ARNOLD & PORTER

Cynthia A. Giordano
Cynthia_Giordano@aporter.com

202.942.5840
202.942.5999 Fax
202.654.7058 Cell

555 Twelfth Street, NW
Washington, DC 20004-1206

July 19, 2002

Jerrily Kress, Director
Office of Zoning
Suite 210
441 – 4th Street, NW
Washington, DC 20001

D.C. OFFICE OF ZONING
2002 JUL 19 PM 2:41

Re: Post-Hearing Submission, First Stage PUD
New East Capitol (ZC Case No. 02-05

Dear Ms. Kress:

Enclosed please find a draft order and the following additional materials needed to complete the record in the above-referenced case:

(1) Reduced copy of the site plan;

(2) copies of site context photos; and

(3) photos of the project model which was displayed at the hearing on the project

Thank you for your continued assistance in this matter.

Sincerely,

Cynthia A. Giordano

Enclosures

cc: John Kirkland

ZONING COMMISSION
District of Columbia
Case 02-05
Exhibit 36

ZONING COMMISSION
District of Columbia
CASE NO.02-05
EXHIBIT NO.36

ZONING COMMISSION ORDER NO.
Case No. 02-05
(First-Stage PUD –New East Capitol)
September , 2002

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on July 11, 2002, to consider an application from the D.C. Housing Authority and the associated private development team of A & R/THC LLC and East Capitol Street Gateway LLC for review and approval of the first stage of a two-stage planned unit development ("PUD") and a related zoning map amendment, pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The proposed development is a mixed income residential community with various building types and a community center. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022. For the reasons stated below the Zoning Commission hereby approves the Application subject to the specified conditions.

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FINDINGS OF FACT

The Application, Parties and Hearing

1. On January 30, 2002 the Applicants (the D.C. Housing Authority and the associated private development team of A & R/THC LLC and East Capitol Street Gateway LLC) submitted an application to the Zoning Commission for the first stage of a two-stage PUD and a related zoning map amendment from unzoned to R-5-A in order to construct a large residential community. On March 11, 2002 the Zoning Commission decided to schedule a public hearing on the application.

2. The subject property is a large site to the north and south of East Capitol Street near the Maryland boundary, including Lots 41-78 in Square 5246; Lot 51 in Square 5272; Lot 53 in Square 5279; Lots 99-114 and 118-204 in Square 5280; and Lots 36-92, 96-98 and 101-139 in Square 5281 (the "PUD Site").

3. A description of the proposed development and the Notice of Public Hearing were published in the *D.C. Register* on [ ], 2002. The Notice of Public Hearing was mailed to all property owners within 200 feet of the subject property, as well as to Advisory Neighborhood Commissions ("ANC") 7C and 7E.

4. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a PUD. The two-stage PUD process is appropriate in this case involving a large site with multiple building types and complex site planning, environmental and urban design issues. This first-stage order governs site planning, land use planning, traffic, general density and similar broad issues. The second stage PUD process will consist of a detailed review of more detailed plans and a determination of consistency with the intent and standards of this first-stage PUD order.

5. The parties in the case were the Applicant and Advisory Neighborhood Commissions 7C and 7E.

6. The Zoning Commission opened and completed the public hearing on July 11, 2002. At the conclusion of the public hearing the Zoning Commission took proposed action to approve the application by a vote of 5-0-0.

7. The Zoning Commission took final action to approve the application on September 9, 2002.

The Site and the Area

8. The property that is the subject of this application is located in the East Capitol area of Northeast Washington. The project site is generally bounded by 61st Street, N.E. and Southern Avenue, S.E., to the east; Central Avenue, S.E. to the south; 56th Place, S.E. and 57th Place, N.E. to the west; and Clay Street, N.E. and the Watts Branch stream valley to the north. The PUD Site does not include all of the property within these general boundaries. The project site has a total land area of approximately 25 acres and is primarily improved with townhouses, walk-up apartment buildings, and high-rise apartment buildings.

9. The land use and zoning pattern surrounding the PUD consists of R-2 and R-5-A zoning, with a mixed residential development pattern. Some areas and blocks are improved predominantly with detached and/or semi-detached houses, triplexes or row houses, plus scattered garden apartments. Within this area -- which extends generally to the southwest towards Marshall Heights and the northeast towards Lincoln Heights, Burrville and Deanwood – are several pockets of C-1 (neighborhood convenience commercial) and a short strip of C-2-A (moderate density commercial) zoning along Dix Street, N.E.

