

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

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IN THE MATTER OF: :

:

Atlas MLK, LLC & 3715 MLK, : Case No.

LLC - Map Amendment @ 3703, : 19-17

3705, 3707, 3715 MLK Jr. :

Ave., SE (Sq. 6070, Lots 50, :

51, 52, and 48) :

:

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Tuesday,

June 23, 2020

Video Teleconference

The Public Hearing of Case No. 19-17 by the

District of Columbia Zoning Commission convened at 4:00

p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- PETER MAY, Commissioner (NPS)
- PETER SHAPIRO, Commissioner
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

CRYSTAL MYERS

The transcript constitutes the minutes from
the Public Hearing held on June 23, 2020.

CONTENTS

	<u>Page</u>
Preliminary Matters	4
Applicant's Case	9
Report of Office of Planning and District Department of Transportation	16

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

4:00 p.m.

1
2
3 CHAIRMAN HOOD: This hearing will please come to
4 order. Good afternoon, ladies and gentlemen. We are
5 convened for this public hearing by video conferencing. My
6 name is Anthony Hood, Chairman. Joining me this evening are
7 Vice Chair Miller, Commissioner Shapiro, Commissioner May,
8 and Commissioner Turnbull.

9 We're also joined by the Office of Zoning staff,
10 Ms. Sharon Schellin, as well as Mr. Paul Young, who is
11 working our virtual operations. Copies of today's virtual
12 public hearing notice are available on the Office of Zoning's
13 website.

14 This video will be available on the Office of
15 Zoning's website after the hearing. According to all
16 participants on WebEx or by phone will be muted during the
17 hearing until the appropriate time.

18 Please state your name and home address before
19 providing oral testimony or giving presentation. When you
20 are finished speaking, please mute your audio, so that your
21 microphone is no longer picking up sound or background noise.
22 If you experience difficulty accessing WebEx or the telephone
23 call in, then please call our Office of Zoning hotline number
24 at 202-727-5471. Tonight, the hearing will be conducted in
25 accordance with 11 Z, DCMR, Chapter 4, as follows:

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1 preliminary matters, Applicant's case, report of the Office
2 of Planning and Department of Transportation, report of other
3 government agencies, report of the ANC, testimony from
4 organizations and individuals.

5 Organizations will have five minutes; individuals
6 will have three minutes. Then we'll have rebuttal and
7 closing by the Applicant. Again, the Office of Zoning
8 hotline number is 202-727-5471 for any outstanding issues
9 during this hearing.

10 At this time, the Commission will hear preliminary
11 matters before we go to that this is Zoning Commission Case
12 No. 19-17. This is the Atlas MLK, LLC and 3715 MLK, LLC.
13 Ms. Schellin, do we have any preliminary matters?

14 MS. SCHELLIN: There are no proffered expert
15 witnesses in this case. The property has been posted, and
16 the maintenance affidavit has been filed. We have an OP
17 report that's been filed. The ANC 8C did not check today,
18 but the last check, staff had reached out to them twice, to
19 the chairman, Chairman Austin, to advise that their letter
20 in support did not contain several things, the vote, the
21 number it takes to make a quorum, how many attended, the
22 exact date, etc., to meet great weight, but we have not heard
23 anything from him.

24 I did not check this afternoon to see if that had
25 been updated. Other than that, I believe the case is ready

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1 to go. Marty Sullivan is the representative. I did see he
2 has joined. I did not see the Atlas rep yet, but Mr.
3 Sullivan may be able to give some information on that.

4 CHAIRMAN HOOD: Okay, thank you, Ms. Schellin.
5 Mr. Sullivan -- can we bring Mr. Sullivan up?

6 MS. SCHELLIN: I actually, now, don't see him.
7 Yes, he is there. Yes.

8 CHAIRMAN HOOD: Mr. Sullivan, how are you?

9 MR. SULLIVAN: I'm good, thanks. How are you?

10 CHAIRMAN HOOD: Do you have here so you can go
11 ahead and present? Are you ready?

12 MR. SULLIVAN: Yes, I'm ready. Mr. Calvin Reid,
13 from -- hold on. Somebody can't hear me. Can you hear me?

14 CHAIRMAN HOOD: I can hear you. Somebody can't
15 hear you?

16 MR. SULLIVAN: Mr. Calvin Reid, from Atlas MLK,
17 one of the principals of one of the property owners, is --
18 I'm expecting him to join. Hopefully, he's attempting to do
19 that now. I'm going to check with my assistant to see.

