

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

+ + + + +

MONDAY

JULY 17, 2006

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
GREGORY JEFFRIES	Commissioner
MICHAEL TURNBULL	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
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OFFICE OF PLANNING STAFF PRESENT:

KAREN THOMAS
JOEL LAWSON

This transcript constitutes the minutes from the Public Meeting held on July 17, 2006.

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AGENDA

OPENING REMARKS - CHAIRPERSON MITTEN 3

CASE NO. 03-03B, PUD Modification - Capitol 5
Gateway Estates

Cynthia Giordano 6

Kerry Smyser 7

Derick Mitchell 11

Mel Thompson 14

OFFICE OF PLANNING

Karen Thomas 27

VOTE ON CASE NO. 03-03B 39

Four to Zero to One

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P-R-O-C-E-E-D-I-N-G-S

6:30 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen.

This is a Public Hearing of the Zoning Commission of the District of Columbia for Monday, July 17th, 2006.

My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Michael Turnbull and Greg Jeffries.

The subject of this evening's hearing is Zoning Commission Case No. 03-03B. This is a request by A&R/THC LLC and East Capitol Gateway LLC for approval of a modification to a previously approved Planned Unit Development for property known as Capitol Gateway Estates located in Squares 5246, 5276, 5279, 5280 and 5281.

Notice of today's hearing was published in the D.C. Register on May 26, 2006, and copies of that hearing announcement are available to you and they are on the table by the door.

This hearing will be conducted in accordance with the provisions of 11 DCMR, Section 3022 and the order of procedures will be as follows. We'll take up any preliminary matters. Then we'll

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1 have the presentation of the Applicant's case, the
2 Report by the Office of Planning, reports by any other
3 Government agencies, and the report of the affected
4 Advisory Neighborhood Commissions. In this case, it's
5 7C and 7E, organizations and persons in support and
6 organizations and persons in opposition.

7 The following time constraints will be
8 maintained in this hearing. The Applicant will have
9 30 minutes, organizations will have five minutes and
10 individuals will have three minutes.

11 The Commission intends to adhere to these
12 time limits as strictly as possible in order to hear
13 the case in a reasonable period of time. The
14 Commission reserves the right to change the time
15 limits for presentations as necessary and notes that
16 no time shall be seeded.

17 All persons appearing before the
18 Commission are to fill out two witness cards. Those
19 cards are on the table by the door. Upon coming
20 forward to speak to the Commission please give both
21 cards to the reporter who is sitting to our right.

22 Please be advised that this proceeding is
23 being recorded by the Court Reporter and is also being
24 web cast live.

25 Accordingly, we ask you to refrain from

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1 making any disruptive noises in the hearing room.

2 When presenting information to the
3 Commission, we ask you to take a seat at the table in
4 front of us and then turn on and speak into the
5 microphone first stating your name and address.

6 When you're finished speaking, please turn
7 the microphone off because they tend to pick up
8 background noise.

9 The decision of the Commission in this
10 case must be based exclusively on the public record.
11 To avoid any appearance to the contrary, the
12 Commission requests that persons present not engage
13 the members of the Commission in conversation during
14 a recess or at any other time and Mrs. Schellin will
15 be available throughout the hearing to answer any
16 procedural questions you may have.

17 Please turn off all beepers and cell phone
18 as to not disrupt the hearing.

19 And now we'll take up any preliminary
20 matters.

21 Mrs. Schellin.

22 SECRETARY SCHELLIN: None.

23 CHAIRPERSON MITTEN: Ms. Giordano, any?
24 All right. Well, then we ask anybody who is planning
25 on testifying this evening to stand, raise your right

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1 and direct your attention to Mrs. Schellin and she'll
2 administer the oath.

3 (Witnesses Sworn.)

4 CHAIRPERSON MITTEN: Whenever you're
5 ready.

6 MS. GIORDANO: Good evening, Madam Chair.
7 For the record, my name is Cynthia Giordano with the
8 Arnold and Porter Law Firm. With me this evening is
9 Nate Gross who is in the audience and probably won't
10 need to testify tonight, Carrie Smyser from the D.C.
11 Housing Authority and Derrick Mitchell from A&R
12 Development.

13 This is a fairly clear case and we have a
14 short presentation on what we're proposing. But
15 first, Ms. Smyser from the Housing Authority is going
16 to provide a little background on the rationale for
17 deleting the community center from the project. And
18 start with just kind of overview of where we are on
19 this project which has a lot of components we haven't
20 seen for awhile. If that's okay if we take the time
21 to do that?

22 We have also just submitted into the
23 record a status report on the LSDBE hiring
24 achievements of this project. Dana Henson, who is the
25 witness who typically testifies on this is in Florida

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1 tonight. She prepared that report though at the end
2 of last week. So, it's very up to date.