10. Several public facilities are located in the immediate vicinity of the PUD Site. The PUD Site is within walking distance of the Capitol Heights Metrorail station. The Watts Branch Park borders and primarily defines the north-northeastern edge of the site; this is reinforced by the Watts Branch Playground, bounded generally by Southern Avenue, 61st Street and Banks Place, N.E. Two public schools flank East Capitol Street immediately to the west of the project site -- the Shadd Elementary School at 5601 East Capitol Street, S.E. and the Evans Middle School. The East Capitol Community Building will be located at the southeast corner of 56th Place and East Capitol Street, S.E., just across these streets from the public schools.

11. The adopted R-5-A district is a low-density general residential zone that allows detached and semi-detached dwellings as a matter of right, and row dwellings and multi-family dwellings including apartment buildings with approval as a special exception or within a planned unit development. With a PUD the maximum permitted building height is sixty feet (60') and the maximum floor area ratio ("FAR") is 1.0.

The PUD Project

12. New East Capitol is a Hope VI project, which is funded in part by the U.S. Department of Housing and Urban Development ("HUD"). It represents a major policy initiative and commitment of resources by the D.C. Housing Authority. The project brings together private sector developers in partnership with government agencies and nonprofit organizations to make the plans a reality. The project was developed with substantial community participation, including a full relocation plan and housing options for existing public housing residents. A full network of social and economic services will be provided continuing into the future with the intent of assisting existing and future residents reach educational, job, homeownership and personal achievement goals.

13. The Applicant plans to demolish the existing buildings that comprise East Capitol Dwellings, Capitol View Plaza and Capitol View Plaza II and redevelop the site with 365 dwelling units and a community center building. The approximate breakdown of dwelling units by type is as follows:

Low-Rise Apartment Building	120 units
Townhouses – some ownership, some rental	102 units
Semi-Detached Houses	92 units
Single-Family Detached Houses	15 units
Grand Houses - 9 buildings with 4 units each	36 units
Total	365 Dwelling Units

14. A new 150-unit senior apartment building to be developed on Square 5273, adjacent to the PUD Site, has been approved separately as a consolidated PUD in Zoning Commission Case No. 02-04C raising the total to 515 dwelling units for the planned new community.

15. The overall goal is to create a stable, mixed-income residential neighborhood with integrated supportive social and economic services and an attractive urban design plan with a mixture of building types. The development is designed to transform and revitalize the area and create an attractive gateway into the District of Columbia from Maryland.

16. The PUD plan is designed to address and remediate a combination of site constraints and undesirable conditions that have developed over the years. The site is currently improved with three deteriorated public housing developments (consisting of a high-rise senior building, walk-ups and townhouses) and a foreclosed, subsidized high-rise apartment building. HUD has declared the foreclosed apartment building to be distressed and uninhabitable. The public housing developments have major structural and systems problems, including roof leaks, plumbing and heating problems and outdated electrical systems. The area adjacent to Watts Branch Creek is severely affected by sewer backups and discharge of raw sewage onto streets. The site currently is a haven for crime, is

densely populated, largely with impoverished people, and suffers from disinvestment, decay and a high vacancy rate. The winding roads that serve East Capitol Dwellings and its site plan create opportunities for crime with hidden areas and easy escape routes. The hilly topography has caused major erosion and settlement problems in the existing buildings, as well as rapid water run-off that destabilizes the slopes. Soil conditions on the site are poor, leading to cracks in the foundation and walls of many of the existing structures.

17. As a result of this concentration of severe problems, the D.C. Housing Authority and the other applicants successfully applied to HUD for a HOPE VI grant. The HOPE VI program, established in 1994, provides planning grants and demolition grants so that a partnership of the local housing authority and a private developer can replace a dysfunctional public housing project with a new, mixed-income residential community. Typically, the new development has a mixture of building types and fewer units than the demolished public housing complex. Many include townhouses for affordable and market-rate homeownership, an affordable apartment building for seniors and other apartments.

18. Residential development north of East Capitol Street is oriented to Blaine Street, 58th Street and new limited access streets to be created between 58th Street and 57th Place, N.E. Residential buildings in these locations will include detached and semi-detached houses, townhouses and "grand houses." These are in addition to the apartment building for seniors, separately approved.

