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: May 5, 2005

SUBJECT: Publication for the Office of Zoning

Please publish the following in the *D C Register* on May 13, 2005

1. Z.C. Order No. 04-04 (Z.C Case No 04-04), and
2. Z C Order No 04-13 (Z C Case No 04-13)

2005 MAY -5 PM 4:34
Office Of Documents And Administrative Issuances

Attachments

ZONING COMMISSION
District of Columbia
CASE NO. 04-04
EXHIBIT NO. 49

441 4th St , N W , Suite 210-S, Washington, D C 20001
Telephone (202) 727-6311 E-Mail Address zoning.info@dc.gov Web Site www.dcoz.dc.gov

ZONING COMMISSION
District of Columbia
CASE NO.04-04
EXHIBIT NO.49

ZONING COMMISSION ORDER NO. 04-04
Z.C. Case No. 04-04
(Consolidated PUD & Related Map Amendment – GW Carver Senior Apartments)
April 11, 2005

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on October 7, 2004 to consider an application from the Carver 2000 Tenants Association, Inc., for consolidated review and approval of a Planned Unit Development ("PUD") and related Zoning Map amendment, pursuant to Chapter 24 of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022 for contested cases.

FINDINGS OF FACT

The Application, Parties, and Hearing

1. On February 6, 2004, the Carver 2000 Tenants Association, Inc. (the "Applicant" or "Carver 2000") filed an application for consolidated review and approval of a PUD and related zoning map amendment for a site bounded by Central Avenue, East Capitol Street, 47th and 49th Streets, N.E (the "PUD Site"). Carver 2000 is a nonprofit association, the members of which are residents or former residents of the existing George Washington Carver Apartments. Carver 2000 acquired the PUD Site under the District of Columbia's Right of First Purchase Program and has applied to the Internal Revenue Service to become a tax-exempt entity under IRS Section 501(c)(3). Carver 2000 will transfer its interest in the property into the GW Carver Senior Apartments LLC, an entity to be formed to carry out the development. Carver 2000 will be the sole managing member of the GW Carver Senior Apartments LLC, and the other member will be a low-income housing tax credit investor.

2. On April 12, 2004, the Zoning Commission decided to schedule a public hearing on the application. After proper notice, the Zoning Commission opened and completed the public hearing on October 7, 2004 The only party in the case in addition to the Applicant was Advisory Neighborhood Commission ("ANC") 7C, the boundaries of which include the PUD Site.

3 At its public meeting on March 14, 2005, the Zoning Commission took proposed action by a vote of 5-0-0 to approve with conditions the application and plans presented at the public hearing.

4 The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated March 31, 2005, found that the proposal would not adversely affect the federal interest or be inconsistent with the Comprehensive Plan for the National Capital.

5. The Zoning Commission took final action to approve the application on April 11, 2005.

The Site and the Area

6. The subject property consists of Lots 78 and 79 in Square 5140 and has a land area of 48,927 5 square feet. The site is currently zoned R-5-A, Low-Density Apartments/General Residential, which allows a maximum density of 0.9 FAR and a maximum building height of three stories and 40 feet as a matter of right and 1.0 FAR and 60 feet, respectively, with a PUD.

7. The PUD site is a slightly irregular rectangle in shape. It is long in the east-west direction between 47th and 49th Streets, N E. and relatively narrow in the north-south dimension between East Capitol Street and Central Avenue. The former garden apartment buildings on the site were scheduled for demolition in the fall of 2004.

8. The Application requested a zone change from R-5-A to R-5-B as part of the application, because the proposed building exceeds the bulk limits of the R-5-A zone, although the proposed height of the building could be accomplished within the 60-foot height limit allowed in the R-5-A zone with a PUD.

9. The zoning and land use pattern of this neighborhood area may be summarized as follows The PUD Site is within an irregularly-shaped R-5-A Zone District that extends a few blocks to the north of East Capitol Street and extends a large distance to the south of East Capitol Street to encompass a substantial part of Ward 7. To the immediate north, the predominant development pattern is semi-detached houses, with a fire station located directly across Central Avenue from the PUD Site. Immediately to the south of the PUD Site is a large, triangular-shaped area bounded by East Capitol, 47th, and 49th Streets, S.E., improved with a large garden apartment complex, which constitutes the larger part of the GW Carver apartment complex. The tenants' association plans to complete a total redevelopment of this site in the future.

