

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: :
 :
 GEORGETOWN 29K : Case No.
 ACQUISITION, LLC : 19-08
 :
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Thursday,
September 12th, 2019

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

The Public Hearing of Case No. 19-08 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, Chairperson
ROBERT MILLER, Vice Chairperson
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development
Review & Historic Preservation
ANNE FOTHERGILL

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.
ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from
the Public Hearing held on September 12th, 2019.

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

6:37 p.m.

1
2
3 CHAIRMAN HOOD: All right, let's go ahead and get
4 started. Good evening, ladies and gentlemen. This is a
5 public hearing of the Zoning Commission for the District of
6 Columbia. Today's date is September the 12th, 2019.

7 My name is Anthony Hood. Joining me is Vice Chair
8 Miller, Commissioner Shapiro, and Commissioner Turnbull, also
9 joined by the Office of Zoning staff, Ms. Sharon Schellin,
10 Office of the Attorney General, Mr. Tondro and Ms. Cain, the
11 Office of Planning, Ms. Steingasser -- where is Mr. Lawson
12 tonight?

13 PARTICIPANT: He's not going to join us.

14 CHAIRMAN HOOD: Not going to join us, okay. And
15 Ms. Fothergill.

16 Okay, I will incorporate the opening statement.
17 I think it's pretty straight forward. Ms. Schellin, do we
18 have any preliminary matters?

19 MS. SCHELLIN: Let's see. Staff has no
20 preliminary matters.

21 CHAIRMAN HOOD: Okay. And the reason I wanted to
22 just go ahead and incorporate the opening statement, because
23 I think Ms. Prince and others know that we from preliminary
24 matters after this case for the Office of Planning, report
25 of other government agencies, report of the ANC,

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1 organizations and persons in support, organizations and
2 persons in opposition, report and closing by the Applicant.

3 The Applicant has up to 60 minutes, I think you
4 all have requested 15, organizations, five minutes,
5 individuals, three minutes. The staff will be available
6 throughout the hearing to discuss procedural questions.
7 Would all the individuals wishing to testify, please rise to
8 take the oath.

9 Ms. Schellin, would you please administer the
10 oath?

11 MS. SCHELLIN: Yes. Please raise your right
12 hand. Do you solemnly swear or affirm that the testimony you
13 will give this evening will be the truth, the whole truth,
14 and nothing but the truth?

15 MS. PRINCE: Yes.

16 MS. SCHELLIN: Thank you.

17 CHAIRMAN HOOD: Okay. We didn't have any
18 preliminary matters. What I would like to do in this case,
19 Ms. Prince, there are some questions about, I guess we're
20 going to ask our questions. You probably can stand on the
21 record, but we're going to ask our questions. Like for
22 example, if you can just respond to the, and explain the
23 specifics of the Mayor's Agent's Order which is cited in
24 passing in both the applications in the OP report.

25 And then on the record, if you can put that, if

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1 you could just state the height of the existing building and
2 also help us to understand the un-zoned to the MU-13, why we
3 should pick one element over another as far as inconsistent
4 but not being inconsistent with the comp plan.

5 We can kind of start the discussion there. That
6 would help us to move forward. And I think that's probably
7 the better way of moving the process. Let me ask my
8 colleagues. Anything else that I may have left out that you
9 want to add that we may need to hear before we get to our
10 questions?

11 COMMISSIONER TURNBULL: Mr. Chair, just along the
12 lines of what you said around the Mayor's Agent, was there
13 anything specific about the size of the park that was
14 discussed?

15 CHAIRMAN HOOD: So I think if you hit some of
16 those, that will reduce some of our questions. And you may
17 begin.

18 MS. PRICE: Thank you, Chairman Hood. Allison
19 Prince with Goulston and Storrs here on behalf of the The
20 Georgetown Company, owner of the property.

21 Georgetown Company has been involved in this site
22 for six years since acquiring it from the federal government.
23 The zoning map amendment application is really just a
24 straight forward instance of needing to establish zoning on
25 a formally federally owned un-zoned property.

