Government of the District of Columbia
Office of Zoning

Z.C. CASE NO.: 02-05

As Secretary to the Zoning Commission, I herby certify that on DEC 10 2002 copies of Zoning Commission Order No. 02-05 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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ATTESTED BY: _____
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Secretary to the Zoning Commission

ZONING COMMISSION
District of Columbia
Case 02-05
Exhibit 41

ZONING COMMISSION
District of Columbia
CASE NO.02-05
EXHIBIT NO.41

Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 02-05
Case No. 02-05
(First-Stage PUD – New East Capitol)
September 9, 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 project 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.

Preliminary Matters

The Application, Parties, and Hearing

On January 30, 2002, the D.C. Housing Authority and the associated private development team of A & R/THC LLC and East Capitol Street Gateway LLC (collectively, the "Applicants"), 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 project. On March 11, 2002, the Zoning Commission decided to schedule a public hearing on the application.

Notice of the public hearing, including descriptions of the subject property and of the proposed development, was published in the *D.C. Register* on May 17, 2002, 49 D.C.Reg. 4547, and was mailed to all property owners within 200 feet of the subject property as well as to Advisory Neighborhood Commissions ("ANCs") 7C and 7E.

The parties in the case were the Applicant and ANCs 7C and 7E. The Zoning Commission opened and completed the public hearing on July 11, 2002. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a PUD. The two-stage PUD process is appropriate in this case, which involves a large site with multiple building types and complex site planning, environmental, and urban design issues. The first stage of the PUD process addresses site planning, land use planning, traffic, general density, and similar broad issues. The second stage will consist of a review of more detailed plans and a determination of consistency with the intent and standards of this first-stage PUD order.

At the public hearing, the Commission heard testimony and received evidence from the Applicants and the Office of Planning. Neither ANC submitted a written report or testified at the public hearing. The president of the Senior Resident Council at the existing Capitol View Plaza senior building testified in support of the application; there was no testimony in opposition to the PUD.

At the conclusion of the public hearing, the Commission took proposed action to approve the application by a vote of 5-0-0. The Commission took final action to approve the application on September 9, 2002, by a vote of 5-0-0.

Office of Planning Report

By report dated July 1, 2002, and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application. OP stated that the preliminary plans for the proposed PUD exhibited achievement of four (4) urban design objectives: 1) integration into the existing urban fabric by providing appropriate connections to the surrounding neighborhoods; 2) an environmentally sensitive site design; 3) architecture that complements the surrounding context; and 4) improved safety and defensibility of the site.

OP identified several key public benefits in the PUD, including 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. OP further stated that the PUD is "not inconsistent" with the Comprehensive Plan, noting 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.

OP commented favorably on the significant and sustained community involvement effort by the Applicants, including continuing quarterly community task force meetings and meetings with the ANCs. OP recommended approval of the application with a request that the Applicants' second-stage application include plans and information pertaining to a preliminary subdivision plat with dimensions of lots and proposed streets and alleys, a grading plan, a utility plan including stormwater management, and a detailed landscape plan.

Reports of Other Agencies

The report of the Department of Health ("DOH"), dated May 23, 2002, indicated that DOH is actively working to improve the water quality and habitat of Watts Branch. The report stated that storm water management measures must 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 Site and the park.

The Fire and Emergency Medical Services Department, by report dated May 30, 2002, recommended approval of the application, provided that the Applicants install 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.

The report of the D.C. Water and Sewer Authority ("WASA"), dated June 3, 2002, indicated that when streets are abandoned, water and sewer mains must be abandoned according to WASA's specifications, and that easements would be required where mains were retained without streets. WASA also stated that new streets constructed as part of the PUD must have water mains and separated sanitary and storm water sewers, with service to the front of lots. According to WASA, water flow requirements for fire protection must be evaluated, and all water and sewer facilities in public space must meet WASA's standards.

The Department of Housing and Community Development ("DHCD") submitted its report on June 5, 2002. DHCD indicated its support for the application and praised several aspects of the proposed PUD, including 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, which would prevent a concentration of low-income households. DHCD is providing substantial funds to support this HOPE VI project.