19. South of East Capitol Street, the proposed development will include several components. The Multi-Family Apartment Building is sited along East Capitol Street near Southern Avenue and near the Capitol Heights Metrorail station. It will be a low-rise building with 120 units, of which approximately 86 will be one-bedroom units and 34 two-bedroom units. The gross floor area of the building will be approximately 120,000 square feet.

20. The group of city blocks bounded by East Capitol and 58th Streets, Southern Avenue and 56th Place, S.E., will be developed with several housing types: detached and semi-detached single-family homes, townhouses and "grand houses." These dwellings will include for-sale and rental units, affordable and market-rate units. In this area a significant amount of grading and reconfiguring of streets is proposed in order to create more defensible spaces with better street visibility and reduced crime. The single-family houses and townhouses will include two-story and three-story units, some with garages and some without. Exterior materials will include brick as well as siding. Each building type will have several distinct design types, with the goal of creating variety as well as a sense of place, but without a monotonous repetition of the same building dimensions, facades and fenestration. Although the residential buildings will not be replicas of any historical style from the surrounding neighborhood, the dwellings are designed to be contextual and compatible with the surrounding neighborhoods.

21. The final development component is the East Capitol Community Building at the corner of East Capitol Street and 56th Place, S.E. This facility will accommodate a day care center for 75-80 children, a large multipurpose room, a large computer lab, a classroom for 25 people, and offices for the East Capitol View CDC and the East Capitol Center for Change. A number of the service programs for residents of New East Capitol will be accommodated in the building. The building is proposed to be one-story in height, with a distinctive design including low octagonal towers, low lot coverage with extensive landscaping, an automobile drop-off and 33 parking spaces. The gross floor area is proposed to be 15,468 square feet.

22. The preliminary "Traffic Impact Study" by O.R. George & Associates finds that projected traffic conditions after redevelopment will be very workable. The existing study area road network can adequately accommodate the proposed East Capitol Dwellings Development. "The study area intersections currently operate at quite acceptable levels of service. Peak period traffic volumes within the defined study area have increased marginally along the key roadways over the past several years for which data were available. In addition, the proposed development is located just west of the Capitol Heights Metrorail station. The development proposal calls for a number of access, internal circulation and traffic control changes. These have all been designed in accordance with current engineering standards, and per the District of Columbia planning requirements. . . . The internal roadway network would also be compatible with the quality of life environment envisioned by the Applicant, as well as the City's current emphasis on intermodalism."

Public Benefits of the PUD

23. The following public benefits and amenities will be created as a result of the PUD project:

    a. A new, high-quality, mixed-income residential community will replace the existing multiple public housing complexes that have endemic and widespread social, physical and environmental problems. The revitalization plan features a housing mix tailored to homeowners and renters with a wide spectrum of incomes and physical abilities. New East Capitol is a Hope VI project with major funding from HUD and represents a major policy initiative and commitment of resources by the D.C. Housing Authority in partnership with private developers and nonprofit organizations. The project was developed with substantial community participation, including a full relocation plan. A full network of social and economic services will be provided to help residents reach educational, job, homeownership and personal achievement goals.

    b. The PUD is not inconsistent with the *Comprehensive Plan for the National Capital* (the "Plan") and will help carry out numerous policies in

the Plan. The Site is one of the designated Housing Opportunity Areas in the Plan. The PUD helps carry out numerous goals and objectives regarding the development of housing and affordable housing in the District of Columbia. The PUD will advance at least six of the ten Major Themes of the Plan: "Stabilizing and improving the District's neighborhoods;" "Respecting and improving the physical character of the District;" 'Preserving and promoting cultural and natural amenities;" Preserving and ensuring community input;" "Providing for diversity and overall social responsibilities;" and "Promoting enhanced public safety." The scale of development and the requested R-5-A zoning are fully consistent with the land use designation of "Moderate Density Residential" on the Generalized Land Use Map of the Plan.

c. The proposed development creates a complete new community with attractive urban design, new landscaping, major environmental improvements and renewed street connections with the surrounding neighborhood. The open space at Watts Branch stream and park will be restored and upgraded. An improved street network will be created, and a balanced mixture of housing types and densities are proposed according to planning principles. The plans carefully address storm water runoff, slope stability, open spaces and related matters. Numerous entrenched soil erosion, sewage backup, site planning, structural faults in buildings, and similar problems that are exhibited in the existing buildings and site conditions will be removed and replaced by carefully planned new development.