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1 And on a future land use map, the property is
2 designated as medium density residential, moderate density
3 commercial to the north, a stripe designation, and then to
4 the south there's an open space designation.

5 The heating plant, which I think you've all seen,
6 has been there since 1946. It was decommissioned in 2000,
7 has been unoccupied since then. There's a large coal yard
8 to the south of the building with very significant tanks on
9 it that also you may have seen.

10 Very significantly, in your consideration of this
11 application, the west heating plant is not only a
12 contributing building in the historic district, it's a
13 landmark. So anything that happens to that building or on
14 that site needs to go to the Historic Preservation Review
15 Board or, in our case, the Mayor's Agent.

16 And as we all know, you can't condition your re-
17 zoning on the Mayor's Agent Order or any other item,
18 actually. But by way of background, there is a significant
19 Mayor's Agent decision governing the property.

20 And in that Mayor's Agent case, the Mayor's Agent
21 allowed what constituted a demolition of enough of the
22 building that it needed to go to the Mayor's Agent. There's
23 a retention of the western wall and a significant part of the
24 base of the building.

25 But permission was granted through a special merit

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1 case to allow that demolition to allow a David Adjaye
2 designed building to rise above the retained parts of the
3 building.

4 The exact scale of what is there now will remain
5 with the highly visible facades. And a very important part
6 of that case is that there will be one-acre park directly
7 south of the building in the location where the coal yard is.

8 In approving the cases, one of special merit, the
9 Mayor's Agent was persuaded by an extremely sizable
10 contribution for affordable housing that will range in size,
11 based on a formula provided in the order, but can be up to
12 \$4 million. That was based on the understanding the zoning
13 of the site was likely to be MU-13 which is exempt from an
14 affordable housing requirement.

15 And we believe MU-13 is a very appropriate zone
16 for this site. To the north of the site is MU-13 zoning, to
17 the west of the site is MU-13 zoning. So the contiguous
18 zones are MU-13.

19 The density of MU-13 is needed to account for the
20 density of the scale of the existing building. We don't want
21 more density, but we want zoning that's rational in terms of
22 what's already there, the landmark that's already there.

23 I was asked to address height. The exiting
24 building is quite an anomaly in terms of height. It's 110
25 feet tall. So there literally is not a zoning category that

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1 we could ascribe to the property that would allow that height
2 to be conforming.

3 But the zoning administrator ruled that, with the
4 amount of the building that's being retained, the height is
5 grandfathered. So any zoning we would put on the property
6 would benefit from that grandfathering.

7 The only zone categories that would allow the
8 height to be conforming are downtown type zone categories
9 which would be wildly incompatible with the surrounding
10 zoning and, I believe, not consistent with the Comprehensive
11 Plan.

12 I think I need to remind the Commission, as if you
13 need to be reminded, that we need to look at the
14 Comprehensive Plan as a whole, as a whole instrument with a
15 map and text.

16 And the future land-use map does, in fact, have
17 an open space designation. But that doesn't mean that it
18 can't get zoned. And it doesn't mean that it has to be zoned
19 in a manner that has extraordinarily low density.

20 There are landmark sites in the city that have
21 zoning. It's not an unusual thing to have zoning, a
22 Comprehensive Plan designation of open space, and a landmark
23 altogether, as we have here.

24 So we would urge you to look at the future land-
25 use map in the context of the other sections of the

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1 Comprehensive Plan, particularly those affecting historic
2 preservation, such as the section for the Comprehensive Plan
3 that places significance on the open space surrounding
4 landmarks which will be retained under our plan.

5 And the compatibility of the landmark with the
6 surrounding historic district, the suitability of this zone
7 to the historic context, many, many sections of the
8 Comprehensive Plan involving historic preservation, really
9 are relevant here.

10 And then many of the other sections that favor
11 housing, that favor in-fill development, that favor adaptive
12 reuse of existing vacant, dilapidated buildings, and even the
13 environmental sections, kick in for this project. Because
14 this is an extraordinarily contaminated site.

