Government of the District of Columbia
Office of Zoning

MEMORANDUM

TO: Arnold R. Finlayson, Administrator
Office of Documents and Administrative Issuance

FROM: Jerrily R. Kress, FAIA
Director

DATE: December 21, 2004

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D.C. Register* on December 31, 2004:

1. Z.C. Order No. 974 (Z.C. Case No. 00-01);
2. Z.C. Order No. 02-31 (Z.C. Case No. 02-31); and
3. Z.C. Order No. 03-03 (Z.C. Case No. 03-03).

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Received By

12/21/04
Date

Attachments

ZONING COMMISSION
District of Columbia
CASE NO. 03-03
EXHIBIT NO. 40

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ZONING COMMISSION
District of Columbia
CASE NO.03-03
EXHIBIT NO.40

ZONING COMMISSION ORDER NO. 03-03
Z.C. Case No. 03-03/02-05
(Second-Stage PUD –Capitol Gateway Estates)
May 10, 2004

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on March 11, 2004 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 (collectively, the "Applicants") for review and approval of the second 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 contested case provisions of 11 DCMR § 3022. For the reasons stated below, the Commission approves the application subject to specified guidelines, conditions, and standards.

Preliminary Matters

In Zoning Commission Order No. 02-05, dated September 9, 2002 and effective upon its publication in the *District of Columbia Register* on November 29, 2002, the Commission approved the first stage of this PUD for a residential redevelopment of multi-family and single-family residential buildings, plus a community center building. The Order also adopted a related map amendment for the subject property from unzoned to R-5-A.

On May 19, 2003, the Applicants submitted an application and pre-hearing submission to the Commission for the final (second) stage of the PUD. The application requested final approval of the plans and site plans depicting 14 single-family detached houses, 122 semi-detached houses, 62 rowhouses, and 28 units in seven "grandhouses," each containing four units, for a total of 226 dwelling units. The plans also included a community center building.

A description of the proposed development and a notice of public hearing were published in the *D.C. Register* on November 21, 2003 (50 D.C. Reg. 9940). The public hearing was originally scheduled for January 8, 2004, but was rescheduled. Notice of the rescheduled hearing was published in the *D.C. Register* on January 2, 2004 (51 D.C. Reg. 86). Notice of the hearing was also mailed to all property owners within 200 feet of the subject property as well as to Advisory Neighborhood Commissions ("ANC") 7C and 7E.

The parties in the case were the Applicants and ANCs 7C and 7E.

The Zoning Commission opened and completed the public hearing on March 11, 2004. At the conclusion of the public hearing the Commission took proposed action to approve the application by a vote of 4-0-1. The Commission took final action to approve the application on May 10, 2004, also by a vote of 4-0-1.

FINDINGS OF FACT

The Site and the Area

1. The property that is the subject of this application consists of approximately 23.14 acres of land. It is a multi-parcel, multi-square site including much of the land area within the following boundaries: 58th Street and Southern Avenue, S.E. on the east; Central Avenue, S.E. on the south; 56th Place, S.E. and 57th Place, N.E. on the west; and Clay Street, N.E. on the north. The property is identified as 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 straddling the Northeast and Southeast quadrants. The site is currently improved primarily 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 a mixed residential development pattern. Some areas and blocks are improved predominantly with detached and/or semi-detached houses, triplexes, or rowhouses, 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 site, reinforced by the Watts Branch Playground, bounded generally by Southern Avenue, 61st Street, and Banks Place, N.E. Two public schools – Shadd Elementary School and Evans Middle School – flank East Capitol Street immediately to the west of the project site. 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.

5. The R-5-A district is a low-density 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

6. Capitol Gateway Estates represents a major policy initiative and commitment of resources by the D.C. Housing Authority. It is a HOPE VI project funded in part by the U.S. Department of Housing and Urban Development ("HUD"). The HOPE VI program, established in 1994, provides planning and demolition grants so that a partnership of the local housing authority and a private developer can replace dysfunctional public housing projects with new mixed-income residential communities.