3 And with that, I guess we'll start with
4 Ms. Smyser.

5 MS. SMYSER: Chairperson Mitten and
6 Commissioners, good evening.

7 I am Kerry Smyser, Capital Gateway Project
8 Manager for the District of Columbia Housing
9 Authority.

10 Capitol Gateway is currently a \$162
11 million Hope VI Project. DCHA received the Hope VI
12 grant in the amount of \$30.8 million in August 2000
13 to revitalize the Est Capitol dwellings and Capitol
14 View Plaza public housing sites.

15 Since the grant award, we have relocated
16 612 families, demolished approximately 700 units,
17 acquired the FHA foreclosed property Capitol View
18 Plaza too and others. Served over 200 families
19 through the community in support of services program
20 and participated in over 200 community meetings.

21 In December 2004, we completed the Capitol
22 Gateway Senior building, which is located on the
23 northeast side of the site, east of 58th Street. The
24 building is 1562 units and was fully occupied in July
25 2005. Thirty-eight former senior residents are

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1 currently living in the new facility. We are
2 currently constructing the family rental and home
3 ownership components which are 226 units located on
4 the northeast and southeast sides of the site. The
5 components consist of townhouses, duplexes and single
6 family detached units.

7 We expect to occupy Phase IB of the site
8 in August of this year. The units to be occupied will
9 be home ownership units, affordable and market rate,
10 public housing and low income housing tax credit.

11 The rental units will first be occupied by
12 former residents of East Capitol dwellings who have
13 participated in the community and supportive services
14 program and have met the criteria to return.

15 The first units available for families to
16 purchase with the housing choice voucher will be ready
17 for occupancy in September of this year. Currently,
18 former residents are participating in the Capitol
19 Gateway Home Buyers Club administered by the D.C.
20 Housing Finance Agency to prepare them to purchase a
21 unit in the District of Columbia.

22 The Housing Authority and its development
23 part A&R/THC LLC are currently working to determine
24 and obtain financing for the rental tower, the
25 condominium tower and lofts and the commercial site.

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1 Currently design of the commercial site is on hold
2 until the financing and the appropriate tenants have
3 committed. A&R/THC LLC and the Housing Authority have
4 actively shopped the commercial site at the
5 International Council of Shopping Center Conventions
6 and has discussed with area grocery store chains,
7 retailers and retail developers.

8 Interest has been expressed but no formal
9 commitments have been made. Once there are more
10 rooftops and people on the site, we then expect to
11 secure a commitment from retailers.

12 We are here this evening to request an
13 amendment to the approved Planned Unit Development for
14 the Capital Gateway Family Rental and Home Ownership
15 component. The amended portion of the PUD is the
16 community day care center which we propose moving the
17 services to other portions of the site and add 12
18 townhouse units.

19 From the time of the grant until July
20 2005, the plan was to build a community day care
21 center. The East Capitol View Community Development
22 Corporation was to be a tenant along with the East
23 Capitol Center for Change and a day care center.

24 The East Capitol View CDC at the time was
25 responsible for administering the Community and

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1 Supportive Services Program. And as of May 2004, D.C.
2 Housing Authority centralized and is now operating all
3 of its community and supportive services programs for
4 all Hope VI projects.

5 East Capitol Center for Change has
6 constructed and occupied its own facility and we have
7 not been able to find a day care operator to occupy
8 the space.

9 DCHA and a development team have met with
10 East Capitol CDC to determine the amount of space
11 needed to operate their organization and provide the
12 senior and youth services they intend to operate. The
13 Community and Supportive Services will maintain space
14 to continue operating the case management, job
15 training, job placement, financial literacy, live
16 skills and other programs for Capitol Gateway
17 residents.

18 DCHA and a developer will continue to
19 search for a day care provider and will provide the
20 appropriate facility and space on the commercial site.

21 Since this change was introduced by the
22 development team to DCHA, we have discussed it at
23 several community meetings. We first brought the
24 concept before the steering committee, an organization
25 composed of D.C. Housing staff, the developer, former

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1 resident leadership, neighborhood and community
2 residents and D.C. Government representatives in July
3 2005 and then again before the community at the
4 quarterly Community Task Force Meeting in the same
5 month and year.

6 The concept was proposed and the community
7 was asked to think about the plan and to come back to
8 the next meeting with any questions or concerns, which
9 they did.

10 Their current concerns were access and
11 security of the community space in the rental tower.
12 Their concerns were addressed and it was agreed to
13 move forward with the PUD amendment.

14 DCHA and a development team have attended
15 ANC 7 ENC meetings to present the proposed changes and
16 update the Advisory Neighborhood Commission on the
17 progress of the project.

18 I thank you for this opportunity to
19 testify before you and will be happy to answer any of
20 your questions.

21 MR. MITCHELL: Good evening, my name is
22 Derick Mitchell, and I'm a development manager with
23 A&R Development Corp. In Washington, D.C.

24 I would like to thank the Zoning
25 Commission for the opportunity to present the Capitol

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1 Gateway Project.

2 Tonight I will briefly describe the
3 single-family housing component development schedule
4 and sales and marketing effort.