15 And the adaptive reuse of this site for the
16 proposed project will have a profoundly positive impact from
17 an environmental standpoint. So I don't know if that
18 addresses your Mayor's Agent questions adequately.

19 I do have Peter Armstrong here on behalf of the
20 owner who has a prepared statement, or you can just talk to
21 both of us. Pete has been working on this project non-stop,
22 I think, for the entire time. So there's no one in a better
23 position to explain how it's been handled to date.

24 CHAIRMAN HOOD: Do we have his statement? Do we
25 have your statement already for the record?

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1 MS. PRICE: Just an outline. We can submit his
2 written statement.

3 CHAIRMAN HOOD: Okay. Well, go ahead. How many
4 pages is it?

5 MR. ARMSTRONG: One and a half.

6 CHAIRMAN HOOD: Okay. Well, why don't you go
7 ahead and read it into the record.

8 MR. ARMSTRONG: Okay, sure. Good evening, members
9 of the Commission. My name is Peter Armstrong, and I'm a
10 senior vice president with the Georgetown Company. We, along
11 with our joint venture partner, the Levy Group, are the owner
12 and developer of the subject site.

13 As you consider the matter tonight, I thought it
14 would be beneficial to give you a brief overview of our
15 involvement with the site in order to provide a little
16 context.

17 We acquired the West Heating Plant from the
18 federal government in June of 2013. So the redevelopment for
19 this property has been underway, much to my chagrin, for over
20 six years.

21 COMMISSIONER SHAPIRO: May I interrupt one second.
22 Turn off your mic.

23 CHAIRMAN HOOD: How many years, six?

24 COMMISSIONER SHAPIRO: More than six. We always
25 knew that redevelopment would require multiple entitlement

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1 processes. So we have engaged the Office of Planning, the
2 Historic Preservation Office, the Zoning Administrator, the
3 National Park Service, U.S. Commission of Fine Arts staff,
4 the ANC, and nearby community and other organizations from
5 the very outset.

6 Because the heating plant is both an individual
7 landmark and a contributing building in the Historic
8 District, historic entitlements were our first process. For
9 over the last five years, the proposed redevelopment has been
10 reviewed by the U.S. Commission of Fine Arts, the Historic
11 Preservation Review Board, and finally the Mayor's Agent for
12 Historic Preservation.

13 As you heard earlier, the Mayor's Agent approved
14 the project in January of this year. Because the site was
15 federally owned, we always knew that we would need to
16 establish zoning to allow for the redevelopment which is why
17 we're before you tonight.

18 From our earliest discussions with the Office of
19 Planning, MU-13, or W-2 at the time, was identified as the
20 most appropriate zone. Establishing MU-13 zoning on this
21 site is the next important step to allow the redevelopment
22 of this property.

23 Throughout these processes, we've been fortunate
24 to have the strong support of the community. Immediate
25 neighbors along 29th Street, ANC 2E, the Citizens Association

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1 of Georgetown, and the Friends of the Georgetown Waterfront
2 Park have all be enthusiastic supporters for many years.

3 And we look forward to developing the site into
4 something that will be a world class addition to Georgetown
5 and the District. Thank you.

6 CHAIRMAN HOOD: All right, thank you. Let's see
7 if we have any follow-up questions. I appreciate you kind
8 of adapting to us asking some of those questions that were
9 out front. Let's see if we have any additional comments or
10 questions. Colleagues? Commissioner Shapiro?

11 COMMISSIONER SHAPIRO: One quick question, what
12 was the percentage of the building that needed to be
13 retained?

14 MR. ARMSTRONG: Well, the percentage that's being
15 retained is somewhere around 25 percent. And that's based
16 after extensive analysis for many, many years.