10. The R-5-A-zoned areas to the north and south of East Capitol Street are developed with a wide range of housing types, including garden apartments and detached, semi-detached, and row dwellings. Several large areas zoned R-2 are developed with semi-detached houses Institutions, public facilities, and commercial uses are scattered throughout the area, including the fire station, places of worship, small commercial strips, public schools, and parks. The public schools in the area are JC Nalle Elementary, Kelly Miller Junior High, and Woodson High School. There is a senior center at the Metropolitan Police Boys and Girls Club a few blocks away and numerous shops on East Capitol Street

11. Public transportation serves the PUD Site well, with Metrobus stops in front of the building and the Benning Road Metrorail Station located three blocks to the west. The area surrounding the Metrorail Station is zoned C-3-A (Medium-Density Commercial), and existing development includes retail and service uses.

The PUD Project

12 The proposed apartment building will have 104 dwelling units, including 94 one-bedroom units and 10 two-bedroom units. The height of the proposed building is four stories and 58 feet. The gross floor area ("g.f.a.") as designed is 92,208 square feet, which equals a floor area ratio ("FAR") of 1.88 on the lot area of 48,927.5 square feet. Lot occupancy will be 48.5 percent.

13. Following the shape and dimensions of the PUD Site, the proposed building is relatively long and narrow – narrow between East Capitol Street and Central Avenue and long in the east-west dimension. It is planned with two main entrances -- one on East Capitol Street and one on Central Avenue -- both leading into a secured lobby area.

14. No zoning flexibility was requested.

15 Approximately 80 percent of the exterior of the building will be brick in two different tones. The other exterior material will be an External Insulating and Finishing System ("EIFS"), which will provide added energy efficiency and accents for visual appeal. A freestanding brick sign using the same brick as the exterior will identify the apartment complex. The overall design of the apartment building will be contextual with the surrounding neighborhood in that it will be four stories high with a steeply pitched gable roof, traditional design, and predominantly brick exterior.

16. Mechanical units that are typically located on the roof and thus visually exposed will instead be enclosed within the pitched roof and will not be visible from any side of the building. Canopies at the entrances will provide a pleasant transition as well as shelter from direct sunlight and other elements for persons entering and leaving the building.

17. The apartments will have modern kitchens with dishwashers and microwave ovens, carpeting, window blinds, and cable television hookups The building will incorporate special amenities for seniors, including congregate dining, a library, a quiet room, health care, computer access, and security There will be two separate laundry facilities on the first floor, and four rooftop terraces totaling more than 1,800 square feet for residents to use

18. A parking area will be situated at the eastern end of the site, with access from both Central Avenue and 49th Street. The provision of 23 spaces, including two handicapped spaces, complies with the parking requirement for affordable housing for seniors of one space for each six dwelling units. The parking area will be shielded from the Central Avenue and East Capitol Street views by dense shrubs and large shade trees in addition to the existing trees on site East Capitol Street is at a somewhat lower elevation than the site, further hiding the parked cars from view. Both loading and trash pickup will be from the Central

Avenue side of the building, with significant landscape screening. Based on testimony at the public hearing and at the direction of the Zoning Commission, the number of parking spaces was increased from 20 to 23 spaces, and the dumpster was relocated to the southeast corner of the site to be more removed from the abutting pair of semi-detached houses

19 Landscaping around the site will consist of a variety of plant materials with an emphasis on native and low-maintenance plant selections for hardiness and plant succession. Street and site canopy trees will be added for shade, ornamental flowering trees for focal points and entry interest, and a building-edge planting of evergreen and deciduous plant materials to provide a foundation. The landscaping is designed to visually soften the building mass, mitigate noise of the street traffic, and screen parking and dumpster storage and loading dock areas. Landscaping will provide relief from unshaded paved areas, and alleviate noise and lighting glare associated with roadways and parking areas.