5 The single-family housing component
6 started construction in the summer 2005. Currently,
7 there are a total of 226 units to be constructed. The
8 unit breakdown includes 144 sale units, 86 rental
9 units. The construction completion is scheduled for
10 late fall, early winter of 2007.

11 The home ownership component consists of
12 56 affordable units and 85 market rate units. The 56
13 affordable units are comprised of 30 housing choice
14 voucher units that target low-income buyers and 26
15 affordable units that target moderate income buyers
16 between 16 and 80 percent of area medium income. The
17 84 market rate units target buyers above 80 percent of
18 area medium income.

19 The tax credit rental component consists
20 of 61 subsidized units and 25 non-subsidized units
21 with rents that are set at 60 percent of area medium
22 income.

23 The sales effort was a community-based
24 marketing effort that began approximately two years
25 ago. The sales and marketing team informed the

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1 community about Capitol Gateway Home Ownership
2 opportunities to a variety of community meetings and
3 local publications.

4 The sales team compiled a waiting list of
5 over 3,000 interested buyers. Potential buyers must
6 schedule an appointment with a sales person in order
7 to purchase a home. The sales center operates on an
8 appointment-only basis.

9 The sales team contacted potential buyers
10 from the waiting list, over 3,000, and scheduled
11 appointments with interested buyers purchasing at
12 Capitol Gateway.

13 Currently, all of the home ownership units
14 located on the north side of East Capitol Street are
15 sold. The starting sales prices were approximately
16 \$240,000.

17 We are now selling units located south of
18 East Capitol Street and those sales prices are
19 approximately \$375,000 for a town home and
20 approximately \$500,000 for single-family detached
21 homes.

22 Thank you for the opportunity to present
23 Capitol Gateway. I will answer any questions that you
24 may have.

25 CHAIRPERSON MITTEN: Thank you.

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1 MS. GIORDANO: Excuse me. The project
2 architect will now present the plan for the 12 houses
3 and that's Mel Thompson.

4 CHAIRPERSON MITTEN: Okay. Those prices
5 are getting kind of up there. It's mind-blowing.

6 MR. THOMPSON: Good evening. I'm Mel
7 Thompson with Grimm and Parker Architects in
8 Calverton, Maryland. I reside in Adelphi, Maryland.

9 Off to your right there are plans of the
10 -- well, we can start with the site plan in the
11 middle. The upper left-hand corner is the site with
12 the 12 lots, two lots of five and a lot of two
13 duplexes here are going on the site that the community
14 center once occupied.

15 The type of units are very similar to the
16 ones that we're building now which are two-story
17 front, three-story rear units or three-story front,
18 three-story rear units which will be on this site
19 also.

20 The units are approximately 2,100 square
21 feet. They either have a front load garage or a rear
22 load garage in a situation on the site.

23 Here is a model of what's proposed for
24 that site, two groups of five and group of two as you
25 turn to the intersection on 56th Place.

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1 The homes on East Capitol Street will have
2 brick facades and the two homes on the 56th Place will
3 have siding, in keeping with all the brick fronts, we
4 have on East Capitol Street -- all along East.

5 If there are any questions, I would be
6 happy to answer them.

7 CHAIRPERSON MITTEN: Anything else?

8 MS. GIORDANO: Our presentation.

9 CHAIRPERSON MITTEN: Okay. Questions from
10 the Commission?

11 Mr. Jeffries.

12 COMMISSIONER JEFFRIES: Okay. And this is
13 for the architect.

14 The drawing that is the blow up of the
15 actual area, I think, the second from the right there.
16 Move to your right. Yes.

17 Show me where all of that is in the larger
18 site plan.

19 MR. THOMPSON: In the larger site plan it
20 is right here.

21 COMMISSIONER JEFFRIES: Right there.
22 Okay.

23 And that's where the day care center was
24 going to be?

25 MR. THOMPSON: Correct.

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1 COMMISSIONER JEFFRIES: Okay. And so now
2 and I guess I'm moving to another person, when a day
3 care operator is identified, they're going to be
4 located where the commercial retail is?

5 MR. THOMPSON: Yes.

6 COMMISSIONER JEFFRIES: How is that going
7 to work?

8 MR. THOMPSON: Well, right now this is a
9 -- currently this area is proposed. What we will do
10 once we find a day care provider and understand their
11 needs, it will be fitted out in that commercial area.

12 COMMISSIONER JEFFRIES: Now, is this the
13 site where Shoppers Food, they were being considered
14 at one point?

15 MR. THOMPSON: Yes. They were one of
16 them.

17 COMMISSIONER JEFFRIES: Okay. Okay.

18 And so there is an out lot that -- can you
19 get that pointer back over there?

20 MR. THOMPSON: yes.

21 COMMISSIONER JEFFRIES: So, that would be
22 the footprint of the grocery store. Right?

23 MR. THOMPSON: Correct.

24 COMMISSIONER JEFFRIES: And then across to
25 the right of that would be the smaller in-line

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1 retailers.