17 COMMISSIONER SHAPIRO: Thank you, sir.

18 CHAIRMAN HOOD: Any other questions? Commissioner
19 Turnbull?

20 COMMISSIONER TURNBULL: The site is two acres?

21 MR. ARMSTRONG: Correct.

22 COMMISSIONER TURNBULL: And so you're saying that
23 one acre is being left for a park.

24 MR. ARMSTRONG: Slightly more, but yes, slightly
25 more than one acre.

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1 COMMISSIONER TURNBULL: And there's going to be
2 the Mayor's Order calls out for that to be ---

3 MR. ARMSTRONG: Correct.

4 COMMISSIONER TURNBULL: And that's currently being
5 appealed --

6 MR. ARMSTRONG: Correct.

7 COMMISSIONER TURNBULL: -- right now. Do you have
8 an idea when that is going to be processed or where that is
9 in the process?

10 MS. PRICE: We're awaiting oral argument in the
11 Court of Appeals.

12 COMMISSIONER TURNBULL: Okay, thank you.

13 CHAIRMAN HOOD: Vice Chair Miller?

14 VICE CHAIR MILLER: Thank you, Mr. Chairman. And
15 thank you for your presentation and petition for a map
16 amendment, and your perseverance to try to get this long
17 vacant, 13-year vacant property developed over the six years
18 that you've had it.

19 The 110-foot height of the existing building,
20 that's going to be retained as part of the Mayor's Order, or
21 are you chopping off, you're not chopping any floors of that.
22 So that's going to be retained?

23 MR. ARMSTRONG: Correct. So we will reconstruct
24 to the existing height volume of the existing plant, no more,
25 no less.

1 VICE CHAIR MILLER: And I think, Ms. Price, you
2 said the MU-13 zoning was as close as you could get to,
3 without a downtown type of zoning, to conform that with the
4 height, the 110-foot height. But it still will be
5 grandfathered. So it still would be non-conforming under the
6 MU-13 zoning, is that correct?

7 MS. PRICE: Correct.

8 VICE CHAIR MILLER: And the southern portion of
9 the site which the comp plan designates generally as parks,
10 recreation, and open space, as opposed to the medium/moderate
11 on the northern portion, did you consider or would you have
12 an objection if the site, would it create any problems if the
13 site were, overall site were split-zoned so that some portion
14 of that southern site -- I realize you're on some of that --
15 the footprint of the existing building is on, I think, the
16 parks, and recreation, and open space comp plan designation.

17 But would you have an objection if some portion
18 of the southern part of the site were zoned a lesser zoning
19 category? Would it create any problems for you in terms of
20 development or legally? Was that a consideration at all?

21 MS. PRICE: We did look at that. We need the
22 density that's allowed under the MU-13 zoning to account for
23 recreating the mess that's there.

24 VICE CHAIR MILLER: You need the MU-13 zoning on
25 the entire site --

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1 MS. PRICE: Correct.

2 VICE CHAIR MILLER: -- to retain the bulk of the
3 existing building.

4 MS. PRICE: Exactly. So if there had been a
5 simple way to do that, we would have considered it. But I'll
6 also note that really the idea of creating a split-zone site
7 is pretty strongly disfavored in the regulations.

8 So I think we do come around again to the notion
9 that, if you consider the Comprehensive Plan in its entirety
10 and look at the historic preservation element along with the
11 map, along with the environmental sections, along with the
12 housing sections, you really can get to a place where there's
13 no inconsistency.

14 VICE CHAIR MILLER: I totally agree with you,
15 looking at the Comprehensive Plan in its entirety in terms
16 of making that non-inconsistent determination.

17 COMMISSIONER TURNBULL: What is the FAR that you
18 get?

19 MS. PRICE: It's a 4 FAR.

20 COMMISSIONER TURNBULL: It has to be four?

21 MS. PRICE: It's a four, yes.

22 CHAIRMAN HOOD: Commissioner Shapiro do you have
23 another?

24 COMMISSIONER SHAPIRO: Yes, just a follow-up on,
25 you say you're building to the 4 FAR. That's your --

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1 MS. PRICE: No, we're not building to the 4 FAR,
2 the building is right under a 3 FAR.

3 COMMISSIONER SHAPIRO: If you're looking at the
4 entire site.

5 MS. PRICE: But if we lose the density for the
6 second portion of the site by, say, putting it into W0 or,
7 you know, something like that, the blended density wouldn't
8 be enough to account for --

9 COMMISSIONER SHAPIRO: But I'm saying you're
10 asking for a map amendment, MU-13 for the entire site.

11 MS. PRICE: For the entire site.

12 COMMISSIONER SHAPIRO: And that keeps you ---

13 MS. PRICE: That keeps our ---

14 COMMISSIONER SHAPIRO: -- with a building of that
15 height, that keeps you at or ---

16 MS. PRICE: Under the maximum permitted FAR.

17 COMMISSIONER SHAPIRO: Thank you.

18 CHAIRMAN HOOD: So let me ask this. With
19 everything I've heard and everything I've read, Ms. Prince,
20 it looks as though the solution we have here before us, even
21 though there may be some parts of the plan that may be
22 potentially inconsistent, it looks like this is the resolve.
23 I'll be able to move forward with a project here of this
24 nature.

25 It looks like we've exhausted all resources, and

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1 the comp plan, looking at all the elements, looking at FLUM
2 and everything else, and this looks like this is the best
3 course of action. And I think that the record that I see
4 here provides details of why we got to where we are. Is that
5 a fair assessment?

6 MS. PRICE: That's a fair assessment.

7 CHAIRMAN HOOD: Okay, thank you. All right, any
8 other questions, follow-up questions, comments? Okay. Cross
9 examination, is anyone here from ANC 2E? We don't have any
10 other parties?

11 Let's go to the report of the Office of Planning,
12 Ms. Fothergill?

13 MS. FOTHERGILL: Good evening, I'm Anne Fothergill
14 with the Office of Planning. We agree with the Applicant's
15 analysis that they provided here tonight. And we stand on
16 the record in support of the map amendment. I'm happy to
17 take any questions.

18 CHAIRMAN HOOD: Okay. I want to thank the Office
19 of Planning. And I didn't mean to ask where Mr. Lawson was,
20 but I'm always just used to, sometimes when you've been doing
21 this for so long, you get used to the norm. I'm used to
22 saying Ms. Ms. Steingasser, Ms. Lawson. It's natural, so it
23 disrupts me when I don't say that.

24 MS. STEINGASSER: We let him have a few days off
25 every now and then

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1 CHAIRMAN HOOD: Oh, okay, every now and then. All
2 right, any follow-up questions for Office of Planning?

3 Vice Chair Miller?

4 VICE CHAIR MILLER: Thank you again, Mr. Chairman.
5 Thank you, Ms. Fothergill and Ms. Steingasser, for the Office
6 of Planning report. And in this case, as in all cases, and
7 the map amendment cases particularly, all the policies of the
8 Comprehensive Plan that you cite on Pages 6, 7, 8, 9, and 10
9 of your report are important considerations in making that
10 determination that the map amendment is not inconsistent with
11 the Comprehensive Plan. So I appreciate you providing all
12 those policies.

13 And I agree with the importance of weighing those
14 against the FLUM designation for the southern portion of the
15 site that has parks, recreation, and open space.

16 I think all those policies do, the land use
17 policies in particular for intel (phonetic) development, long
18 term vacant sites, reuse of public buildings, restoration and
19 removal of vacant and abandoned buildings, neighborhood
20 beautification, the housing, particularly the housing, and
21 environmental protection, and the park that is being provided
22 on half of the site, and the historic preservation policies
23 that have all been adhered to in this case.

24 I have a question somewhat unrelated to the
25 specific project, but it's about the exemption that we gave,

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1 I guess, in the IZ, in the inclusionary zoning for MU-13.

2 I know the Office of Planning is looking at, as
3 we're always looking at how to strengthen our inclusionary
4 zoning policy which has finally begun to produce some
5 affordable housing units throughout the city.