7. The Applicants plans to demolish the existing buildings on the PUD Site and redevelop the property with 226 dwelling units and a community center building. The proposed breakdown of dwelling units by type is as follows:

(a)	Single-family detached houses	14 units
(b)	Semi-detached houses	122 units
(c)	Rowhouses	62 units
(d)	Grandhouses (7 buildings)	28 units

8. A new 150-unit senior apartment building is under construction on Square 5273, adjacent to the PUD Site, pursuant to separate approval as a consolidated PUD in Zoning Commission Case No. 02-04C.

9. In addition to special exception approval for new rowhouses and grandhouses in the R-5-A zone consistent with the requirements of § 410, the proposed PUD would require zoning relief for parking. The zoning relief requested by the Applicants is shown in the table attached to this Order. The Commission finds that the degree of flexibility requested is balanced appropriately by the benefits and amenities proffered by the Applicants in the proposed PUD.

10. The Commission finds that the project is likely to achieve its overall goal of creating 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 PUD plan is designed to address and remediate a combination of site constraints and undesirable social, physical, and environmental conditions that have developed in the existing public housing complexes over a period of years. The development is designed to transform and revitalize the area and create an attractive gateway into the District of Columbia from Maryland.

11. The proposed 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, rowhouses, and grandhouses, in addition to the apartment building for seniors, separately approved.

12. South of East Capitol Street, the 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, rowhouses, and grandhouses. The dwellings will include for-sale and rental units, both affordable and market-rate units. The single-family houses and rowhouses will include two-story and three-story units, some with garages. Exterior materials will include brick as well as siding. 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. Significant grading and reconfiguring of streets is proposed in this area to create more defensible spaces with better street visibility.

13. 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 daycare center for 75-80 children, a large multi-purpose 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.

14. The Commission credits the testimony of the Applicants' traffic expert, O.R. George & Associates, that the proposed PUD will not create adverse traffic impacts. The traffic expert's impact study indicated that the existing road network in the vicinity of the PUD Site could adequately accommodate the proposed development.

15. The Commission finds that the PUD project will create public benefits and project amenities, as follows:

    (a) A new high-quality, mixed-income residential community will replace the existing multiple public housing complexes that have widespread social, physical, and environmental problems. The revitalization plan features a housing mix tailored to homeowners and renters with a range of incomes. The project was designed with community participation and includes a relocation plan and housing options for current public housing residents. Social and economic services will be provided to assist residents reach educational, job, homeownership, and personal achievement goals.

    (b) The proposed development will create a complete new community with attractive urban design and 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. The plans address stormwater runoff, slope stability, open spaces, and related matters.

(c) The surrounding neighborhoods are likely to benefit from development of the proposed PUD, including through improved building and site aesthetics, enhanced property values and enjoyment of neighborhood life, improved social services, restoration of Watts Branch steam bed and park, and reduced traffic due to reduced population density and improved street pattern. No significant adverse effects on surrounding neighborhoods or public facilities are likely to occur.

(d) The site, landscape, and architectural plans exhibit a high quality of planning and urban design.

16. The PUD is not inconsistent with the Comprehensive Plan for the National Capital and will help carry out many of its policies. The PUD Site is a designated Housing Opportunity Area, and the PUD will help 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 10 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 development and the requested R-5-A zoning are consistent with the land use designation of "Moderate Density Residential" on the Generalized Land Use Map of the Comprehensive Plan.

Office of Planning Report

17. By report dated March 1, 2004 and testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application as consistent with the PUD evaluation standards outlined in § 2403 and in accordance with the intent of the Zoning Regulations, the PUD process, and the first-stage PUD approval. OP identified several key public benefits in the PUD, including housing and affordable housing; uses of special value to the neighborhood and to the District of Columbia; urban design, architecture, landscaping, and open spaces; efficient and economical site planning and land utilization; environmental benefits; and effective and safe vehicular and pedestrian access. OP noted favorably the sustained community involvement effort by the Applicants, including continuing quarterly Community Task Force meetings and meetings with ANCs 7E and 7C.

18. The Commission credits OP's testimony that the proposed PUD is not inconsistent with the Comprehensive Plan and is anticipated to have a positive impact on the surrounding area, with its mix of housing types that will promote a stable and attractive community and the addition of the community center, daycare center, and neighborhood parks that will provide positive services to the neighborhood.

Reports of Other Agencies

19. The D.C. Department of Transportation, by report dated March 2, 2004, indicated that local intersections near the PUD project will continue to function at acceptable levels and that the Department will work closely with the Applicants in implementing traffic and street changes.

20. The Metropolitan Police Department and the Fire and Emergency Medical Services Department both submitted reports indicating no objection to the PUD project.

National Capital Planning Commission

21. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under the terms of the District of Columbia Home Rule Act. NCPC, by delegated action of the Executive Director dated May 6, 2004, found the proposed PUD would not affect the federal establishment or other federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means for controlling development of the site in a manner consistent with the best interests of the District of Columbia. The PUD process is designed to encourage high-quality development that provides public benefits (11 DCMR § 2400.1) and allows 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 that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or 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. Approval of this application is not inconsistent with the Comprehensive Plan for the National Capital.

5. Approval of this application is consistent with the purposes of the Zoning Regulations and the Zoning Map of the District of Columbia and will promote orderly development in conformity with the Zone Plan as a whole.

6. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the proposed height and density of buildings will not cause any adverse effect on nearby properties. 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, but rather will enhance and promote the revitalization of the area.

7. The development of the project is compatible with District-wide and neighborhood goals, plans and programs and is sensitive to environmental protection, public safety, and other significant public policy objectives.

8. 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, 7C and 7E, did not submit written recommendations in this proceeding or testify at the public hearing.

9. Final (second-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.

10. 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 stated herein, the Zoning Commission orders **APPROVAL** of the second-stage (final) PUD 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 revised site plan, architectural plans, and landscape plans submitted as Exhibits 27 and 33 in the record of this case.

2. The project shall be developed with residential buildings and a community center building, as well as accessory parking as depicted on the approved plans.

3. The maximum building height in the project shall be 50 feet and the maximum aggregate density shall be 1.0 FAR.

4. In accordance with the plans, the approved PUD shall consist of a community center building and 226 dwelling units, distributed as follows by building type:

   (a) Single-family detached dwellings 14

in title to construct and use the subject property in accordance with this Order, or amendment thereof by the Zoning Commission.

12. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicants have filed a certified copy of the covenant with the Office of Zoning.

13. This final PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, the Applicants shall file for a building permit as specified in 11 DCMR §§ 2408.8 and 2409.1. Construction shall start within three years of the effective date of this Order.

14. The Applicants are 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., (the "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 that 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 Applicants 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.

For the reasons stated above, the Commission concludes that the Applicant has met the burden of proof, and it is hereby **ORDERED** that the application is **GRANTED**.

Vote of the Zoning Commission taken at its public hearing of this case March 11, 2004, to **APPROVE** by a vote of 4-0-1. The Zoning Commission took final action to adopt this Order at its public meeting of May 10, 2004, by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, Kevin L. Hildebrand, and John G. Parsons to approve; Gregory N. Jeffries not voting, not having participated in the case).

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 _____.