20 CHAIRMAN HOOD: Why don't we do this, Mr.
21 Sullivan? Let's give him a couple of minutes because if he
22 had -- I was reading the opening statement and my thing cut
23 off. Technology will do that.

24 MR. SULLIVAN: Okay.

25 CHAIRMAN HOOD: Let's give him a few minutes.

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1 MR. SULLIVAN: Okay.

2 CHAIRMAN HOOD: You may want to try to reach out
3 to him.

4 MR. SULLIVAN: Okay, I'll do that.

5 CHAIRMAN HOOD: Mr. Sullivan, whenever you get
6 ready, just speak up. We'll wait.

7 MR. SULLIVAN: Mr. Reid is trying to get on and
8 he's having some trouble, so I'm going to have my assistant
9 give him a call. If we could have two minutes, I'll see if
10 she can get him on.

11 CHAIRMAN HOOD: Sure. We have our help number,
12 too, as well.

13 MR. SULLIVAN: He does have a phone number, so I
14 can get him to do that. I'll tell him to do that. Okay,
15 he's trying to call.

16 CHAIRMAN HOOD: Apparently, we have too many --
17 one person has too many applications open, Mr. Sullivan.

18 MR. YOUNG: That's Commissioner May. That was
19 coming from Commissioner May.

20 CHAIRMAN HOOD: Oh, okay. Commissioner May. While
21 we have some time, sometimes it's good to have two open
22 because if one crashes, you can go to the other one. Just
23 thought I'd.

24 (Off mic comment.)

25 MR. SULLIVAN: I apologize. We did two dry runs

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1 today to make sure we had this down with him, but it threw
2 him a curve ball on this particular attempt.

3 MR. YOUNG: I do have someone that just called in.
4 It's a 202-441 number.

5 MS. SCHELLIN: That's not his number, I don't
6 think. He's a 562.

7 COMMISSIONER MAY: Hey, Sharon?

8 MS. SCHELLIN: Yes.

9 COMMISSIONER MAY: You can hear me finally. This
10 is Commissioner May. I've been having a hell of a time
11 trying to connect. I could not hear a thing for the last ten
12 minutes.

13 MS. SCHELLIN: Yes, I see you were logged in
14 twice. Now you're only logged in once.

15 COMMISSIONER MAY: On my phone. I'll be doing this
16 one by phone.

17 MR. SULLIVAN: I'm sorry; excuse me. Sharon, Mr.
18 Reid is on. He is that call.

19 MR. YOUNG: Okay, so I'm just going to unmute him,
20 then, and he can speak.

21 CHAIRMAN HOOD: Okay, sounds like we got it.
22 Let's go ahead and move along before something else happens.
23 Okay, Mr. Sullivan.

24 MR. SULLIVAN: Also, the owner of the property
25 next door, the co-Applicant, Jay Brown, is on the line. We

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1 didn't plan on either one of them presenting any testimony,
2 but they're both available for questions.

3 MS. SCHELLIN: He must be the other caller, then.

4 MR. SULLIVAN: Yes, he said he's on. Do you have
5 the PowerPoint that we submitted, or should I -- can I share
6 it? Thank you. I'll go through this briefly. This is a
7 request for a map amendment based principally on the existing
8 future land use map and the generalized policy map, as well
9 as several areas of the comprehensive plan. Subject
10 properties are substantially under-utilized now. They're
11 currently MU-3A. This is within the District's Great Streets
12 area, as noted in the Office of Planning report. The MU-4
13 zone permits loaded, moderate-density, mixed-use development.
14 Next slide, please, Paul. These are the four properties.
15 There's four properties here. This particular MU-3A zone
16 also has three properties across the street. One, we were not
17 able to contact the owner, and one is owned by the District,
18 and one is a CMP Telephone or Verizon building. Next slide,
19 please. This is the chart showing the difference.
20 Essentially, everything's pretty close to the same, but we're
21 going from 1.0 FAR to 2.5 FAR, 3.0 with the inclusionary
22 zoning, of course. Next slide, please.

23 This is the property to the north of those four
24 properties, the northern-most property. It is owned by a
25 church. They did submit a letter in support. Next slide,

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1 please. This is a grocery. You'll see in Mr. Reid's
2 affidavit that he attempted to get ahold of this property
3 owner.