6 But I think I previously asked that we look at,
7 you all look at, and I think you are looking at the previous
8 exemptions that we provided to see if they're justified and
9 whether we can make any adjustments there.

10 But what was the rationale for exempting the
11 Georgetown Historic District? Because we just found out they
12 wouldn't be able to get the density to make up for the
13 affordable housing requirement which is the balance that is
14 in play in IZ.

15 MS. STEINGASSER: That's correct, yes sir. When
16 the Commission first set inclusionary zoning down, one of the
17 guiding principles was that there had to be an opportunity
18 to have some level of bonus density to compensate.

19 But Nexus was really important to both OP and the
20 Zoning Commission. And there were a few areas where it was
21 determined that there just was not the opportunity to get
22 that capacity. And the Georgetown Historic District was one,
23 Anacostia Historic District is another.

24 And then there's the small area along 8th Street
25 SE, down by the Navy Yard, where the issue of height and

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1 security at the Navy Yard came into play. And those are the
2 three. There's also, in the downtown, some exemptions. And
3 we are re-evaluating those. But the Historic Districts
4 didn't have it.

5 VICE CHAIR MILLER: Well, I appreciate that
6 re-evaluation. And as you do that re-evaluation, and this
7 isn't specific to this case, and I appreciate in this case,
8 though getting back to this case, that in the Mayor's order,
9 I think it's in the Mayor's order, that there are millions
10 of dollars that are going to be going to the Housing
11 Production Trust Fund for loan, moderate income housing
12 production in the city as a result of this, the project may
13 be facilitated by this map amendment.

14 But as you re-evaluate the exemptions, I think
15 this case maybe highlights why maybe there shouldn't be an
16 outright exemption in the IZ.

17 But maybe the Zoning Commission can authorize and
18 exemption on a case by case basis depending upon whether it's
19 able to achieve the high-end density that might allow for
20 affordable housing to be onsite. Because that's the main
21 goal of the inclusionary zoning, is to have the mixed income
22 units onsite throughout the city, even in Georgetown.

23 MS. STEINGASSER: Yes. Yes, sir. We are looking
24 at different options of how to support the inclusionary
25 zoning regulations in different ways.

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1 VICE CHAIR MILLER: Thank you.

2 CHAIRMAN HOOD: Any other questions up here?
3 Does the Applicant have any questions or comments to the
4 Office of Planning, questions?

5 MS. PRICE: No questions.

6 CHAIRMAN HOOD: Okay. All right, other government
7 reports, I did look in the DOEE, Department of Energy and
8 Environment. They particularly said that the location,
9 because of the proximity to the location, they would ask that
10 whatever's developed meet the highest standards of
11 environmental regulations.

12 Did you all read the report, and you concur with
13 it, correct?

14 MR. ARMSTRONG: Sure. So we read the report. We
15 actually met with the Agency on Monday, with the Director and
16 his senior staff, started talking through.

17 The biggest thing we flagged for them is, you
18 know, the report notes that the site is in the flood plain.
19 That's actually incorrect. We went through a two-year
20 process with FEMA and the city. The site is surrounded by
21 a levy, so it's technically not in the flood plain by virtue
22 of the existence of the levy.

23 They'd had some turnover in staff, but we're going
24 to be working with them throughout the Fall and during our
25 entire design process before the building permit application

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1 goes in next year.

2 CHAIRMAN HOOD: Okay. I would just suggest that
3 we update the record with that, what you just mentioned, and
4 their agreements.

5 MR. ARMSTRONG: That's fine.

6 CHAIRMAN HOOD: Okay. Any other reports that I
7 may have missed?

8 Okay, so now I'll go to the report of the ANC,
9 ANC-2E. ANC-2E voted, okay, let me just start off,
10 Chairperson Hood, on April the 29th, 2019, ANC-2E held its
11 regularly scheduled public meeting which was properly noticed
12 and attended by six commissioners, constituting a quorum.

13 At this meeting, the Commission adopted the
14 following resolution by a vote of six, zero, zero with regard
15 to the above referenced matter.

