

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

Application of Georgetown 29K Acquisition, LLC
ANC 2E

STATEMENT OF THE APPLICANT

This is the application of Georgetown 29K Acquisition, LLC (“**Applicant**”) for special exception relief to permit the renovation and conversion of the historic West Heating Plant into a residential building and one-acre public park. The property that is the subject of this application is located at 1051-1055 29th Street NW (Square 1193, Lots 45, 46, & 800-804) (the “**Property**”). The Property is located in the MU-13 Zone District.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment (the “**BZA**” or the “**Board**”) approve the following relief from the Zoning Regulations:

1. Special exception from the loading requirements in Subtitle C § 901.1 (11-C DCMR § 901.1).
2. Special exception from the penthouse single enclosure and setback requirements in Subtitle C §§ 1500.6 & 1502.1 (11-C DCMR § 1500.6 & 1502.1).

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the relief requested pursuant to Subtitle C § 909.2, Subtitle C § 1504.1, Subtitle X § 900.2, and Subtitle Y § 100.3 of the Zoning Regulations.

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is located in the Georgetown neighborhood of Ward 2 and contains approximately two (2) acres (87,120 square feet) of land area. The Property is generally

bounded on the west by 29th Street NW, on the east by Rock Creek, on the north by the Chesapeake & Ohio (“**C&O**”) Canal, and on the south by K Street NW. The Property is improved with the West Heating Plant (“**WHP**”), which is an individual historic landmark and a contributing structure in the Georgetown Historic District. The WHP is a solid masonry structure that is approximately 135 feet tall and is located on the north side of the Property. An open area formerly used as the coal yard is on the south side, and a historic stone wall that is approximately 9.71 feet tall surrounds the former coal yard. Both the WHP structure and the stone wall surrounding the coal yard are elements of the historic landmark. The Property was previously owned by the federal government, and the WHP was operated as a coal-powered steam heat plant for federal buildings. The WHP was decommissioned in 2000, and the Property has been abandoned and vacant since. The Applicant acquired the Property from the federal government in 2013.

The surrounding area is a mix of residential, commercial, and open space uses. Properties to the west are developed with row dwellings and a multifamily condominium building. Properties to the southwest are developed with commercial buildings. Across the C&O Canal to the north is the Four Seasons Hotel. To the east and the south are Rock Creek and Rock Creek Park.

IV. PROJECT DESCRIPTION AND HISTORY

The proposed Project will transform the long-vacant, contaminated, and blighted site into a residential condominium with an adjacent one-acre public park and pedestrian bridge connecting Rock Creek Park and the C&O Canal Park with the Georgetown Waterfront, all while restoring many historical features of the WHP (the “**Project**”), as shown on the attached

architectural plans and drawings (“Plans”). The residential building was designed by lauded architect Sir David Adjaye and will be contained within the restored and retained portions of the WHP, and it will include 70-72 condominium units among 10 stories. A penthouse will be located above the 10th story housing both mechanical equipment and a tenant roof area. Automobile parking, containing 95-105 spaces, will be located in a parking garage with one level above grade and one level below grade that will occupy the former coal yard area south of the former WHP and will form the base of the public park on top. Building services, such as trash, recycling, deliveries, etc. will be accommodated via the ground-level loading area that will be in the garage and accessed from a service entrance through the historic wall on 29th Street. Once brought inside the loading area, goods will be taken to the adjacent service elevator and moved to the lower garage level, where they can then be taken inside the portion of the building containing the residential units.

The one-acre public park above the garage was designed by renowned landscape architect Laurie Olin. The elevated park will include extensive landscaping features – including a shading pergola, a water feature, benches, pathways, and plantings – for passive recreation. The public park will be accessible from several points, including from 29th Street. From 29th Street, visitors will access the park via a large stairway located between the parking and loading entrances. For disabled visitors unable to use stairs, access to the park will be via an elevator immediately adjacent to the stairway.

After reviewing the Project pursuant to its authority under the Old Georgetown Act, the Commission of Fine Arts (“CFA”) granted concept approval to the Project’s design on

September 20, 2017.¹ Then, pursuant to the order dated January 11 2019, the Mayor’s Agent for Historic Preservation (“**Mayor’s Agent**”) approved the partial demolition of the WHP and the Project’s design to allow its construction.