d. The surrounding neighborhoods are likely to benefit from the development of the New East Capitol community in numerous ways. These include: reduced crime; improved building and site aesthetics, enhanced property values and enjoyment of neighborhood life; improved social services; restoration of Watts Branch steam bed and park; reduced traffic due to reduced population density and improved street pattern; and no adverse effect on local school capacity because of reduced population and households. No significant adverse effects on surrounding neighborhoods or public facilities are likely to occur.

e. The preliminary site plans, landscape plans and architectural drawings exhibit a high quality of urban design generally, which will be evaluated more fully in the second stage of the PUD.

f. The applicant is in the process of meeting with the Local Business Opportunity Commission and the Department of Employment Services on plans for first source hiring for District of Columbia and East Capitol neighborhood residents, and for participation by small, local and disadvantaged businesses in the development of the project. The private developers in this application are one hundred percent African-American-owned enterprises. Formal agreements regarding First Source

Employment and Local, Small and Disadvantaged Businesses will be addressed in the second stage of the PUD.

Office of Planning Report

24. By report dated July 1, 2002 and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application. The OP stated that the preliminary plans exhibit achievement of the PUD's four urban design objectives. These include: "integration into the existing urban fabric by providing appropriate connections to the surrounding neighborhoods;" "an environmentally sensitive site design;" "architecture that complements the surrounding context;" and fourth, "improv[ed] safety and defensibility of the site."

25. The OP identified several key public benefits in the PUD. These include: housing and affordable housing; uses of special value to the neighborhood and the District of Columbia; urban design/architecture/landscaping/open spaces; efficient and economical site planning and land utilization; environmental benefits; and effective and safe vehicular and pedestrian access.

26. The OP further stated that the PUD is "not inconsistent" with the Comprehensive Plan. The agency's analysis noted compliance with the Generalized Land Use Map of the Land Use Element and various policies in major elements of the Plan, as well as consistency with several Major Themes of the Plan.

27. The significant and sustained community involvement effort by the applicants was favorably noted by the OP, including the continuing quarterly Community Task Force meetings and meetings with ANCs 7A and 7C. OP's recommendation for approval requested that the applicant's second-stage application include the following additional plans and information: preliminary subdivision plat with dimensions of lots and proposed streets and alleys; a rough grading plan; a utility plan including stormwater management and BMP devices; and a detailed landscape plan.

Reports of Other Agencies

28. Several other agencies also submitted reports on this case, as summarized below.

    a. The Department of Health report dated May 23, 2002, indicated that the Department is actively working to improve the water quality and habitat of Watts Branch. The report states that storm water management measures need to ensure protection of Watts Branch due to a history of sanitary sewer problems in the area and that vegetated buffers are needed between the PUD development and the park. The report also requests that the Water and Sewer Authority be consulted on these matters.

    b. The Fire Department report dated May 30, 2002, recommended approval of the application, provided that the applicant installs an approved fire sprinkler

system in each building in compliance with the D.C. Building Code and that residential sprinklers are installed in all dwelling units.

c. The D.C. Water and Sewer Authority ("WASA") report of June 3, 2002 set forth that agency's requirements for the PUD project. When streets are abandoned, water and sewer mains must be abandoned according to WASA's specifications. Where mains are retained without streets, easements will be required. New streets must have water mains and separated sanitary and storm water sewers, with service to the front of lots. Water flow requirements for fire protection must be evaluated. All water and sewer facilities in public space must meet WASA's standards.

d. The Department of Housing and Community Development ("DHCD") submitted its report on June 5, 2002. DHCD stated that it supports the application. DHCD praised several aspects of the Plans: the reconnection of new streets to surrounding neighborhoods for improved public safety; the location of the apartment buildings, community center and projected shopping center near the Metrorail station; the close proximity of the apartments to the projected shopping center for pedestrian access; and the diversity of household incomes and mixture of residential building types, noting that this will prevent a concentration of low-income households. DHCD is providing substantial funds to support this HOPE VI project.

ANCs 7A and 7C

29. The affected Advisory Neighborhood Commission did not submit a written report nor testify at the public hearing on the PUD.

Testimony in Support and in Opposition

30. One witness, who is the President of the Senior Resident Council for the existing Capitol View Plaza senior building testified in support of the PUD.

31. There was no testimony in opposition to the PUD.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. 11 DCMR § 2400.1. The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." 11 DCMR § 2400.2.