16 And it just goes to say they support this
17 application for a map amendment from un-zoned to MU-13 at
18 1051 through 1055 29th Street. And it's signed by Rick
19 Murphy who is the Chair of ANC-2E.

20 And we do have a letter of support, like, mostly
21 I recognize, especially when people take time to write it,
22 James Place Condominiums, as you know they have a letter of
23 support. And I don't think I've missed, did I miss anybody
24 else?

25 Well, it looks like it overwhelming support to

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1 come up with the solution that we have here with MU-13.

2 Okay, so do we have any organizations and persons
3 who are here who'd like to testify in support? Any
4 organizations or person who are here who'd like to testify
5 in opposition? Any organizations or person who are here who
6 are undeclared?

7 Okay, Ms. Prince, do you have any rebuttal or
8 closing?

9 MS. PRICE: Just in closing, I'd like to say there
10 are three reasons why the MU-3 zoning is appropriate. First,
11 it's the zoning pattern in the neighborhood. It's the
12 immediately abutting zoning to the north and to the west.

13 Also it's a very appropriate category when
14 considered in the context of the landmark and the density of
15 the existing landmark, the massing of which is going to be
16 recreated.

17 And finally, it's consistent, not inconsistent,
18 but also consistent with the Comprehensive Plan as a whole,
19 particularly the historic preservation section, the
20 environmental section, and the sections encouraging the
21 production of housing. And I appreciate your time tonight.

22 CHAIRMAN HOOD: Okay, thank you. Just give me one
23 moment.

24 All right, Commissioners, I think this is pretty
25 straight forward. I think it's enough in the record for us

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1 to go ahead and proceed tonight, unless there are some
2 objections. And if not, I'll entertain a motion. Somebody
3 want to make a motion?

4 COMMISSIONER SHAPIRO: Mr. Chairman, I move that
5 we approve Case Number 19-08, Georgetown 29K Acquisition,
6 LLC, map amendment at Square 1193.

7 CHAIRMAN HOOD: Okay, it's been moved and properly
8 seconded. I mean, no, it's been moved. Can I get a second?

9 VICE CHAIR MILLER: Second.

10 CHAIRMAN HOOD: Okay, it's been properly seconded.
11 Any further discussion?

12 COMMISSIONER TURNBULL: All right, I'm willing to
13 vote on this. The only thing I'm concerned about is the fact
14 that the park is still at abeyance until an Order of Covenant
15 is actually processed.

16 So I'm just concerned about if that doesn't
17 happen, what's going to happen with it? I'm just concerned
18 that things aren't falling into place with the order.

19 CHAIRMAN HOOD: So I'm going to ask, and I think
20 that the order would not be --- Mr. Tondro, could you help
21 me with that question?

22 MR. TONDRO: With the application?

23 CHAIRMAN HOOD: Yes. How could we move with that?
24 We have a motion and that's part of the discussion.

25 MR. TONDRO: Actually, I think the Mayor's Agent

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1 Order of the covenant would be relevant only to the extent
2 that you felt that was necessary to make the overall balance
3 of the provisions of the comp plan outweigh the landmark
4 designation for park and open space.

5 So if you believe that the other provisions that
6 have been cited outweigh that, without being concerned that
7 the park proposed by the Mayor's, or required by the Mayor's
8 Agent actually is in effect at this moment, then you can go
9 ahead on the basis that those other provisions have made the
10 totality of the comp plan consistent with the proposed re-
11 zoning.

12 COMMISSIONER TURNBULL: Are you saying that it is
13 in effect, the Mayor's Order is in effect?

14 MR. TONDRO: As I understand, the Mayor's Agent
15 Order is in effect, but it's subject to appeal. The only
16 reason, the reason you would need to consider it would be
17 only to the extent that you believe it's necessary to make
18 the totality of the comprehensive plan, all of the
19 provisions, weigh in favor of this particular ---

20 COMMISSIONER TURNBULL: I think it's a key part
21 of it. In order to, with Ms. Prince's analysis of what she
22 said, the park, to get the FAR and the overall balance of the
23 site, to me, is critical to the how this site gets developed.