2 MR. THOMPSON: The way the plan is set out
3 currently, the retail will be located on the first
4 level and then there will be housing above that the
5 way the proposed plan looks. I'm sorry.

6 COMMISSIONER JEFFRIES: Oh, okay.

7 MR. THOMPSON: I looked at you and --

8 COMMISSIONER JEFFRIES: Okay. So, the
9 retail would be at the --

10 MR. THOMPSON: On the first level.

11 COMMISSIONER JEFFRIES: On the first
12 level.

13 MR. THOMPSON: Yes.

14 COMMISSIONER JEFFRIES: And then on the
15 second level, would be --

16 MR. THOMPSON: Proposed on the second
17 level would be anything above the first level would be
18 housing.

19 COMMISSIONER JEFFRIES: And then the day
20 care center would be where?

21 MR. THOMPSON: Again, once we locate one
22 and understand their needs, we would have to fit it
23 out accordingly. It could be located in two area. It
24 could probably be located in that single strip if we
25 have to reorganize it. Or it could be located over

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1 here in this corner.

2 COMMISSIONER JEFFRIES: What's in that
3 corner.

4 MR. THOMPSON: Currently, the way it's
5 proposed, it has -- these are two towers. These are
6 two condo towers on the corner.

7 The way we envision it is actually to
8 create a gateway coming into the community because we
9 have towers across the street. So, we would have
10 towers on either side to create a gateway feel.

11 COMMISSIONER JEFFRIES: So, once you have
12 identified a day care provider and then a space where
13 it would be located, you're going to come back here
14 again?

15 MR. THOMPSON: Yes. Yes. Yes.

16 COMMISSIONER JEFFRIES: Okay. Well, thank
17 you.

18 CHAIRPERSON MITTEN: We haven't seen --

19 MS. GIORDANO: You haven't seen the
20 commercial --

21 CHAIRPERSON MITTEN: -- the plan for the
22 commercial part yet.

23 MR. THOMPSON: It's all proposed.

24 MS. GIORDANO: It's in the PUD boundaries,
25 but we haven't presented the plan yet.

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1 CHAIRPERSON MITTEN: And I don't know how
2 we're going to feel about having that one retail
3 building that's the narrow side is oriented to East
4 Capitol Street and the long side is not. But we'll
5 face that when we get there.

6 COMMISSIONER JEFFRIES: Okay. I'm glad
7 because I'm just sort of looking at that trying to
8 figure out how it's all working. But, okay.

9 CHAIRPERSON MITTEN: We haven't proved
10 that.

11 MR. JOYCE: Okay.

12 CHAIRPERSON MITTEN: Just to follow on
13 what Commissioner Jeffries was asking about and
14 thinking about the fact that a day care to me seems
15 more appropriate in a residential setting and maybe
16 not so densely developed.

17 Can you tell us what has been the
18 challenge with attracting a day care provider and how
19 will that challenge be lessened on the commercial
20 portion of the site?

21 MR. SMYSER: Part of the challenge is --
22 well, to give you a little history.

23 There was a day care provider there when
24 Capitol View Plaza was occupied in the retail strip of
25 that building. And we had to relocate that day care

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1 provider to another site because of the relocation of
2 everyone and the demolition of the building.

3 Since then we've been out looking for a
4 day care provider and just have not been able to
5 attract anybody. One, because since the families have
6 been relocated, there's a less number of children in
7 the area. So, they're not sure about, you know, how
8 many children they could support. And then a lot of
9 the day care providers that we have talked to have
10 been from Maryland and then they don't want to have to
11 have their parents come into the District to drop off
12 their children.

13 So, we have been working with former
14 residents about maybe starting a day care center and
15 getting the training through the Community and
16 Supportive Services to start a day care center. We've
17 talked with D.C. Parks and Rec about starting a day
18 care center in the area. And lately we've had some
19 interest, but have not gotten into what their needs
20 will be at this point.

21 We had discussed moving the day care
22 center into the rental tower and I will have to pass
23 on to the developer on why they decided to move to the
24 commercial site.

25 MR. MITCHELL: The rental tower didn't

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1 seem to have the appropriate space to locate a day
2 care center in there. And we believe that we had more
3 opportunity on the commercial site since it's so early
4 on in the game as far as developing that design to
5 locate them there.

6 MR. JOYCE: The rental tower is going to
7 be a rehab project.

8 CHAIRPERSON MITTEN: I think I remember
9 that because that was another change that we had made
10 at some point.

11 I guess I'm just wondering, given that
12 there are challenges to attracting a day care
13 provider, if it's going to become even more
14 challenging if you give up this location and try to do
15 it in the middle of commercial development. And I
16 understand it's not going to be exclusively commercial
17 development, but I guess, you know, we can cross that
18 bridge.

19 One of the things I looked for in the
20 order was to see if the day care center was proffered
21 as an amenity and it wasn't or we didn't pick it up in
22 the order that way. So, it's not like, you know, it's
23 really for the health of the development overall that
24 you have it. It's not that it was a proffered amenity
25 to us.

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1 So, I was just curious about that.

2 MS. GIORDANO: I think probably, correct
3 me if I'm wrong, the challenge is the fact that this
4 is just kind of an unoccupied project right now and as
5 it fills out, the whole thing is going to become much
6 more attractive, I think, to a day care provider.
7 It's going to be, you know, a fabulous development
8 with lots of families and lots of kids.

9 CHAIRPERSON MITTEN: There is a
10 recommendation in the Office of Planning Report that
11 we approved the modification on the condition that
12 public access is granted to the controlled green
13 space. Is that going to be an issue for you all or do
14 you accept that condition -- that recommended
15 condition? Have you seen that?

16 MR. MITCHELL: What we wanted to do with
17 that open space was turn that over to the homeowner's
18 association and have that specifically for the
19 community members to occupy.

20 MS. GIORDANO: You are talking about that
21 green space that's left over. Right?

22 MR. MITCHELL: The green space right in
23 the back.

24 CHAIRPERSON MITTEN: I believe so. I
25 believe that's what OP was talking about.

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1 MR. MITCHELL: Again, the only thing that
2 we're concerned is that the area would be controlled
3 somehow by the homeowner's association. But public
4 access should be fine. We just want to make sure that
5 area is controlled by the homeowner's association.

6 CHAIRPERSON MITTEN: Okay. Is it going to
7 be fenced?

8 MR. MITCHELL: Since we're turning it over
9 to them for them to design it, there's some things
10 that we're saying for them that we think they should
11 do. It's up to the homeowner's association to really
12 put out what needs to be done in that area.

13 CHAIRPERSON MITTEN: Well, not to get into
14 the fencing conversation that we've had on another
15 one, but if it's going to be fenced, you need to say
16 that to us now or later. But it won't be fenced
17 unless fencing is indicated. Stop laughing.

18 You can think about that one a little bit
19 more.

20 MR. THOMPSON: Yes. Thank you.

21 CHAIRPERSON MITTEN: Okay. Anyone else
22 have questions?

23 Mr. Turnbull.

24 COMMISSIONER TURNBULL: I think just going
25 back to the day care. It sounds it kind of like a

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1 chicken and an egg situation where like you say, if
2 you build it, they will come. And so if you've got it
3 and you've got a space, however, you may outgrow the
4 space that you dedicate for it. So, I mean, you're
5 going to need a play area too outside it. So, I'm not
6 sure how that lends itself into either situation.

7 And I don't know if there's a minimum
8 target that you're going for or how you start off.
9 Again, how do you balance or what do you go for? A
10 certain number of kids as something to get your foot
11 in the door and then leave it for expansion?

12 MS. GIORDANO: I don't think any of us are
13 qualified probably to answer that question.

14 COMMISSIONER TURNBULL: Yes. You got a
15 big task ahead of you.

16 MS. GIORDANO: Right now there doesn't
17 seem to be a need because the day care center that was
18 there previously has moved nearby.

19 MS. SMYSER: Yes. It's moved. It's now
20 located in our Willow Creek community.

21 VICE CHAIRMAN HOOD: I'm back on the
22 community center.

23 I'm sure it will be a need. I just
24 thought it all fit together with the whole project, at
25 least from what we approved previously. But let me

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1 ask.

2 What else is supposed to be in that
3 building Was it the community meetings?

4 MS. SMYSER: It was the East Capitol View
5 Community Development Corporation.

6 VICE CHAIRMAN HOOD: Okay.

7 MS. SMYSER: Was going to locate their
8 offices there and then have like a multi-purpose room
9 for meetings --

10 VICE CHAIRMAN HOOD: For ANC to meet and
11 everything. How is that going to be dealt with now
12 that that's not going to happen?

13 MS. SMYSER: Well, we'll have space for
14 them to operate their organization and their programs
15 in the rental tower. As far as other organizations
16 that will be up to the Housing Authority and the
17 developer and the East Capitol View CDC. You know,
18 they're able to use the space.

19 VICE CHAIRMAN HOOD: Because I think it
20 was mentioned previously that the ANC and those civic
21 associations, community, were to have space to have
22 meetings in that community building. I think that was
23 previously --

24 MS. SMYSER: I don't remember the ANC.
25 There may be other organizations. We were also -- and

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1 East Capitol Center for Change was also going to
2 occupy space in the building.

3 VICE CHAIRMAN HOOD: Yes. I just believe
4 that to be true. And just would hope even though it
5 may not show in the order, I'm not sure. But I would
6 hope that if that was proffered or mentioned to the
7 neighborhood up front, that that space would be
8 provided for them. If it wasn't, don't worry about
9 it. But I just want to put on the record, if that's
10 how it was sold to the community, then it needs to be
11 held to that point and be done.