Findings of Fact

The Site and the Area

1. The subject property is a large site to the north and south of East Capitol Street near the Maryland boundary, including Lots 51-56 and 67-78 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").

2. The PUD Site is located in the East Capitol area of 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 twenty-five (25) acres and is primarily improved with townhouses, walk-up apartment buildings, and high-rise apartment buildings.

3. The land use and zoning pattern surrounding the PUD Site consists of R-2 and R-5-A zoning, with mixed residential development. 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.

4. 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 PUD 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 PUD Site – Shadd Elementary School and Evans Middle School. The East Capitol Community Building is proposed to be located at the southeast corner of 56th Place and East Capitol Street, S.E., just across these streets from the public schools.

5. Currently the PUD Site is unzoned. The Applicants request a PUD-related zoning map amendment to rezone the PUD Site to R-5-A to accommodate the planned residential development with a mix of building types.

6. The R-5 district is designed to permit all types of urban residential development that conforms to applicable height, density, and area requirements. The 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

7. The proposed PUD, known as New East Capitol, is a HOPE VI project 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 non-profit 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 is planned, continuing into the future with the intent of assisting existing and future residents reach educational, job, homeownership, and personal achievement goals.

8. The Applicants plan to demolish the existing buildings that comprise East Capitol Dwellings, Capitol View Plaza, and Capitol View Plaza II, and to redevelop the site with 365 dwelling units and a community center building. The dwelling units would include approximately 120 units in a low-rise apartment building, 102 townhouses (some ownership and some rental units), 92 semi-detached houses, 15 single-family detached houses, and 36 "grand house" units (nine [9] buildings with four [4] units each).

9. 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. 02-04, raising the total to 515 dwelling units for the planned new community.

10. The Applicants' stated 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.

11. The New East Capitol PUD is designed to address and remediate a combination of site constraints and undesirable conditions that have developed over the years. The PUD 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 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 foundations and walls of many of the existing structures.

12. As a result of this concentration of severe problems, the D.C. Housing Authority and the development team 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 project. 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.

13. The New East Capitol PUD proposes residential development north of East Capitol Street oriented to Blaine Street and 58th Street, with new limited access streets to be created between 58th Street and 57th Place, N.E. Residential buildings in these locations would include detached and semi-detached houses, townhouses, and "grand houses," in addition to the apartment building for seniors, separately approved.

14. South of East Capitol Street, the proposed development would include several components. The Multi-Family Apartment Building would be sited along East Capitol Street near Southern Avenue and near the Capitol Heights Metrorail station. The low-rise building is planned to house 120 apartments, approximately 86 one-bedroom units and 34 two-bedroom units. The gross floor area of the building would be approximately 120,000 square feet.

15. The group of city blocks bounded by East Capitol and 58th Streets, Southern Avenue, and 56th Place, S.E., are proposed to be developed with several housing types: detached and semi-detached single-family homes, townhouses, and "grand houses." These dwellings would include for-sale and rental units and 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 to facilitate a reduction in crime. The

single-family houses and townhouses would include two- and three-story units, some with garages. Exterior materials would include brick as well as siding. Each building type would 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, façades, and fenestration. Although the residential buildings would not be replicas of any historical style from the surrounding neighborhood, the dwellings are designed to be contextual and compatible with the surrounding neighborhoods.

16. The final development component is the proposed East Capitol Community Building at the corner of East Capitol Street and 56th Place, S.E. This facility would 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 would be accommodated in the building. The East Capitol Community Building is proposed to contain 15,468 square feet of gross floor area, 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.

17. The preliminary "Traffic Impact Study" by O.R. George & Associates found that projected traffic conditions after redevelopment would be functional. The existing road network within the study area can adequately accommodate the proposed New East Capitol PUD. The study concluded that: "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

18. The proposed PUD exhibits public benefits and project amenities in accordance with 11 DCMR § 2403.9. These include the following:

    a. Housing and affordable housing. The proposed PUD offers a new, high-quality, mixed-income residential project to replace existing 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. The New East Capitol is a HOPE VI project with significant 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 non-profit organizations. The project was developed with substantial community participation, including a relocation plan.