24 I mean, the whole point is that they're getting
25 this building which is minimal historic preservation, I might

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1 add, only 25 percent, but it's minimal. And the one-acre
2 park is an essential piece of this because of the height of
3 the building.

4 I'm just concerned that the pieces fall into
5 place. I don't want anything left out. And I just want to
6 make sure that we're going to actually, that this park is
7 definitely part of the zoning of this map amendment, that
8 we're going to get this.

9 CHAIRMAN HOOD: Okay. I think that the other
10 elements, and that's why I asked how we got to where we are
11 today, while I appreciate and consider the Mayor's Agent's
12 piece and the park, I think we get there. For me, I think
13 we get there.

14 Now, how we can encompass the Mayor's Agent, I try
15 to pull it all in, I don't want to discount anything, but I
16 think as far as I'm concerned, I think we're there. I think
17 the flavor, regardless of what happens with what's going on
18 courts, I think from my standpoint, for what we're duty bound
19 to deal with, I think we're there. That's just kind of where
20 I am. I don't know about others.

21 Mr. Shapiro?

22 COMMISSIONER SHAPIRO: I would agree, Mr. Chair.
23 And I appreciate Commissioner Turnbull's concerns about what
24 is in the courts, but what's before us, I feel like, you
25 know, this feels like it meets any balancing test. And I'm

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1 comfortable with moving forward.

2 (Pause)

3 CHAIRMAN HOOD: All right. So I do,
4 you know, I don't like to discount. I think that's an
5 important piece. But I think for me, moving forward with
6 this motion, I think I'm fine with the way it is. And I
7 don't know, you know, so any further discussion?

8 VICE CHAIR MILLER: I would just echo what you and
9 Commissioner Shapiro said. I understand what Commissioner
10 Turnbull is saying, and I think the Mayor's Order does
11 mitigate a potential inconsistency. I think we acknowledge
12 that.

13 But I think it's in effect right now apparently,
14 according to what our Counsel has said, although it's under
15 appeal. I don't want to make our decision, I'm not
16 comfortable with making our decision dependent upon a court
17 outcome which has not been very favorable to this Commission
18 in the past three years.

19 So I think we've done a lot of weighing of
20 Comprehensive Plan policies in this case, and in many other
21 cases. And I think it justifies it on its own.

22 But the Mayor's Order is in effect. We
23 acknowledged it, it's there. I certainly, that historic
24 designation's not going away. That existing building is not
25 going away. And you can't adaptively reuse that building

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1 without the zoning, is the problem. And that's going to be
2 the case whatever the outcome of that court case is.

3 So I'm comfortable with moving forward, Mr.
4 Chairman, with it not being conditioned upon the outcome of
5 the court case but acknowledging that that's important. We
6 acknowledged that that exists, and the Mayor's Order is
7 currently in effect. And we hope it stays in effect.
8 Hopefully that court case will go away quickly.

9 CHAIRMAN HOOD: All right, moved and seconded.
10 Any further discussion?

11 All those in favor?

12 (Chorus of ayes.)

13 CHAIRMAN HOOD: Any opposition?

14 So, Ms. Schellin, would you please record the
15 vote?

16 MS. SCHELLIN: Staff records that vote four to
17 zero to one to approve proposed action in Zoning Commission
18 Case Number 19-08, Commissioner Shapiro moving, Commissioner
19 Miller seconding, Commissioners Hood and Turnbull in support.
20 Commissioner May not voting, having recused himself.

21 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
22 anything else?

23 MS. SCHELLIN: No, sir.

24 CHAIRMAN HOOD: All right. I want to thank
25 everyone for their participation. And this hearing is

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1 adjourned.

2 MS. PRICE: Thank you.

3 CHAIRMAN HOOD: Thank you.

4 (Whereupon, the above-entitled matter went off the
5 record at 7:32 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 09-12-19

Place: Washington, DC

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