of
12 us, Ms. Schellin, would you please record the
13 vote.

14 MS. SCHELLIN: Yes. Staff would
15 record the vote 5-0-0 to approve proposed
16 action in Zoning Commission Case No. 10-02,
17 Commissioner Hood moving, Commissioner
18 Selfridge seconding, Commissioners Schlater,
19 Turnbull and May in support.

20 CHAIRMAN HOOD: Thank you both,
21 appreciate it.

22 (Whereupon, the above-entitled

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1 matter was concluded at 6:42 p.m.)

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