2. Under the PUD process of the Zoning Regulations, the Zoning Commission has the authority to consider this application as a two-stage PUD. The Commission

may impose development conditions, guidelines, and standards which may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking and loading, or for yards and courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.

4. The proposed PUD meets the minimum area requirements of § 2401.1 of the Zoning Regulations.

5. The PUD is within the applicable height and bulk standards of the Zoning Regulations, the height and density will not cause a significant adverse effect on any nearby properties and will, in fact, include less density on the Site than is permitted as a matter of right. The proposed residential uses are appropriate on this site, which is well served by a major arterial street, bus lines and a nearby mass transit station. The impact of the project on the surrounding area will not be adverse and will in fact be beneficial.

6. First-stage approval of this PUD and related R-5-A zoning is not inconsistent with the Comprehensive Plan, including the designation of the site for use and development of "Local Government Facilities" in the Generalized Land Use Map of the Land Use Element.

7. The Commission is required under D.C. Code 2001 Ed. § 1-309.10(d) to give great weight to the affected ANC's recommendation. The Commission notes that the affected ANCs did not testify at the public hearing or submit a report that qualifies for "great weight" consideration.

8. First-stage approval of the PUD Application will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Zoning Map of the District of Columbia.

9. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission orders **APPROVAL** of the Applications for first-stage review of a Planned Unit Development and for a Zoning Map amendment from unzoned to R-5-A for property located near East Capitol Street and Southern Avenue, S.E., specifically Lots 41-78 in Square 5246; Lot 51 in Square 5272; Lot 53 in Square 5279; Lots 99-114 and

118-204 in Square 5280; and Lots 36-92, 96-98 and 101-139 in Square 5281. This approval is subject to the following guidelines, conditions and standards:

1. The final design of PUD shall be developed in accordance with the site plan and preliminary architectural and landscape plans submitted as Exhibits ____ in the record of this case, and as modified by the guidelines, conditions and standards of this order.

2. The maximum building height in the project shall be 50 feet and the maximum aggregate gross floor area shall be 1.0.

3. The project shall be developed with residential buildings and a community center building, generally as depicted in the preliminary plans submitted in this first-stage application.

4. The applicant shall submit with the second-stage application detailed plans and elevations indicating the design treatment of the proposed PUD project, including but not limited to, building and landscape materials, color, architectural and landscape details, and zoning data as required for a second-stage PUD application.

5. The applicant shall submit the following additional plans with the second-stage application:

    a. A preliminary subdivision plat showing dimensions of proposed lots, centerlines and width of proposed streets and alleys;

    b. A rough grading plan showing the proposed grading of lots, location of retaining walls and areas of critical slope;

    c. A utility plan showing the general location of utilities, including stormwater management and BMP devices; and

    d. Plans showing dimensions and treatment of open space and other common areas.

6. The applicant shall enter into a Memorandum of Understanding with the District of Columbia Office of Local Business Development ("LSDBE") to use the resources of the LSDBE to help the applicant utilize local, small and disadvantaged businesses in the development of the project.

7. The applicant shall enter into a First-Source Employment Agreement with the Department of Employment Services to promote and encourage the hiring of District of Columbia residents in the development of the project.

8. This first-stage PUD approval by the Zoning Commission shall be valid for a period of one year from the effective date of this order. Within such time, the

applicant shall file a second-stage PUD application in order for this first-stage application to remain in effect.

9. Pursuant to D.C. Code § 1-2531 (1991), Section 267 of D.C. Law 2-38, the Human Rights Act of 1977, the applicant is required to comply fully with the provisions of D.C. Law 2-38, as amended, codified at D.C. Code, Title 1, Chapter 25 (1991). Nothing in this order shall be understood to require the Zoning Regulations Division of DCRA to approve permits if the applicant fails to comply with any provision of D.C. Law 2-38, as amended.

Vote of the Zoning Commission taken at its public hearing of this case on July 11, 2002, by a vote of 5-0-0.