Other than the relief requested herein, the Project will conform to the development standards of the MU-13 zone. In total, the Project will contain approximately 210,201 square feet of gross floor area, which equates to a total FAR of approximately 2.3. The residential building will have the same height and massing as the existing WHP, so it will have a legally nonconforming height of 135 feet plus 10-foot tall penthouse. The overall lot occupancy of the Project will be conforming at approximately 61%.

Loading will be accommodated from an on-street loading zone on 29th Street, where trucks will park to receive and unload materials. Materials will be brought to and from the internal loading area accessed through an opening in the stone wall on the west side of the Project. Thus, the required 30-foot berth and 20-foot service/delivery space will not be provided, and relief is required.

The west side of the park will include the overrun for the elevator providing park visitor access, the overrun for the loading service elevator, and a shading pergola. The park access elevator overrun penthouse will be 18’-6” feet tall but set back from the 29th Street roof edge by 5’-8”, so relief from the 1:1 setback requirement is necessary. Similarly, the service elevator overrun penthouse will be 9’-3” tall but setback from the 29th Street roof edge by 5’-8”, so relief from the 1:1 setback requirement is needed. Additionally, the pergola (trellis) is 13’-8.5” tall but not set back from the 29th Street roof edge, so relief from the setback requirement is necessary.

¹ Case No. OG 17-217.

Finally, because the two elevator overruns are not within the same enclosure, relief from the single enclosure requirement is necessary.

V. THE APPLICATION SATISFIES THE CRITERIA FOR SPECIAL EXCEPTION RELIEF FROM THE LOADING REQUIREMENT

Relief from the number of loading berths and service/delivery spaces required by Subtitle C § 901.1 is permitted as a special exception, subject to the specific requirements in Subtitle C § 909.2 and the general provisions of Subtitle X § 901.2. For the reasons set forth below, the application satisfies these requirements.

- A. *The only means by which a motor vehicle could access the lot is from a public street, and provision of a curb cut or driveway on the street would violate any regulation in this chapter, or in Chapters 6 or 11 of Title 24 DCMR (C § 909.2(a)).*

As described above, the Property does not have access to a public alley. It is bounded by either streets or waterways. Thus, the only means by which a vehicle can access the Property is via curb cut. While there will be a vehicular curb cut to access the parking area, a second curb cut large enough to accommodate trucks would be required to access the loading area. This second curb cut likely would violate 24 DCMR §§ 605.8 & 1110.1(a) because it would create an additional pedestrian conflict point for the same property on the same street frontage, which is particularly sensitive given the public park that will draw pedestrians on 29th Street.

- B. *The loading berths or service/delivery spaces are required for an addition to a historic resource, and providing the required loading facilities would result in significant architectural or structural difficulty in maintaining the integrity and appearance of the historic resource (C § 909.2(b)).*

The building's loading needs will be accommodated from an on-street loading zone on 29th Street. Goods moving between trucks parked in the loading zone and the building will pass

through the opening in the historic wall to and from an internal loading area. This loading area will be inside the parking garage and below the public park accessed via an 8-foot wide and 8-foot tall opening in the historic wall along 29th Street. This location was carefully considered after much consultation with the CFA and has been in the plan for all public reviews of the project. Maintaining the integrity of the historic wall was paramount as well as invoking the industrial materiality and heritage of the site with a long metal beam capping the stone wall and supporting the historic WHP façade. This new metal beam as well as the historic stone wall will limit access into the site such that the opening will be too small to accommodate trucks. The loading area must be located in the proposed location to allow proper staging of delivery vehicles while not interfering with residents' vehicular arrival further north, as well as to align with the driveway on the west side of 29th Street to minimize impact on neighbors. Further, expanding the opening and expanding the loading area cannot be reasonably accommodated because of the resulting detrimental impact to the historic stone wall and the park above.

Accordingly, providing the required 30-foot berth and 20-foot service/delivery space within the Project would result in structural difficulty in maintaining the integrity and appearance of the historic wall because the only reasonably feasible way to accommodate it is by substantially increasing the opening in the wall. Since the loading opening and area must be in this location, accommodating truck access would require significantly expanding the opening horizontally and vertically.² As currently designed, the opening in the wall is small enough that it does not significantly interfere with its historic integrity, as confirmed by approvals from both the CFA and the Mayor's Agent. However, significantly increasing the size of the opening in the historic wall necessary to accommodate truck access to a berth and service/delivery space would

² Pursuant to Subtitle C § 904.1, all berths and service/delivery spaces must be accessible at all times.

compromise integrity and appearance of this historic stone wall. This enlarged opening would create a sizeable break in the wall that would be easily distinguished from the rest of the historic structure and would require more structural support; this would then impact the appearance and design of the park above. Accordingly, the historic resource – the stone wall – would lose its integrity and appearance if the loading berth and service/delivery space at the required dimensions were provided.

C. The requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property (X § 901.2).

Granting relief from the required loading berth and service/delivery space will be in harmony with the general purpose and intent of the Zoning Regulations and Maps. In consultation with DDOT, the Project’s loading will be accommodated from an on-street loading zone. The Project will still provide an internal loading staging area, so all loading activities will be safely and effectively accommodated in accordance with the purpose of the Zoning Regulations to “provide safe and efficient conditions for pedestrian and motor vehicle movement” with off-street loading.³ In addition, the Applicant has engaged a traffic consultant to assess the loading facilities and who will work with DDOT to ensure that loading activity for the Project will not unduly interfere with traffic on the surrounding streets. The Applicant will file more information from the traffic consultant prior to the public hearing.

Furthermore, the requested relief from the required loading berth and service/delivery space will not adversely affect the use of neighboring property. With only 70-72 condominium units in the Project, the rate of move-ins/move-outs and regular deliveries will be limited and easily accommodated from the on-street loading zone without significantly interfering with

³ Subtitle G § 100.3(g).

traffic and parking on nearby streets. Accordingly, neighboring properties will not be adversely affected with respect to traffic and parking because of the requested relief.

VI. THE APPLICATION SATISFIES THE CRITERIA FOR SPECIAL EXCEPTION RELIEF FROM THE PENTHOUSE REQUIREMENTS

Relief from the penthouse single enclosure requirement in Subtitle C § 1500.6 and from the setback requirement in Subtitle C § 1502.1 is permitted as a special exception, subject to the considerations in Subtitle C § 1504.1 and the general provisions of Subtitle X § 901.2. For the reasons set forth below, the application satisfies these requirements.

- A. *The strict application of the requirements of this chapter would result in construction that is unduly restrictive, prohibitively costly, or unreasonable or is inconsistent with building codes (C § 1504.1(a)).*

The size and placement of the elevator overruns and the pergola are the result of a carefully executed design that are critical to the efficient functioning of the building operations, providing disabled access to the park, and the aesthetics and circulation of the park.

First, the service elevator is located next to the internal loading staging area, which is accessed from 29th Street. As described above, the opening to and placement of this loading area resulted from the necessity of limiting removal of the historic stone wall. For the most efficient operation of moving goods from the loading area into the rest of the building, the elevator is located next to it, as close as possible; this also means that the overrun is located close to the roof edge above. However, complying with the full setback requirement for this overrun would be unduly restrictive and unreasonable because moving the elevator further away from the street would mean that goods would need to travel further into the building, thereby resulting in operational challenges; the extended movement of goods across the lower level would interfere with the parking layout and circulation; the overrun would interrupt pedestrian movement

through the park; and it may have a detrimental impact on the historic stone wall by requiring greater supports bearing on it.

Second, the park access elevator for disabled visitors is located next to the stairs leading to the park and as close to the 29th Street sidewalk as possible. This location limits the distance that disabled visitors will need to travel from the sidewalk to the elevator, which is a fundamental principle of accessible design. However, complying with the full setback requirement for this overrun would be unduly restrictive and unreasonable because moving the elevator further away from the street would mean that disabled visitors would have to travel significantly further from the sidewalk to access the elevator, which is an unreasonable burden for these visitors. In addition, locating the elevator penthouse to comply with the setback requirement would place the overrun more centrally in the park, thereby interfering with the park's pleasing design and interrupting pedestrian flow, which would be unreasonable and unduly restrictive on the developer. Also, moving the elevator penthouse further from the street would cut into the elegant design of the stairway, which is unduly restrictive given the extensive design review to which the Project was subject.