12 The other thing -- okay. I just see that
13 -- making sure that we do that because sometime people
14 use those selling points and then all of a sudden the
15 community building disappears and we're putting 12
16 houses and we want to make sure that we still, our
17 good faith word of what we promised that neighborhood,
18 if you did. If you didn't, then you can disregard my
19 remarks.

20 Also, I want to say to Ms. Henson in her
21 absence. I appreciate her putting this together.
22 This really shows a detailed exactly what's going on
23 so that stalled me from asking about the progress of
24 your DOES and LSDBE. So, tell us you cut down on some
25 of my air time. But I thank her for it.

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1 I had another question.

2 That's it. Thank you.

3 CHAIRPERSON MITTEN: Thank you.

4 VICE CHAIRMAN HOOD: Let me just say this,
5 Madam Chair. I know we're going to Office of
6 Planning. I do have a concern about that open area
7 being open access. But I will mention that with the
8 Office of Planning.

9 CHAIRPERSON MITTEN: All right.

10 VICE CHAIRMAN HOOD: Thank you.

11 CHAIRPERSON MITTEN: Okay. Thank you all
12 very much.

13 Ms. Thomas.

14 MS. THOMAS: Yes. Good evening, Madam
15 Chair, Members of the Commission.

16 The Applicant is before us, D.C. Housing
17 Authority in partnership with E&R and TH requesting
18 the modification of a previously approved PUD for
19 Capitol Gateway Estates and its request listed in our
20 report.

21 And to be brief, OP determined that the
22 proposal met with the intent of the Zoning regulations
23 and the second stage PUD and therefore recommended
24 approval of the additional 12 town homes to replace
25 the community center identified in previously approved

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1 plans for Square 28 -- 5280, I'm sorry.

2 The proposal required flexibility from the
3 lot occupancy limits for six residence and minimum for
4 three residences. And we have no objection to grant
5 this flexibility since area is in question and the
6 variations are minimal.

7 In addition, the town homes would not
8 affect the overall aggregate density of the project,
9 which was conditioned in a previously approved order
10 to not exceed 1.0 FAR.

11 The underlying PUD has been approved as
12 generally consistent with Zoning regulations and not
13 inconsistent with the Comprehensive Plan objectives
14 and we believe that a modification to add a
15 residential structures which are identical to those
16 previously approved would maintain these objectives.

17 The public benefits and amenities of the
18 project have been satisfied as evidenced in the
19 previous approval of the larger residential portion of
20 the development. And the Applicant has considered the
21 importance of these services to the community that
22 would be offered and include any childcare facility.

23 OP understands that the Applicant intends
24 to relocate these services from which the surrounding
25 neighborhoods are likely to benefit.

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1 We believe that no adverse effects on the
2 surrounding neighborhoods or public facilities are
3 anticipated as a result of the additional units and we
4 would stand on our report as submitted.

5 Thank you.

6 CHAIRPERSON MITTEN: Thank you.

7 Would you like to comment on what you
8 heard in terms of the Applicant's desire to have the
9 green space that you all would like to have public
10 access? They would like to have that controlled by
11 the homeowner's association?

12 MS. THOMAS: I think that the homeowner's
13 association, it could be written in some way where the
14 homeowner's association's agreement should state
15 clearly that there should be access to the public. I
16 don't see it as sort of exclusive if the homeowner's
17 association decide what it is.

18 But if it's to be left as some sort of a
19 play area of even, you know, passive recreation like
20 seating and trees. But whatever it is, it turns out
21 to be -- I think the homeowner's association agreement
22 should have some reference to be accessed by other
23 community members.

24 CHAIRPERSON MITTEN: and what would you
25 think about the area being fenced?

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1 MS. THOMAS: It depends on the fence.

2 CHAIRPERSON MITTEN: Okay. That's a good
3 answer.

4 MS. THOMAS: Yes. It depends on the
5 fence.

6 We certainly wouldn't want chain link or
7 even black chain link, you know. And we would like to
8 screened -- well, I shouldn't say screened. But
9 landscaped as well, even though there is fence, you
10 know, proper landscaping could mitigate just having
11 the area look like if it's all fenced.

12 CHAIRPERSON MITTEN: Okay. Any other
13 questions?

14 Mr. Jeffries.

15 COMMISSIONER JEFFRIES: So, from the
16 Office of Planning's standpoint, you know, you like as
17 much public green space as possible, that apparently
18 there's not enough around here for the community to
19 access? I mean, I guess I don't really understand it
20 needs to have public access.

21 MS. THOMAS: Well, we didn't want it to be
22 separated from like -- this is a new development and
23 that one on the left was an old development, you know.
24 Those guys -- the people to the left, I mean, probably
25 walking their kids or something could probably go sit

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1 there in the afternoon time or shouldn't feel, you
2 know, that they couldn't go into this new development.