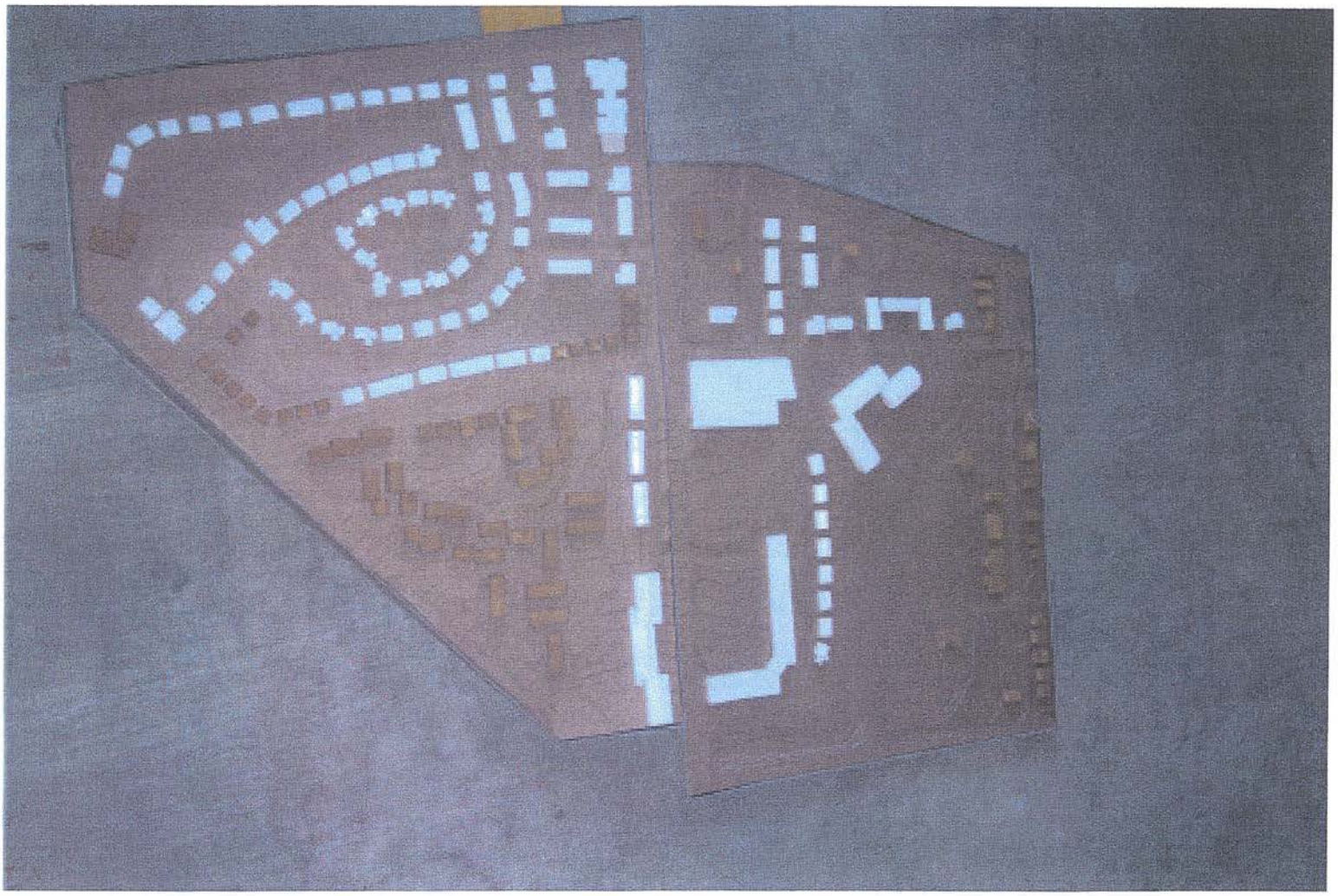
In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register, that is, on _____.