20. On September 27, 2004, the Applicant submitted to the record a document setting forth details about the affordable housing income levels and regulatory controls. One hundred percent (100%) of the apartments will be reserved for low-income and very-low-income renters. Carver 2000 will enter into a 40-year land use restriction agreement with the D.C. Housing Finance Agency ("DCHFA"), which will restrict all of the units to seniors earning less than sixty percent (60%) of the area median income ($40,860 at present) for a period of not less than 40 years at rents that will not exceed thirty percent (30%) of the area median income. The Applicant will also enter into a Rent Regulatory Agreement with the D C. Department of Housing and Community Development ("DHCD"), which will specify that approximately 40 percent of the apartments will serve households having thirty percent (30%) or less of the area median income, an additional forty percent (40%) of units will serve those with incomes of thirty percent (30%) to fifty percent (50%) of area median income, and twenty percent (20%) will serve those having fifty percent (50%) to eighty percent (80%) of area median income.

21 The Applicant's economic feasibility and finance consultant, New Market Investors, Inc., testified that the project will generate substantial numbers of construction jobs, given the $13,500,000 project cost. Requirements of the Memorandum of Understanding with the D C. Office of Local Business Development, required pursuant to Condition 9 of this Order, include thirty-five percent (35%) of construction trade jobs to be filled by Local, Small and Disadvantaged Business Enterprises ("LSDBE"), fifty-one percent (51%) of jobs to be filled by D.C. residents, forty-two percent (42%) of the construction workforce to be minorities, twenty-five percent (25%) of the nonconstruction workforce to be minorities, and six and nine tenths percent (6.9%) of the construction jobs to be filled by women This testimony also addressed the financing and subsidy structure of the project and indicated that a loss of one floor in the apartment house would jeopardize the financial viability of the project and reduce the public benefits provided

22. In response to requests by the Zoning Commission at the public hearing, the Applicant submitted a Post-Hearing Submission on November 12, 2004 that addressed several issues A revised Site Improvements Plan showed that the trash dumpster would be relocated away from the nearest residences to the southeast corner of the building. Second, the number of

parking spaces was increased from 20 to 23. Shadow and volumetric studies confirmed that the proposed building would not cast a shadow on adjacent residences and that the building's size was not disproportionate to the surrounding neighborhood. Cross sections were submitted showing that the building's proposed height would be mitigated by topography that increases in elevation to the north and the south The height of the building was reduced by one foot. This submission also provided documentation of the Applicant's First Source Employment Agreement and related jobs commitments to D.C. agencies.

23. As addressed in the Applicant's Pre-Hearing Statement and in testimony at the public hearing, the following public benefits and project amenities will be created as a result of this project.

a. Housing and Affordable Housing. The 104 new apartment units with affordable rents for occupancy by senior citizens will help to meet the overall housing goals of the District of Columbia, as expressed in the Housing Element and the Ward 7 Element of the Comprehensive Plan. Development of affordable housing for senior citizens is a high priority in Ward 7 and the District generally.

b. Stabilizing and Improving the District's Neighborhoods. One of the overarching themes of the Comprehensive Plan specified in §102 is the goal of "stabilizing and improving the District's neighborhoods." The proposed infill residential development will help accomplish this goal. A deteriorated and failed apartment complex will be demolished to make way for development of an attractively designed apartment house with affordable rents for senior citizens. The existing buildings have been a detriment to the surrounding neighborhood in recent years, and nearby residents are supportive of the proposed plans to remove the problem buildings and replace them with a handsome new building for senior occupancy. The project includes a comprehensive relocation plan and the tenants' association is the property owner and Applicant.

c. Attractive architecture, urban design and landscaping. The building is attractive for an affordable housing development, including traditional architecture with gabled roof, enclosure of mechanical elements, and a predominantly brick exterior using two tones of brick and EISF paneling for accents. At four stories but only 1.88 FAR, the building will be compatible in scale and design with the surrounding neighborhood The landscaping plan will enhance both the private and public open spaces of the property The apartment building includes superior functional areas for the use of the future residents, including congregate dining, a library, a quiet room, health care, computer access, and security.

d. Comprehensive Plan – Land Use Element. The Generalized Land Use Map of the Comprehensive Plan designates the site for Moderate-Density Residential development. The requested R-5-B zoning with a PUD is considered "not inconsistent" with this land use classification. The Office of Planning testified that R-5-B is one of the zone districts that may be considered "not inconsistent" with the Moderate-Density Residential designation The Applicant further notes that this proposed project does not utilize the

full 3 0 FAR allowed with a PUD in the R-5-B District, but is rather proposed to have a density of 1 88 FAR

e. Minimal Transportation Impacts The proposed elderly housing development will generate a low level of automobile travel in and out of the site. The PUD Site is served by Metrobus routes along East Capitol Street and is within walking distance of the Benning Road Metrorail Station.