FLEXIBILITY BEING SOUGHT

PUD Lot	Square	Lot	Unit Type	Lot Area	Lot Width	FAR	Lot Occupancy	Rear Yard	Side Yard	Parking
0	5246	81	s	4478						
1	5246	82	s	4478						
2	5246	83	s	2250		1.007				
3	5246	84	r	1650		1.35	46%			
4	5246	85	r	1650		1.35	46%			
5	5246	86	s	2250		1.007				
6	5246	87	s	2550		0.91				
7	5246	88	r	1870		1.23	42%			
8	5246	89	r	1870		1.23	42%			
9	5246	90	s	2550		0.91				
10	5246	91	s	2250		1.032				
11	5246	92	r	1650		1.39	47%			
12	5246	93	r	1650		1.39	47%			
13	5246	94	s	2280		1.032				
14	5246	95	s	3637.5						A,C,E
15	5246	96	r	2750						A,C,E
16	5246	97	r	2750						A,C,E
17	5246	98	r	1584		1.45	49%			A,C
18	5246	99	r	1663		1.36	45%			A,C
19	5246	100	s	4909						A,C,E
20	5246	101	s	3030						A,C,E
21	5246	102	s	2967						A,C,E
22	5246	103	s	2760						
23	5246	104	r	2024		1.13				
24	5246	105	s	2760						
25	5246	106	g	6899						
26	5246	107	g	6531						
27	5246	108	s	2475		0.92				
28	5246	109	s	2475		0.94				
29	5246	110	s	2475		0.94				
30	5246	111	r	1815		1.26	43%			
31	5246	112	r	1815		1.26	43%			
32	5246	113	r	1815		1.26	43%			
33	5246	114	s	2475		0.94				
34	5246	115	s	2475		0.92				
35	5246	116	s	3002.5						
36	5280	214	s	4276						
37	5280	215	r	2420		0.95				
38	5280	216	r	2420		0.95				
39	5280	217	r	2420		0.95				
40	5280	218	r	2420		0.95				
41	5280	219	s	4130						
42	5280	235	s	3450						C
43	5280	236	r	2750						C
44	5280	237	s	3438					5.5	C
45	5280	238	s	2170		1.07			6	A,C,E
46	5280	239	r	1705		1.34	46%			A,C,E
47	5280	240	r	1705		1.34	46%			A,C,E
48	5280	241	r	1705		1.34	46%			A,C,E
49	5280	242	r	1705		1.34	46%			A,C,E
50	5280	243	s	2170		1.07			6	A,C,E
51	5280	220	s	2538						
52	5280	221	r	1870		1.19				
53	5280	222	r	1870		1.19				

PUD Lot	Square	Lot	Unit Type	Lot Area	Lot Width	FAR	Lot Occupancy	Rear Yard	Side Yard	Parking
166	5280	256	s	3357						A,C,E
167	5280	257	s	3510						A,C,E
168	5280	258	s	3631						A,C,E
169	5280	259	s	4243						A,C,E
170	5280	260	s	4132						A,C,E
171	5280	262	s	3231						A,C,E
172	5280	263	r	1988		1.15				A,C,E
173	5280	264	s	3759				15		A,C,E
174	5280	265	s	3324						A,B
175	5280	266	s	2700						A,B
176	5280	267	s	2700						A,B,C,E
177	5280	268	r	1980		1.12				A,B,C
178	5280	269	r	1980		1.12				A,B,C
179	5280	270	r	1980		1.12				A,B,C,E
180	5280	271	s	2700						A,B,C,E
181	5280	272	s	2700						A,B,C
182	5280	273	r	1980		1.12				A,B,C
183	5280	274	s	2700						A,B,C,E
184	5280	275	s	2700						A,B,C,E
185	5280	276	r	1980		1.12				A,B,C
186	5280	277	r	1980		1.12				A,B,C
187	5280	278	r	1980		1.12				A,B,C
188	5280	279	s	2700						A,B
189	5280	280	s	2700						A,B
190	5280	281	r	1980		1.12				A,B,C
191	5280	282	r	1980		1.12				A,B,C,E
192	5280	283	s	2925						A,B,C,E
193	5280	284	s	2925						A,B
194	5280	285	s	3607						A,B
195	5279	56	s	5812						
196	5279	57	r	2948						
197	5279	58	r	2978						
198	5279	59	r	2948						
199	5279	60	s	4020						
200	5279	61	s	4020						
201	5279	62	r	2948						
202	5279	63	r	2948						
203	5279	64	r	2948						
204	5279	65	s	4020						
205	5280	205	c	56192						

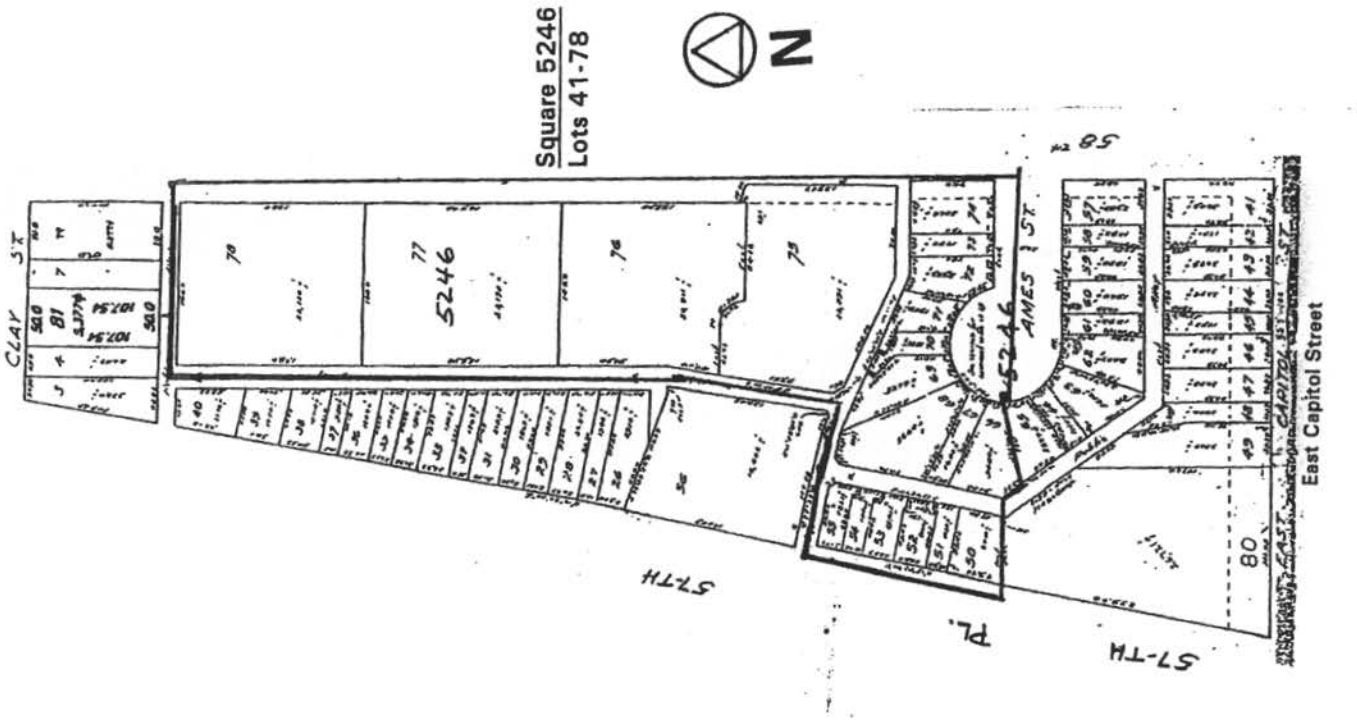
Unit Type Legend

d	Single-Family Detached Dwelling
s	Single-Family Semi-detached Dwelling
r	Row dwelling
g	"Grandhouse" 4-unit multi-family dwelling
c	Community Center/Child Development Center

Parking Legend

A	Relief from §2117.9(a) for maximum driveway/parking pad width of 10 feet
B	Relief from §2116.4
C	Relief from §2117.8(d)
D	Relief from §2117.8(c)(1)
E	Relief from §2117.9(a)

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