3 COMMISSIONER JEFFRIES: Yes. I just, you
4 know, we've had this discussion and, you know, this
5 whole notion of public space and, you know, and I'm
6 always at this place of, you know, how is it
7 maintained? Who looks after it? And then people who
8 live there think it's their yards, their area and, you
9 know, it's sort of an between kind of thing. So, I'm
10 always sort of wondering how we sort of, you know,
11 have the proper balance there between someone who has
12 purchased here feeling that it's sort of their area.
13 And then the public just sort of wondering in and out
14 and not having any sense of control.

15 MR. LAWSON: Well, sorry. Joel Lawson of
16 the Office of Planning.

17 I think it isn't so much a question of
18 control. One of the questions, I think, is if it's
19 not publicly accessible then what is it? And I think
20 this gets to Karen's earlier comment that, you know,
21 the concern that because it also serves for storm
22 water management, if it's not publicly accessible, if
23 the residents don't feel like they have ownership and
24 control of the space, does that mean that it does
25 become surrounded by an eight-foot tall chain link

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1 fence to make sure that nobody goes in there. And I
2 think that's what we wanted to avoid the most. I
3 mean, there's lots of, I think, opportunities of ways
4 to animate the space, maybe becomes a community
5 garden, maybe it becomes, you know, a tot lot. Maybe
6 it becomes a place just where you go so you can walk
7 your dog.

8 You know, I don't think that we have, I
9 guess, designs on this space for how it would be used
10 other than that it shouldn't be roped off, I guess,
11 from the neighborhood and make that portion of the
12 development feel like it's separated from the rest of
13 the development.

14 COMMISSIONER JEFFRIES: Yes. I guess, you
15 know, without and I certainly don't feel that the
16 Commission or the District should say that, you know,
17 this should be roped out. But there could be a way in
18 which to make it somewhat defensive space that, you
19 know, there's public access. The public could feel
20 that it could walk there but that the residents feel
21 as if they have some level of control. And that's
22 what I'm saying. So, I'm not necessarily saying a
23 fence, but it could be shrubbery. It could be in
24 terms of how the grounds are treated that could
25 somehow provide sort of lines of demarcation that are

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1 a little more defensive. That's all, because this is
2 floating in and out and the way I see it, if I were
3 living there, I'd just feel this is sort of mine.

4 And I'm just dealing with generally how
5 people operate.

6 MR. LAWSON: And Office of Planning
7 doesn't disagree with that at all because certainly
8 when the surrounding area homeowners have a sense of
9 -- I can't think of a better word than ownership, but
10 a sense of belonging that's based, you know,
11 belonging to their neighborhood. They're going to
12 take better care of it. They're going to feel, you
13 know, control of it and it will just be a better space
14 to be for the neighborhood.

15 We just wanted to make sure that people
16 had access to that green space. And, you know, like
17 Karen was saying, if that includes the provision of
18 some kind of fencing just to make the space feel like
19 a space more than to keep people out of the space, we
20 wouldn't have a problem with that.

21 CHAIRPERSON MITTEN: Anyone else?

22 M r . T u r n b u l l .

23

24 COMMISSIONER TURNBULL: Just following up.

25 One of the other comments in the OP Report

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1 talks about its hours of operation and I know we ran
2 into this recently when we had a mid-rise with a park
3 in the middle and that was easier to control where
4 they could say maybe at 7:00 p.m. it becomes residents
5 only. But here out in a park, I don't know how you
6 control a park's hours of operation. Is it 7:00 to
7 7:00? I don't know. I don't know how you can control
8 hours of operation on a park.

9 CHAIRPERSON MITTEN: Well, I guess it
10 would require some kind of fence or something.

11 COMMISSIONER TURNBULL: Well, then you get
12 back to the fence.

13 CHAIRPERSON MITTEN: Yes. You get back to
14 that.

15 Mr. Hood.

16 VICE CHAIRMAN HOOD: Yes. I'm trying to
17 understand this public access. I may be missing the
18 point.

19 Let me just give you a hypothetical
20 scenario.

21 If I come over there and want to use the
22 green space, can I come from way across town and just
23 put a quilt and go out there and use the green space?
24 How is that supposed to work? Just for the folks in
25 that area or what when you say public access?

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1 MS. THOMAS: Well, it's more neighborhood
2 focused. It's not a -- it's not big enough, I
3 believe, to be a magnet for a wider area more than the
4 neighborhood. But this access, controlling the access
5 was brought up by the Applicant where they said that
6 the homeowner's agreement would do sort of -- you
7 know, they suggested that they would possibly provide
8 some time limits on when that would be open or not.

9 VICE CHAIRMAN HOOD: I agree with all
10 that. But I'm just talking about this public access.
11 And I think it was mentioned earlier about leaving it
12 up to the homeowners. That I would be more in favor
13 or doing because we can't sit up here and debate.
14 Because I can tell you, people will buy stuff in this
15 city.

16 What we would probably create is more work
17 for the police department. That's what I think we
18 would be creating if we just -- because when you say
19 public access, to me it invites me to come over there
20 also. Not that I would come over the cause a problem.

21 So, they don't want to see me either. But
22 I just think that t's better left up to the
23 homeowner's association. That's where I would like to
24 see us move.

25 MS. GIORDANO: Can I make a response?

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1 CHAIRPERSON MITTEN: Sure.

2 MS. GIORDANO: That's really what we're
3 proposing is that this be left open for a further
4 review. We can come back with a minor modification.

5 CHAIRPERSON MITTEN: Right.

6 MS. GIORDANO: We're not proposing a fence
7 right now.

8 CHAIRPERSON MITTEN: Sure.

9 MS. GIORDANO: If we want a fence, we
10 understand that we have to come back and hopefully it
11 would be a minor modification.

12 CHAIRPERSON MITTEN: That sounds like a
13 good plan.

14 VICE CHAIRMAN HOOD: Thank you.

15 CHAIRPERSON MITTEN: Okay. Anything else
16 for the Office of Planning? Okay.

17 Then I don't think we have any other
18 Government agency reports.

19 Is there anyone here representing ANC-7C
20 or 7E? Okay.

21 Anyone who would like to testify in
22 support?

23 Anyone who would like to testify in
24 opposition?

25 Okay. Ms. Giordano. I think we wrestled

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1 the public thing to the ground.

2 MS. GIORDANO: Yes. I just want to say I
3 think that was really the only outstanding issues that
4 we needed to follow up on in terms of rebuttal or a
5 closing argument.

6 The intension here is to accommodate all
7 the services that were provided in the community
8 center to provide them elsewhere on the site. And the
9 community center was not really proffered as an
10 amenity to the project. The 12 townhouses, we haven't
11 gone into a lot of discussion about them because
12 they're very similar toot the townhouses that we're
13 already proposed. In fact, I think these are the
14 sample boards from the previous housing proposal.

15 So, that concludes our presentation and we
16 understand that we need to come back with additional
17 information on the park, if there's any change in
18 terms of additional structures. The intent was that
19 it would be passive recreation space, not involve play
20 structures and that kind of thing. But we'd leave
21 that up to the homeowner's association.

22 CHAIRPERSON MITTEN: Thank you.

23 I just want to look in here for a second.

24 Do we have a landscaping plan in the
25 record that goes with the townhouse design?

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1 MS. GIORDANO: We had a landscaping plan
2 where we had a typical plan for the townhouses and
3 that would apply here as well. We don't have a new
4 plan. Edge --

5 CHAIRPERSON MITTEN: Edge-Combe.

6 MS. GIORDANO: Edge-Combe had sort of a
7 plan that showed what each townhouse would be provided
8 with in terms of landscaping and that would apply here
9 as well.

10 CHAIRPERSON MITTEN: I guess I'm just
11 looking for something like the third board over. Do
12 we have or can we get that in the record?

13 MS. GIORDANO: Yes. We can.

14 CHAIRPERSON MITTEN: Okay. Can we get it
15 right now? Do you have a spare copy? I'm just trying
16 to get you a bench decision if you can give me
17 something in the record. Okay.

18 We'll take it and then we'll get a reduced
19 copy, just so that we know what we're talking about.
20 Okay.

21 Well, then I would like to move approval
22 of Case No. 03-03B, provided that any changes that are
23 made to the site plan that is dated July 17th, 2006,
24 which will be entered into the record, would come back
25 to the Commission either in terms of changes to

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1 landscaping, introduction of fencing, control on the
2 accessibility of the area.

3 VICE CHAIRMAN HOOD: Second.

4 CHAIRPERSON MITTEN: Any discussion?

5 COMMISSIONER JEFFRIES: Just a quick
6 question.

7 Do we have a sense if the council could
8 tell us when the commercial retail portion of this
9 will be coming through?

10 MS. GIORDANO: I think it would probably
11 not be a wise thing for us to guess at that. I mean,
12 we've tried before but really until there's a tenant,
13 it's impossible to predict. But I think that as the
14 Housing Authority represented, have indicated, they're
15 making a huge effort to market this site. And the
16 interest just gets stronger, I think, as time goes on.

17 COMMISSIONER JEFFRIES: Target's not
18 interested either? Okay.

19 CHAIRPERSON MITTEN: Okay. Any
20 discussion?

21 All those in favor, please say aye.

22 (AYES)

23 CHAIRPERSON MITTEN: Mrs. Schellin, I
24 believe we have none opposed.

25 ACTING SECRETARY SCHELLIN: The staff

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1 would record the vote four to zero to one to approve
2 proposed action on Zoning Commission Case No. 03-33B,
3 as stated. Commissioner Mitten moving, Commissioner
4 Hood seconding, Commissions Turnbull and Jeffries in
5 favor. Commissioner Parsons not present, not voting.

6 CHAIRPERSON MITTEN: Thank you.

7 So, we'll get that site plan in the record
8 and then I guess we'll take final action in September.

9 So, thank you all very much and we're
10 adjourned.

11 (Therefore, the above matter was concluded
12 at 7:20 p.m.)

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