A full network of social and economic services is planned to help residents reach educational, job, homeownership, and personal achievement goals.

b. Urban design, architecture, landscaping, or creation or preservation of open spaces; site planning, and efficient and economical land utilization. The proposed development would create 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 would be restored and upgraded. An improved street network would be created, and a balanced mix of housing types and densities is proposed according to planning principles.

c. Environmental benefits, such as stormwater runoff controls and preservation of open space or trees. The PUD plans carefully address stormwater runoff, slope stability, open spaces, and related matters. Numerous entrenched soil erosion, sewage backup, site planning, structural faults in buildings, and similar problems exhibited in the existing buildings and site conditions would be removed and replaced by carefully planned new development.

19. Consistent with 11 DCMR § 2403.3, the Commission finds that the impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is favorable and acceptable given the quality of public benefits in the project. The surrounding neighborhoods are likely to benefit from the development of the New East Capitol project in numerous ways, including reduced crime; improved building and site aesthetics, enhanced property values, and enjoyment of neighborhood life; improved social services; restoration of Watts Branch stream 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.

20. Consistent with 11 DCMR § 2403.4, the Commission finds that the proposed PUD is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site. The PUD Site is within one of the designated Housing Opportunity Areas in the Comprehensive Plan, and the proposed PUD would help carry out numerous goals and objectives regarding the development of housing and affordable housing in the District of Columbia. The PUD would advance several major themes of the Comprehensive Plan, including 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 the proposed 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.

21. The Applicants are 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-sector development team in this application comprises one hundred percent (100%) 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.

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 PUD 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 the related R-5-A zoning map amendment are not inconsistent with the Comprehensive Plan, including the designation of the PUD 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 §1-309.10(d) (2001) to give great weight to the issues and concerns raised in the recommendations of the affected ANCs. The Commission notes that the affected ANCs did not submit written recommendations in this proceeding or testify at the public hearing.

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, as amended.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission orders **APPROVAL** of the Application for first-stage review of a Planned Unit Development and for a related Zoning Map amendment from unzoned to R-5-A for property located near East Capitol Street and Southern Avenue, S.E., specifically Lots 51-56 and 67-78 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 the PUD shall be developed in accordance with the site plan and preliminary architectural and landscape plans submitted as Exhibits 1A, 16, and 28 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 fifty (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 Applicants 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 Applicants shall take steps to design the multi-family building so that it makes an entryway or gateway statement for the District of Columbia from the perspective of travelers along East Capitol Street.

6. The Applicants 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.

7. The Applicant shall abide by the terms of the executed Memorandum of Understanding with the D.C. Office of Local Business Development in order to achieve, at a minimum, the goal of thirty-five percent (35%) participation by local, small, and disadvantaged businesses in the contracted development costs in connection with the design, development, construction, maintenance, and security for the project to be created as a result of the PUD project. After the completion of construction of the project, the Applicant shall provide a written status report to the Zoning Commission and the D.C. Local Business Opportunity Commission regarding compliance with this agreement.

8. The Applicant shall abide by the terms of the executed First Source Employment Agreement with the Department of Employment Services (DOES) in order to achieve the goal of utilizing District of Columbia residents for at least fifty-one percent (51%) of the jobs created by the PUD project. After completion of construction of this project, the Applicant shall provide a written status report to the Zoning Commission and the DOES regarding compliance with this agreement.

9. This first-stage PUD approval by the Zoning Commission shall be valid for a period of one (1) year from the effective date of this order. Within such time, the Applicants shall file a second-stage PUD application in order for this first-stage application to remain in effect.

10. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is also prohibited by the act. In addition, harassment based on any of the above-protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

At the conclusion of the public hearing, the Commission took proposed action to **APPROVE** the application by a vote of 5-0-0 (Carol J. Mitten, James H. Hannaham, Anthony J. Hood, John G. Parsons, and Peter G. May). The Commission took final action to **APPROVE** the application on September 9, 2002, by a vote of 5-0-0 (Carol J. Mitten, James H. Hannaham, Anthony J. Hood, John G. Parsons, and Peter G. May).

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 NOV 29 2002.

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning