Government of the District of Columbia
OFFICE OF ZONING

Z.C. CASE NO.: 04-02

As Secretary to the Zoning Commission, I herby certify that on NOV 17 2005 copies of this Z.C. Order No. 04-02 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

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16. Ken Laden, DDOT
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ZONING COMMISSION
District of Columbia

CASE NO. 04-02
EXHIBIT NO. 25

ZONING COMMISSION
District of Columbia
CASE NO.04-02
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19. Office of the Attorney General

ATTESTED BY: Sharon S. Schellin

Sharon S. Schellin
Acting Secretary to the Zoning Commission
Office of Zoning

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ZONING COMMISSION



ZONING COMMISSION ORDER NO. 04-02
Case No. 04-02
(Rezoning of East M Street Target Area/Capitol Gateway II)
July 11, 2005
ORDER DISMISSING PETITION
April 11, 2005

This Zoning Commission Case (No. 04-02) was an attempt to establish a comprehensive and workable new zoning scheme for an area denominated the East M Street Target Area ("Target Area"). The land within the Target Area is currently zoned M (General Industry) and C-M (Commercial-Light Manufacturing), zone districts that permit commercial and manufacturing/industrial uses, but prohibit new residential development. The Target Area is bounded roughly by 11th Street, S.E. to the west, Water Street, S.E. to the south, Interstate 395 to the north, and Barney Circle and the Sousa Bridge to the east.

The instant case arose out of another Zoning Commission Case, No. 03-22, which requested a map amendment for one square within the Target Area. That square, Square 1048S, is currently zoned M, and the Applicants in Case No. 03-22 requested that the square be re-zoned to R-5-B to permit matter-of-right residential construction. When presented with Application No. 03-22, the Zoning Commission decided that rezoning this single square, particularly with a residential zone in the midst of M and C-M zones, was unwise without first taking a more comprehensive look at the surrounding area. Thus, at the Zoning Commission meeting on October 20, 2003, the Commission did not set-down Application No. 03-22, but held its set-down in abeyance and asked the Office of Planning ("OP") to take a "more comprehensive look" at the surrounding area and make recommendations for its re-zoning.

The "more comprehensive look" became Case No. 04-02, and the area studied became known as the East M Street Target Area. On February 6, 2004, OP made its first presentation to the Commission, recommending various W (waterfront) Zone Districts for various parts of the Target Area. After some discussion, the Commission, on February 6, 2004, set down for a hearing Case No. 04-02, and the hearing was held on June 17, 2004. At the hearing, OP set forth three (3) different options for the Commission's consideration. These options had already been extensively analyzed by OP and other interested parties, and included various combinations of W Zone Districts, overlaid with the Capitol Gateway Overlay, with some minor changes proposed to the Overlay. The Commission was not satisfied with any of these options and asked OP to review the area again and provide more information concerning the three (3) options.

At the Zoning Commission meeting in September 13, 2004, OP presented further information to the Commission concerning the re-zoning of the Target Area. The Commission was still not

completely satisfied and requested that OP look at this again. The next month, on October 25, 2004, at the Zoning Commission meeting, OP presented several further ideas for re-zoning to the Commission. The Commission, however, was again not completely satisfied, and after providing OP with more specific guidance, asked that OP develop new scenarios for the Commission to consider.

At the Zoning Commission meeting in November 8, 2004, the Commission rejected all of OP's suggested scenarios and attempted to craft its own square-by-square zoning proposal for the Target Area. The Commissioners, however, were not in complete agreement among themselves as to what squares should be in what zone districts, or whether the Capital Gateway Overlay should be placed over the area. Also at this meeting, the Chairman recommended, for the first time, amending Chapter 24 of the Zoning Regulations, to add an incentive to construct planned unit developments within areas zoned W-2.

Case No. 04-02 was scheduled for proposed action before the Commission on April 11, 2005. At the April 11th meeting, the Chairman stated that she was still "not wholly satisfied with any of the solutions that ha[d] been proffered" for the re-zoning of the Target Area. Further, the Chairman and another Commissioner expressed a concern about re-zoning industrial areas to more restrictive zones. The Commissioners generally felt that the Target Area should not be re-zoned until a more comprehensive study of all the industrially-zoned land in the District had been performed in order to assess the demand for industrial zones and, potentially, how much land should be retained in such zones. Therefore, on April 11, 2005, pursuant to 11 DCMR § 3011, the Commission dismissed Case No. 04-02. At that same meeting, the Commission also denied the Application in Case No. 03-22. Both this Order and the Order denying the application are being issued concurrently.

The Zoning Commission, by a vote of 5-0-0, taken at its public meeting on April 11, 2005, hereby orders **DISMISSAL** of Case No. 04-02. (Carol J. Mitten, John G. Parsons, Anthony J. Hood, Kevin L. Hildebrand, and Gregory Jeffries to dismiss.)

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 18 2005.

CAROL J. MITTEN
CHAIRMAN
ZONING COMMISSION

JERRILY R. KRESS, FAIA
DIRECTOR
OFFICE OF ZONING