Third, the pergola is located close to the 29th Street wall because of its importance to the design of the park. The design of the park, as part of the overall Project, underwent review by the ANC, OGB, CFA, HPRB, and, finally, the Mayor's Agent. The pergola was part of this design both to provide shade within the park and draw attention to the park from the street below. For the pergola to comply with the setback requirement would be unduly restrictive and unreasonable. Moving such an important design element likely would necessitate additional design review by applicable agencies, which is an unreasonable burden for the developer. In addition, locating the pergola to comply with the setback requirement would interfere with the

park design and interrupt the open space that comprises most of the park; this would be unduly restrictive to the developer's ability to construct the park in a manner that is most conducive to public use.

Finally, constructing one enclosure for both elevator overruns would be unduly restrictive and unreasonable. As described above, the locations of the overruns are dictated by the purposes they serve and to minimize impact on the park. Therefore, they must be separated. Constructing one enclosure for both would result in a structure that unnecessarily large – spanning the nearly 50 feet between them – that would consume and restrict park area above. This single large enclosure would not enhance the appearance of the penthouses or the Project overall, so it would be an unduly restrictive requirement for the development.

- B. *The relief requested would result in a better design of the roof structure without appearing to be an extension of the building wall (C § 1504.1(b)).*

The setback relief for the elevator penthouses results in a better design of the garage roof, which is the beautiful one-acre public park. As described above, locating the penthouses on the west edge of the park allows for the park to be largely open and unobstructed by intrusive structures. Compliance with the setback requirement would require shifting the penthouses more centrally in the park, which would interrupt the usable space by visitors and would interfere with the park's visual aesthetic. The proposed locations of the penthouses allow the elevators to both best serve the Project's operations and create a largely open and appealing recreation space within the park. The penthouses are comparatively small structures rising above the one level building wall that extends horizontally nearly 200 feet along 29th Street from the park stairway to K Street; thus, the penthouses are clearly single purpose structures constructed of different material that do not create any appearance of extending the height of the historic stone wall.

Although it is not a penthouse, the pergola location also allows for a better design of the park above. As described before, the park design underwent extensive review, and the pergola is an important feature of the park to add visual variety and shading while not interrupting the openness of the park by being located on the west side. A conforming setback for the pergola would detract from the carefully thought-out and reviewed park design. The pergola is clearly a separate element from the stone wall along 29th Street, and even with no setback, it would not appear as an extension of the stone wall.

Finally, relief from the single enclosure requirement will result in a better design for the park as well. The elevator penthouses are as small as possible to serve their purposes and will be clad in material to reduce their prominence and limit their footprint. If the overruns were enclosed in one structure, it would be significantly larger – both horizontally and vertically – and would enclose a large amount of space in the park. This single structure would become a dominant feature of the park, which is intended to be primarily a large open space, and would result in a worse design. A single structure would create more of an appearance of extending the stone wall than the two punctuated and separated penthouses as proposed.

C. *The relief requested would result in a roof structure that is visually less intrusive ((C § 1504.1(c)).*

From within the park, the setback relief will allow for the elevator penthouses and pergola to be visually less intrusive. The park will consist mostly of open space with landscaping, and locating the overruns and pergola at the far west side means that they will not visually intrude on that openness. Locating the penthouses and pergola with conforming setbacks would push them 10 feet or more into the park and create visual and physical barriers within the park.

Similarly, relief from the single enclosure requirement results in a much less visually intrusive penthouse. If the penthouses – separated by more than 50 feet – were enclosed in one structure, then that structure would be multiple times larger than the proposed condition. That single enclosure would have a visual dominance from within the park and everywhere outside of the park. As proposed, the penthouses are only large enough to serve the elevators, which means as little visual intrusion as possible.

D. Operating difficulties such as meeting D.C. Construction Code, Title 12 DCMR requirements for roof access and stairwell separation or elevator stack location to achieve reasonable efficiencies in lower floors; size of building lot; or other conditions relating to the building or surrounding area make full compliance unduly restrictive, prohibitively costly or unreasonable ((C § 1504.1(d)).