4 They're out of the country, and he could not
5 contact them. Next slide, please. This is the property
6 associated with Mr. Reid. Next slide, please. This is the
7 southern-most property associated with Mr. Brown, the
8 co-Applicant.

9 Here is a view of the street, if you could go
10 through these next two slides, Paul, and just show some
11 context for this area of MLK. That is the building across
12 the street owned by the District. There's an aerial; you see
13 the four properties identified on the left. Next slide,
14 please. Next slide, please. There's another photo of the
15 properties on the left. Next slide. The comprehensive
16 plan/future land use map, if you could go to the next slide,
17 please, we'll blow this up a little bit more.

18 You'll see the area on the west side of Martin
19 Luther King, Jr. Avenue are the four properties. The area
20 on the right are the District and CMP properties. Next
21 slide, please. The generalized policy map, here's the larger
22 map, if you could go to the next slide, please. This is a
23 neighborhood commercial center.

24 Next slide, please. I'll go through the
25 applicable standards for the approval. This map amendment

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1 affects four properties, all front along Martin Luther King,
2 Jr. Avenue. They have a combined land area of 34,330 square
3 feet. This request, we believe, is not inconsistent with the
4 comprehensive plan.

5 Next slide, please. Rezoning the site and
6 permitting development consistent with the MU-4 zone would
7 help achieve the applicable policies of the comprehensive
8 plan, allow for the development of several under-utilized
9 sites, and further the comp plan map designations of
10 low-density commercial use. Next slide, please. It will
11 also aid in managing growth and change by assisting the
12 District to accommodate the continuing demand for more
13 housing, both market rate and affordable, in a location that
14 is close to transit. Next slide, please.

15 The amendment will also support the District's
16 non-residential growth and new neighborhood serving
17 commercial development, which will generate tax revenue and
18 create jobs and opportunities for District residents to
19 increase their income.

20 The amendment will also help increase the economic
21 strength of the surrounding area by increasing the permitted
22 utilization of these properties in close proximity to
23 transit. Next slide, please.

24 The amendment also will help advance the
25 District's environmental goals by facilitating the potential

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1 redevelopment of the subject properties with buildings that
2 meet or exceed required green building standards. Next
3 slide, please. Under the generalized policy map, the
4 properties are within the neighborhood commercial center
5 designation. New development within these areas must be
6 managed to conserve the economic viability of these areas,
7 while allowing additional development that compliments the
8 existing uses. We believe this amendment will do that.

9 It will also help implement the policies embodied
10 in the generalized policy map by increasing the overall
11 amount of density. Next slide, please. New and existing
12 businesses along the corridor will benefit from the increased
13 amount of residential and non-residential density.

14 It's also consistent with the framework element
15 because it conserves the economic viability of the area,
16 while allowing additional development that complements the
17 existing uses. Next slide, please.

18 Again, designated low-density commercial on the
19 future land use map, which is consistent, under the
20 comprehensive plan, with up to MU-4 zone. Next slide,
21 please. The ANC is in support, although I apologize; I
22 didn't realize the letter had come up short on the
23 requirements. I apologize for that. The Office of Planning
24 is in support, as is DDOT. There's been a significant amount
25 of community outreach among the neighbors and with the ANC

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1 from the beginning. Mr. Reid has headed that up. He's
2 available to answer any questions, if you have any questions
3 about that. Thank you.

4 CHAIRMAN HOOD: Okay, thank you, Mr. Sullivan.
5 Let me just ask, was the Councilmember reached out to?

6 MR. REID: No. He was invited to a couple of the
7 ANC meetings, but he didn't attend.

8 CHAIRMAN HOOD: Okay. Typically, in this city,
9 we always -- if you want to do something, you always -- you
10 take it upon yourself to reach out to the councilman who's
11 representing that whole ward. This is not the first time --
12 I know he doesn't have to really come to the ANC meeting.
13 You probably need to go to him. I will ask you guys to do
14 that. I would like to.

15 (Simultaneous speaking.)

16 MR. YOUNG: Could whoever just spoke identify
17 themselves first because they don't show up on the screen,
18 the people who are calling in, so if you could make sure that
19 they identify themselves.

20 MR. REID: My name is Calvin Reid.

21 CHAIRMAN HOOD: Okay. Mr. Reid, I think you or
22 Mr. Brown, if we can do that, I'd like to see that done
23 before we move on how we're going to move before we vote on
24 that. Let me open it up to my colleagues, see if they have
25 any questions and comments. Commissioner May.

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1 COMMISSIONER MAY: I do not have any comments or
2 questions.

3 CHAIRMAN HOOD: Okay. Commissioner Shapiro.
4 Okay. Commissioner Turnbull.

5 COMMISSIONER TURNBULL: I don't have any, Mr.
6 Chair.

7 CHAIRMAN HOOD: Vice Chair Miller.

8 VICE CHAIR MILLER: No, thank you, Mr. Chairman.

9 CHAIRMAN HOOD: Okay. I think this has a lot of
10 support, what I see. I did see support, as he mentioned,
11 from the church, from the chairperson of the ANC, Chairman
12 Austin. Even though that letter -- we have time to reach
13 out, Mr. Sullivan, and try to make sure that we get that
14 letter in compliance. I would hate to see them miss the
15 opportunity. Also, in reading, I see that DGS and the Office
16 of Planning's report -- they can talk about that. I would
17 agree that the case, what DGS wants to include.

18 Again, Mr. Sullivan and Mr. Brown and others, if
19 you can reach out to the councilman, it's a respect thing.
20 I believe we need to do that. Again, do we have Mr. Austin
21 or anyone from ANC 8C on the phone? I don't believe we do.
22 Their letter's Exhibit 9, but let's try to bring that into
23 compliance. Let's go to the Office of Planning and DDOT.

24 MS. MYERS: Hello, Commissioners, Crystal Myers
25 for the Office of Planning. The Office of Planning is

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1 recommending approval of this case. We stand on the record
2 of our report, but I will -- I know you mentioned DGS. We
3 reached out to DGS because at the set-down meeting, the
4 Commission asked us to -- or asked the Applicant to reach out
5 to the neighboring property owners who had the MU-3A zoning,
6 as well, and see if they perhaps would like to be included
7 in this. One of the properties is the District.

8 OP actually reached out to DGS and asked them of
9 their interest, and they were interested, but it was
10 explained to us by OAG that the noticing requirements would
11 delay this hearing, so we made the decision to, instead, put
12 that on, I guess, hold and instead consider it for a future
13 map amendment case that would be led by OP and, instead, let
14 this project move forward with the properties that they were
15 involved in. With that, OP rests on the record of our staff
16 report.

17 CHAIRMAN HOOD: Okay, thank you, Ms. Myers.
18 Commissioners, any questions of Ms. Myers? I'm looking at
19 Commissioner May first.

20 I believe he said no questions. Commissioner
21 Shapiro.

22 COMMISSIONER SHAPIRO: No questions, Mr. Chair.

23 CHAIRMAN HOOD: Okay. Commissioner Turnbull.

24 COMMISSIONER TURNBULL: No questions, Mr. Chair.

25 CHAIRMAN HOOD: Vice Chair Miller.

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1 VICE CHAIR MILLER: No questions, Mr. Chairman.
2 Thank you, Ms. Myers, for your report, and thank you for
3 reaching out to other neighbors, including your partner
4 agency. We'll look forward to that case sometime in the
5 future.

6 CHAIRMAN HOOD: We did have -- is anybody here
7 from DDOT?

8 Okay, we have no one from DDOT. DDOT is -- on
9 Page 2, it talks about their approval and their continued
10 coordination, apparently, with the -- continue the
11 coordination as they continue the progress forward with this,
12 but they do recommend approval.

13 It's on Page 2. I didn't write down the full
14 exhibit. Do we have any other government agencies, reports
15 from other government agencies that I may have missed? I
16 think I did see an Office of Planning report. I think. Oh,
17 okay, DGS. Okay, she already mentioned that. Let's go to
18 the report of the ANC. Again, we do have a letter. I don't
19 believe Chairman Austin is on the line, so we're going to try
20 to get that letter into compliance for support, but we want
21 to make sure it meets all of the criteria for us to give it
22 great weight. Do we have any individuals on the phone who
23 would like to provide testimony, any organizations or
24 individuals who would like to provide testimony in this case?

25 MS. SCHELLIN: We did have one person who signed

1 up. Let me see if he is on. His name is Mark LaPointe
2 (phonetic).

3 MR. YOUNG: I don't see him on here.

4 MS. SCHELLIN: Yes, I don't, either. That was the
5 only person who signed up. He was signed up as an opponent,
6 but I do not see him on here. He was sent an invitation, an
7 email invite, around 3:00-3:15.