Office of Planning Report

24. By report dated October 7, 2004 and by testimony presented at the public hearing, the Office of Planning ("OP") recommended approval of the Application. "OP finds that this proposal supports [specified Comprehensive Plan] goals by. replacing existing buildings in poor condition with new development; eliminating a potentially disruptive condition from a stable residential neighborhood; increasing the quality of housing stock in Ward 7 and the District; and increasing the affordable housing opportunities specifically for neighboring elderly residents. OP therefore concludes this PUD proposal is not inconsistent with the Comprehensive Plan and it supports more specific housing goals identified in the Comprehensive Plan."

25. OP noted that in response to comments from the Zoning Commission, "the Applicant changed exterior siding materials to two shades of brick and siding to relate more subtly with the existing neighborhood. Rendered elevations provided to OP by the Applicant indicate that the resulting design would be an attractive addition to the community. Overall, OP also thinks the parking arrangement, vehicular circulation pattern, access to service locations and site landscaping will greatly enhance the utility of the site."

26. OP noted that "the eastern and western ends of the building are shorter in height so that the building 'steps down' as it nears the side property lines," thereby helping create a transition to lower adjacent buildings to the east and west. Regarding the concerns of ANC 7C about the building's proposed height, "OP thinks the construction would not conflict with existing residential and nonresidential buildings in the community, or the Comprehensive Plan. The proposed R-5-B zone district, and the associated allowance for buildings up to 60 feet in height, is not inconsistent with the Moderate Density Residential land use in the Plan. . . . Views to the south across Central Avenue are currently dominated by 2-3 story buildings located on a hillside that reach and exceed the proposed building's elevation. In fact, the roof elevations of buildings along A Street, N E and the Carver buildings on the southern end of 47th Street are greater than the roof elevation of the proposed 58-foot tall apartment building "

Reports of Other Agencies

27. By report dated July 13, 2004 the D.C. Department of Transportation stated that "this project will have negligible impact on existing traffic volumes and will not create dangerous or objectionable traffic conditions."

28 The D C. Fire and EMS Department indicated in a memorandum dated September 13, 2004 that it had no objection to construction of the proposed 104-unit apartment house.

29. The Department of Housing and Community Development ("DHCD") stated in a memorandum dated September 23, 2004, that DHCD is "a major party of interest and stakeholder in this proposed PUD project. DHCD is providing major funding The developer will be required to provide a 40-year affordability period for all the DHCD subsidized units in the proposed building because DCHD is using Housing Production Trust Funds (HPTF) to fund this project." The report further stated that the proposed height will fit well into the neighborhood because the site is very narrow and surrounded by streets, the site is at a low point in the neighborhood, and the change in façade materials to a lighter color for the 4th floor will "establish a cornice line between the third and fourth floors and help integrate the fourth floor visually with the asphalt shingle roof."

Advisory Neighborhood Commission 7C

30 Advisory Neighborhood Commission 7C submitted a letter dated September 20, 2004, stating that, "while the ANC is not opposed to the subject venture, i.e , George Washington Carver Senior Housing, there are a number of very serious issues and concerns." The ANC's most significant concern was the size of the project at four stories and 104 apartment units. The letter also expressed concerns about the lack of 100 percent brick exterior construction, traffic volume, provisions for trash collection, handicapped access and security The letter expressed appreciation to the Carver Tenants Association for complete discussions and information-sharing with the ANC.

Other Community Organizations

31. Letters in support of the PUD application were submitted to the record from the Far Northeast-Southeast Council, the Marshall Heights Community Development Organization, the Fort Dupont Civic Association, and the Northeast Boundary Civic Association.

CONCLUSIONS OF LAW

1 The PUD process is an appropriate means of controlling development of the site in a manner consistent with the best interests of the District of Columbia.

2. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality developments that provide 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

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 efficient and attractive overall planning and design not achievable under matter-of-right development.

4 The Zoning Commission has the authority under the Zoning Regulations to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that may be exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, yards, or courts. The Zoning Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.

5. The approval of this PUD is not inconsistent with the Comprehensive Plan.

6. The proposed PUD meets the minimum area requirements of 11 DCMR § 2401.1.

7. The development of this PUD is compatible with citywide goals, plans, and programs and is sensitive to environmental considerations. The Commission also finds that the proposed PUD is not inconsistent with the Comprehensive Plan.

8. The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is not unacceptable

9. The public benefits of the PUD are adequate given the absence of development incentives being sought.

10. The Commission is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D C. Official Code § 6-623.04 (2001)), to give great weight to OP recommendations. The Commission carefully considered the OP report and, as explained in this decision, finds its recommendation to grant the application persuasive.

11. Under § 3 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, D.C Code § 1-309.10(d)(3)(a)), the Commission must give great weight to the issues and concerns raised in the written report of the affected Commission. The ANC expressed concern over the size of the project at four stories and 104 apartment units as well as the lack of 100 percent brick exterior construction, traffic volume, provisions for trash collection, handicapped access and security.

12. The proposed PUD can be approved with conditions that ensure that the potential adverse effects on the surrounding area from the development will be mitigated

13. The approval of the application is subject to compliance with D.C Law 2-38, the Human Rights Act of 1997

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of this application for consolidated review of a planned unit development for Lots 78 and 79 in Square 5140 and for a related Zoning Map Amendment from R-5-A to R-5-B. The approval of this PUD is subject to the following guidelines, conditions and standards:

1. The PUD shall be developed in accordance with the plans prepared by the architectural firm of Arel Architects, marked as Exhibits 7, 19, 21, 39, and 42, as modified by the guidelines, conditions, and standards of this Order.

2. The development approved in this PUD shall be a new, 104-unit, four-story apartment building for senior citizens, including one apartment for the resident manager. All of the units shall be restricted to seniors earning less than sixty percent (60%) of the area median income for a period of not less than 40 years at rents that will not exceed thirty percent (30%) of the area median income. Approximately forty percent (40%) of the apartments shall serve households of seniors having thirty percent (30%) or less of the area median income, an additional forty percent (40%) of units shall serve those seniors with incomes of thirty percent (30%) to fifty percent (50%) of area median income and twenty percent (20%) shall serve those having fifty percent (50%) to eighty percent (80%) of area median income.

3. The total density of the development shall not exceed 1.88 FAR and the maximum lot occupancy shall not exceed forty-nine percent (49%).

4. The height of the building shall not exceed fifty-eight (58) feet.

5 The development shall provide off-street parking for twenty-three (23) vehicles, as shown on the site plan.

6 Exterior materials shall include two tones of brick and a cementitious fiber type of siding, or "EIFS."

7 The applicant shall have the flexibility to:

   a. Vary the location and design of all interior components of the building, provided that the variations do not change the exterior configuration of the building,

   b. Make minor adjustments in the façade detailing and fenestration, and in the location and appearance of signage, provided that such signage shall be generally consistent with the approved plans, and

   c. Vary the mix of apartment unit types by up to 15 percent

8 The Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services ("DOES") prior to the issuance of a building permit

9. The Applicant shall enter into a Memorandum of Understanding with the D.C Office of Local Business Development prior to the issuance of a building permit.

10. No building permit shall be issued for this planned unit development and the PUD related map amendment shall not become effective until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA). This covenant shall bind the Applicant and all successors in title to construct on and use the subject property in accordance with this Order or any amendment thereof

11. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a certified copy of the covenant with the records of the Zoning Commission.

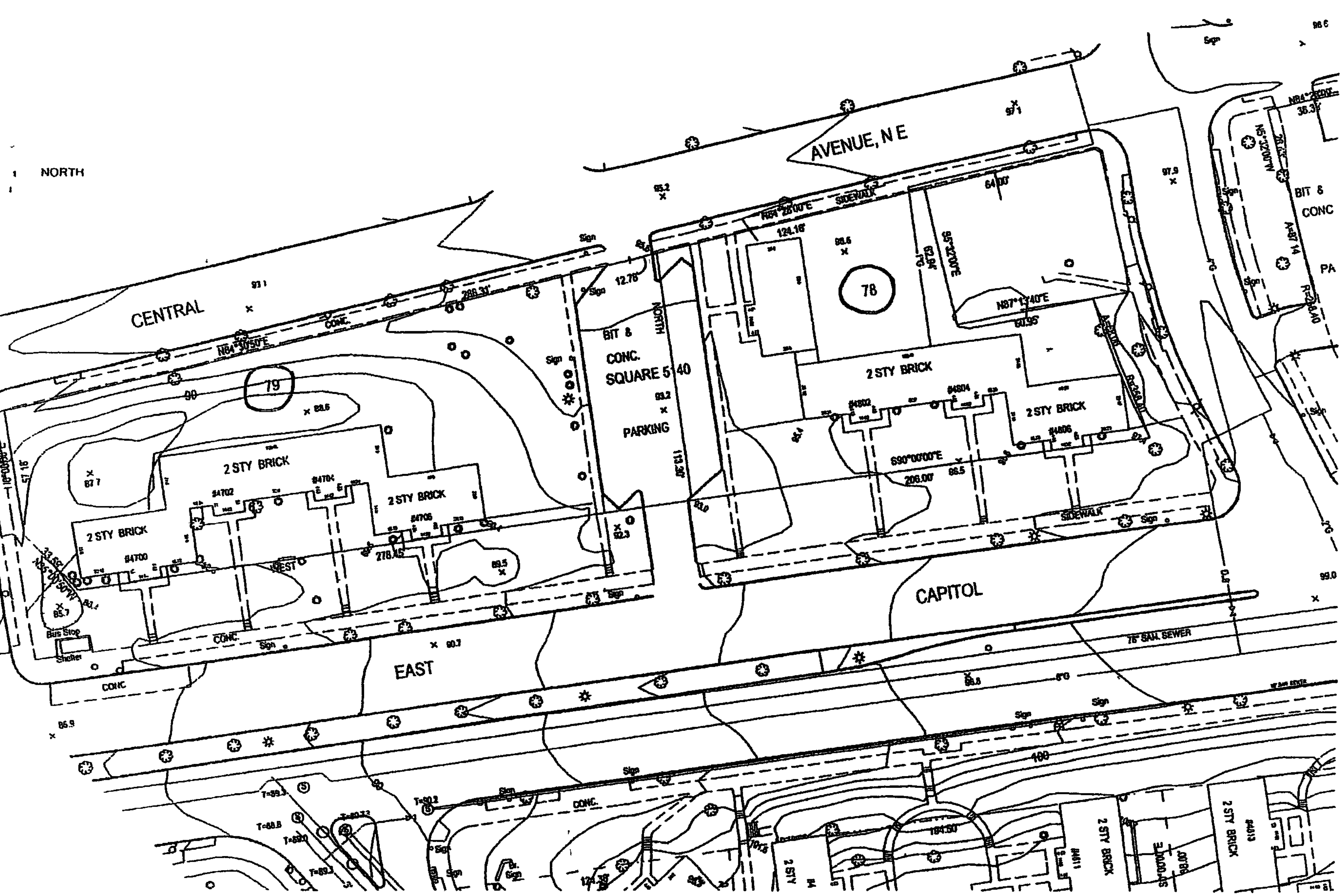
12. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application shall be filed for a building permit as specified in 11 DCMR §§ 2408.8 and 2409.1. Construction shall start within three years of the effective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

13. 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 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 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.

On March 14, 2005, the Commission voted to approve the application by a vote of 5-0-0 (Carol J. Mitten, Gregory N Jeffries, Anthony J. Hood, John G. Parsons, and Kevin L. Hildebrand to approve)

This Order was adopted by the Zoning Commission at its public meeting of April 11, 2005, by a vote of 5-0-0 (Carol J. Mitten, John G Parsons, Anthony J. Hood, Gregory N. Jeffries, and Kevin L. Hildebrand to approve)

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 _____.



A

TOPOGRAPHIC SITE PLAN

Scale 1" = 30'