The incorporation of a one-acre public park on the roof of the garage portion of the residential development is a unique feature among developments in the city. Because the garage roof will operate as a large public recreation space, the developer had to incorporate access from the street, including for disabled visitors, and it had to minimize the intrusion in the park from elevator overruns that serve the building functions below. Compliance with the setback requirements would result in operating difficulties for the park. As described above, moving the disabled access elevator to comply with the setback requirement would contravene a key principle of accessible design and would make park access more difficult by locating the elevator even further from the sidewalk. This would be unduly restrictive on the developer's ability to best accommodate park access for disabled visitors. Similarly, the service elevator overrun is located to best accommodate movement of goods from the loading area to the rest of the building without intruding on the park and potentially having a greater impact on the historic stone wall; thus, compliance with the setback requirement would be unreasonable to the operation of the building and the design and utility of the park. Further, the pergola is an important design feature

of the park design that was extensively reviewed, but it is located to not overly interfere with the openness of the park. Relocating the pergola (and the elevator overruns for that matter) to comply with the setback requirement would be unduly restrictive and unreasonable because of the necessary change and likely re-review of the park design, as well as the detrimental impact on the operation of the park.

Enclosing the elevator overruns in a single structure would adversely impact the operation of the park by removing significant space from public access. As previously described, the large amount of space between the two elevator overruns would be consumed by a single enclosure. This would significantly detract from the openness of the park and its operation as a large public recreation space. Accordingly, compliance with the single enclosure requirement would be unduly restrictive on the operation and design of the park.

E. Every effort has been made for the housing for mechanical equipment, stairway, and elevator penthouse to be in compliance with the required setback ((C § 1504.1(e)).

The location of the elevator overruns and the pergola resulted from an extensive design process that was ultimately reviewed and approved by multiple agencies. In designing the Project, and the park in particular, the developer had to balance the operational needs of the building and park against the penthouse setback requirement. The resulting design, ultimately approved by the Mayor's Agent, incorporates setbacks and materials for the elevator penthouses sufficient to minimize their visual impact while preserving the operational necessity of the elevators in their proposed locations. Similar for the pergola, the setback could not be incorporated without compromising the design of the park, but the appearance of the pergola from the street is an attractive and defining feature.

F. The intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely (C § 1504.1(f)).

The penthouses and pergola will be on the roof of the garage, which extends only one level above grade. The proposed locations for these structures will not affect the most prominent part of the Project, which is the former WHP where the residential units will be located. As proposed, the roof of the garage will appear as intended – a large open public park with two small penthouses that accommodate elevators below and a pergola to add visual interest and shading. The proposed penthouses and pergola will not have any impact on light and air available to adjacent buildings since the Property does not adjoin any other properties, and these structures will be low enough and small enough that they will not impact light and air to buildings across 29th Street to the west or across the C&O Canal to the north.

G. The requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property (X § 901.2).

The requested single enclosure and setback relief will be in harmony with the general purpose and intent of the Zoning Regulations and Maps because it will allow for the most efficient and convenient operation of the building while providing the most useful and open public park. In addition, the relief will be consistent with the purposes of the penthouse regulations by allowing the best roof design with the least visual intrusion. The elevator penthouses and the pergola were reviewed and approved for design compatibility as part of the historic review process, so they will not have an adverse effect on the historic landmark or on the surrounding historic neighborhood. Similarly, these structures are well-integrated into the design of the park and Project overall. Since they are located on the roof of the single-story garage and not the 10-story WHP, the proposed structures will not create the appearance of a taller building

and will not adversely affect light or air to neighboring buildings. The requested penthouse relief will result in residential building and public park that are compatible with the purposes of the MU-13 zone. The requested relief satisfies the specific considerations for relief from the penthouse requirements. Therefore, granting the relief will be in harmony with the purpose and intent of the Zoning Regulations and Maps and will not tend to adversely affect neighboring property.

VII. LIST OF PUBLICLY AVAILABLE DOCUMENTS

1. Zoning Regulations and Zoning Map of the District of Columbia, available at dcoz.dc.gov.
2. Orders of the District of Columbia Zoning Commission and Board of Zoning Adjustment, available at dcoz.dc.gov.

VIII. CONCLUSION

For all of the above reasons, the Applicant is entitled to the requested special exception relief in this case.

Respectfully submitted,
GOULSTON & STORRS, PC

_____/s/_____
Allison Prince

_____/s/_____
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