8 CHAIRMAN HOOD: Okay, so if he is having issues,
9 we're not going to take any action tonight. He can call --
10 I guess he can still call the hotline or call the office.
11 The hotline number is 202-727-5471. He'll have a day or so
12 to reach out if he still wants to testify -- or provide
13 testimony, not testify. Okay, not hearing anyone else, Mr.
14 Sullivan, do you have any rebuttal? I don't think you have
15 anything to rebut, but do you have any closing?

16 MR. SULLIVAN: No, thank you.

17 CHAIRMAN HOOD: Okay. With that, I think --
18 Commissioners, anything else? Does anybody need anything
19 else? Vice Chair Miller.

20 VICE CHAIR MILLER: No, nothing else in this case,
21 but before you adjourn, I just wanted to say a brief word.

22 CHAIRMAN HOOD: Go right ahead.

23 VICE CHAIR MILLER: Okay. So again, with your
24 indulgence, I know you share our sorrow due to the passing
25 of longtime District Government official Allen Lew at the age

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1 of 69 due to the Coronavirus, a former city administrator,
2 former head of public facilities, former sports commission,
3 entertainment commission chairman.

4 There are a lot of buildings and structures around
5 the city which are a testament to all of his work and
6 leadership, including the National Ballpark, the new
7 convention center, all the public school facilities and
8 recreation facilities that have been modernized and renovated
9 over the past several years. Our thoughts are with his
10 family and friends and just wanted to note that passing,
11 since it's a public District of Columbia Government meeting.

12 CHAIRMAN HOOD: Thank you, Vice Chair. I would
13 agree. I understand that he had went to do something at a
14 school in New York and that's how he caught it. I just found
15 out maybe an hour or so ago. I also concur with your
16 comments.

17 MR. YOUNG: It looks like we just lost him.

18 MS. SCHELLIN: Yes.

19 COMMISSIONER SHAPIRO: Mr. Vice Chair.

20 VICE CHAIR MILLER: Yes. Just in case the
21 chairman isn't returning, is there any further business to
22 come before the Commission today, Ms. Schellin?

23 MS. SCHELLIN: Yes, if we could set some dates.
24 I only heard of two things that the Applicant was asked to
25 follow up on, that was to reach out to the Councilmember and

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1 to reach out to the ANC to see if they could get them to
2 provide a resolution that met the qualifications for great
3 weight. I think that was it.

4 CHAIRMAN HOOD: I think I lost everybody.

5 MS. SCHELLIN: You did.

6 CHAIRMAN HOOD: I went blank. I went blank for
7 some reason. I don't know what happened.

8 VICE CHAIR MILLER: Yes, Ms. Schellin's just
9 reiterating the requests that you made of the Applicant to
10 reach out to the Councilmember and there was one other thing.

11 CHAIRMAN HOOD: Okay. I'm sorry. I was cutting
12 off and on. I don't know what's going on.

13 MS. SCHELLIN: And the ANC. If you could do that
14 in, say, two weeks, does that give you enough time?

15 If you could do that by July 7th, if you could get
16 those things submitted by 3:00 p.m. on July 7th, and if the
17 ANC chooses to respond to those items, they could do so by
18 3:00 p.m. July 14th. Then we can put this on the agenda for
19 July 27th, our last meeting of the summer for proposed
20 action.

21 CHAIRMAN HOOD: Okay, do we have anything else?

22 MS. SCHELLIN: No, sir.

23 CHAIRMAN HOOD: All right, thank everyone for
24 their participation tonight and everything. The record is
25 closed, with the exception of the things that Ms. Schellin

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1 just mentioned.

2 MS. SCHELLIN: I'm sorry; one other thing. If we
3 could get the Applicant, also, to provide a draft order by
4 3:00 p.m. on July 14th.

5 CHAIRMAN HOOD: Anything else?

6 MR. SULLIVAN: Thank you.

7 CHAIRMAN HOOD: All right, with that, this hearing
8 is adjourned. We, again, will be having a hearing this
9 coming Thursday, beginning at 4:00 p.m. I forgot what the
10 hearing's on, but this Thursday at 4:00 p.m. With that, this
11 hearing's adjourned. Good night.

12 (Whereupon, the above-entitled matter went off the
13 record at 4:30 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: 06-23-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

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