CAROL J. MITTEN
Chairman
Zoning Commission

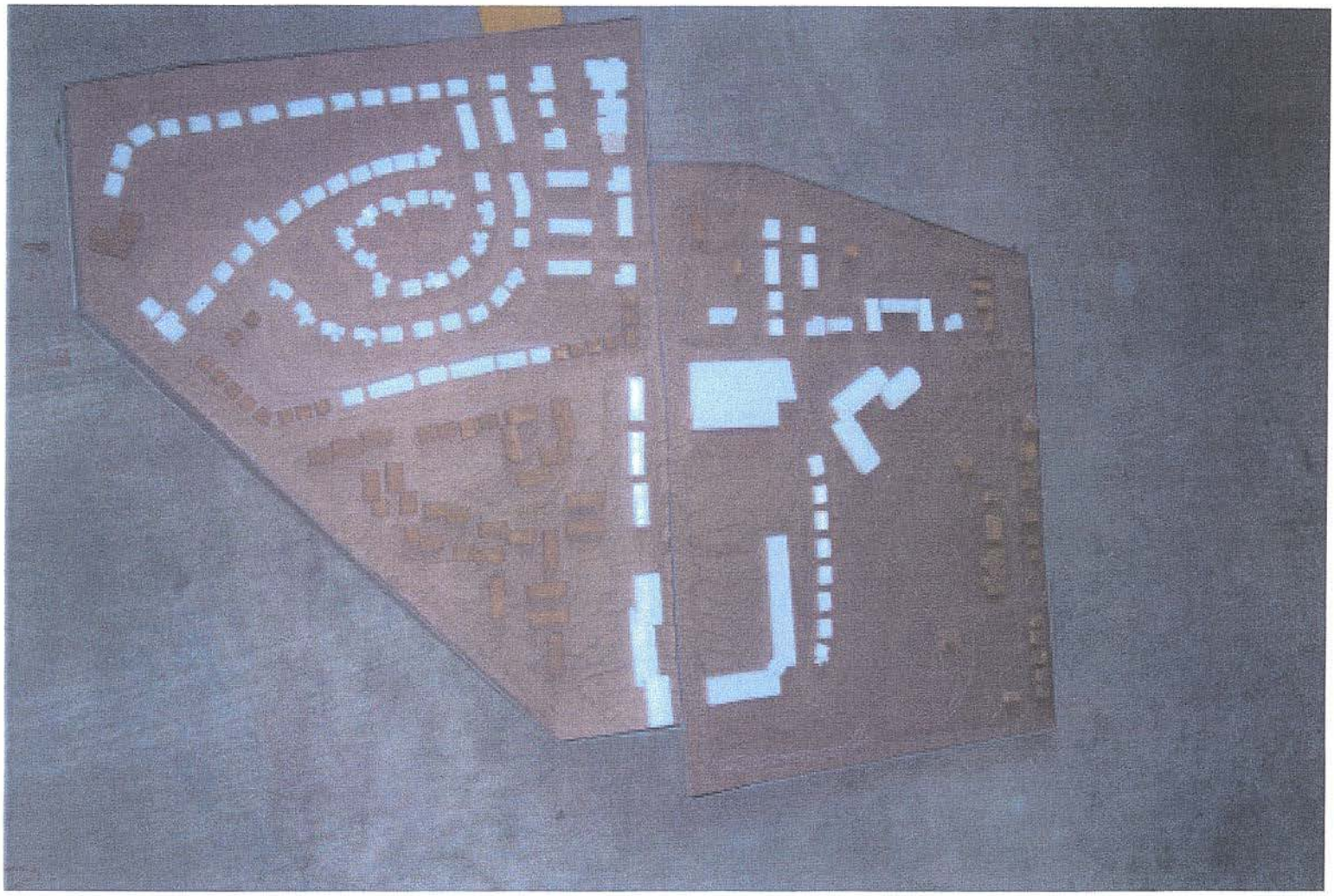
JERRILY R. KRESS, FAIA
Director
Office of Zoning

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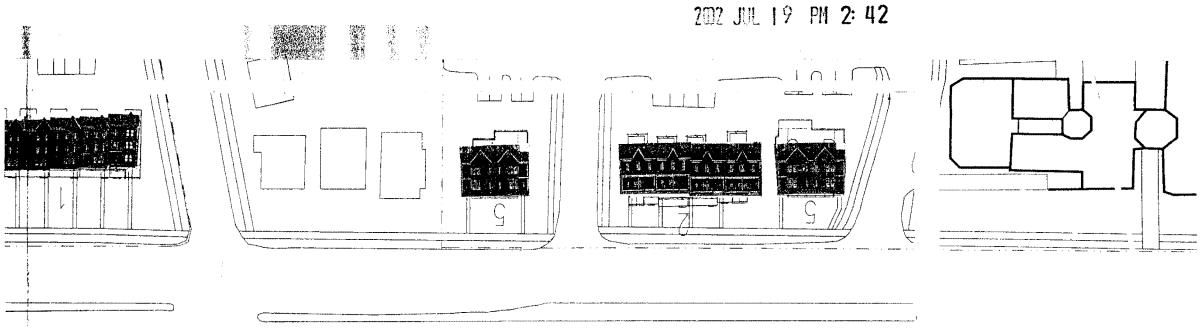






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Washington, D.C.