Government of the District of Columbia
ZONING COMMISSION

ZONING COMMISSION ORDER NO. 02-04
Case No. 02-04
(Consolidated PUD and Related Zoning Map Amendment – New East Capitol Senior Building)
September 9, 2002

Pursuant to notice, the Zoning Commission for the District of Columbia held a public hearing on April 25, 2002, to consider an application from the District of Columbia Housing Authority and A & R/THC LLC for consolidated review and approval of a planned unit development 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.

Preliminary Matters

The Application, Parties, and Hearing

On January 30, 2002, the District of Columbia Housing Authority ("DCHA"), together with A & R/THC LLC, a joint venture between A & R Development Corp. and the Henson Development Company (collectively, the "Applicants"), filed an application for consolidated review and one-step approval of a planned unit development ("PUD") and related Zoning Map amendment for the property consisting of Lot 57 and Lots 60 through 63 in Square 5273. The PUD, a senior building development, is connected with the proposed redevelopment of the surrounding area with other housing and a commercial center. The remainder of the development, which is known as "New East Capitol," is being considered in a separate two-step PUD application, as Zoning Commission Case No. 02-05.

On February 11, 2002, the Zoning Commission decided to set down the application for a hearing. Notice of the public hearing, including descriptions of the subject property and of the proposed development, was published in the *D.C. Register* on March 1, 2002, 49 D.C.Reg. 1855, and was mailed to all property owners within 200 feet of the subject property as well as to Advisory Neighborhood Commission ("ANC") 7C.

Parties in this proceeding were the Applicants and ANC 7C. The Zoning Commission opened and completed the public hearing on April 25, 2002. At the public hearing, the Commission heard testimony and received evidence from the Applicants and from the Office of Planning.

The Commission took proposed action to approve the application on July 8, 2002, by a vote of 5-0-0. The Commission took final action to approve the application on September 9, 2002, by a vote of 5-0-0.

Office of Planning Report

By report dated April 15, 2002, and by testimony at the public hearing, the Office of Planning ("OP") recommended approval of the application. OP stated that the proposed PUD meets the standards of the PUD regulations in 11 DCMR 24, is consistent with the intent and purpose of the Zoning Regulations and Map, is not inconsistent with the Comprehensive Plan, and provides significant public benefits. OP also recommended approval of the proposed zoning map amendment from unzoned to R-5-A.

According to OP, the architecture of the PUD building is compatible with that of the surrounding area and with the overall New East Capitol project, and the residential density is in keeping with that of the surrounding neighborhood. OP concluded that the proposed project's impact on the surrounding area and on public facilities and services are acceptable and commensurate with the public benefits of the PUD.

Reports of Other Agencies

The Metropolitan Police Department ("MPD"), by memorandum filed March 27, 2002, strongly recommended that the proposed PUD be approved. MPD determined that the PUD would enhance the quality of life in the vicinity of the PUD Site and would require low demand for police presence.

The Urban Forestry Administration of the District Division of Transportation ("UFA"), by memorandum filed April 5, 2002, recommended preservation of several oaks and Austrian pines in good condition, reforestation of the proposed bio-retention pond on the site, and substitution of certain plant species for those proposed in the landscape plan submitted by the Applicants.

ANC Report

The Applicants report meeting several times with ANC 7C, in which the subject property is located, as well as with the adjacent ANC 7E. ANC 7C submitted a letter to the Commission on April 11, 2002, indicating the ANC's support for the application. However, the ANC did not submit a written report or testify at the public hearing.

Findings of Fact

1. The proposed PUD, known as the "New East Capitol Senior Building," is located at 58th and Blaine Streets, N.E., in the Capitol View neighborhood in the eastern

corner of the District of Columbia (Square 5273, Lots 57 and 60-63). The subject property (the "PUD Site") is bounded by Watts Branch Park to the north and east, Blaine Street to the south, and 58th Street, N.E. to the west. The proposed PUD is located in Ward 7, within the boundaries of ANC 7C.

2. The PUD Site is one component of a project known as "New East Capitol," which will redevelop approximately 40 acres with a variety of residential buildings, a community building, and commercial area. The area has been largely vacant, except for public streets, since the multi-family public housing buildings formerly on the site were demolished in 2000.

3. The land area of the PUD Site is approximately 153,748 square feet or 3.85 acres.

4. The subject property is currently unzoned, and the Applicants seek to have the site zoned R-5-A. The R-5-A district permits matter-of-right development of single-family detached and semi-detached dwellings and, with the approval of the Board of Zoning Adjustment ("BZA"), low-density development of general residential uses including row houses, flats, and apartments to a maximum lot occupancy of 40%; a maximum floor area ratio ("FAR") of 0.9; and a maximum height of three (3) stories or forty (40) feet; with a rear yard depth of at least twenty (20) feet and side yards with minimum depth of three (3) inches per height of building, but not less than eight (8) feet. The PUD standards for the R-5-A district establish a maximum FAR of 1.0 and a maximum height of 60 feet.

5. The PUD Site is located in an area designated for Moderate-Density Residential Development on the Generalized Land Use Map.

6. The proposed PUD is an apartment building designed to contain between 150 and 156 units, with a gross floor area of approximately 135,900 square feet, an FAR of 0.88, and lot occupancy of twenty-one percent (21%). The building will be approximately forty (40) feet tall when measured from the first floor entry to the mid-point of the roof. Because of the steep grade of the site, the building varies between three (3) and four (4) stories in height. Planned side yards vary from 15 to 105 feet, and rear yards vary from 30 to 92 feet. The proposed PUD complies with the development standards applicable to a planned unit development in the R-5-A zone.

7. The apartments will have approximately 565 square feet of finished space, containing one (1) bedroom, a living/dining area, and a bathroom. The exterior building materials of the PUD will be a combination of brick and EIFS or Hardi-Panel.

8. The senior building is planned as an independent-living senior building, with a care management program to provide medical and social services to the senior residents. In connection with the care management program, the senior building will contain a case manager's office and medical examination room for health

care professionals to use when examining and consulting with residents on-site. The proposed PUD will also offer amenities such as a fitness room, game room, library, and meeting rooms for such activities as religious observances, diet and health instruction, and social and recreational activities.

9. Upon project completion of the proposed PUD, the current senior residents of Capitol View Plaza I, an apartment building serving as public housing for the elderly and managed by DCHA, will be relocated to the new senior building.

10. The PUD site plan preserves ample open spaces and numerous existing, mature trees. Outdoor amenities, including a large front porch, a terrace, a garden, and pedestrian paths through a large landscaped site, will add scenic and recreational value to the living environment. The landscaping plan provides for additional plantings as well as for street trees to provide an attractive streetscape. A six-foot fence to the north and east of the site will protect residents from potential danger from the steep slopes leading to Watts Branch Park.

11. The proposed PUD will be financed primarily with debt through the issuance of tax-exempt bonds. In addition, tax credit equity and funding from DCHA and other District of Columbia and federal agencies will be used. The total development cost for the senior building is $18 million.

12. The proposed PUD includes thirty (30) parking spaces, more than the twenty-six (26) spaces required under the Zoning Regulations to meet the 1:6 spaces-to-dwelling units ratio required for affordable housing for the elderly. Off-street parking will be provided both beneath the building and in front of the building in the drop-off area.

13. The Commission credits the traffic impact analysis prepared for the Applicants by O.R. George & Associates, Inc., which concluded that key intersections near the PUD Site currently operate at acceptable levels of service during morning and evening peak periods and will continue to do so after completion and occupancy of the senior building. The analysis indicated that average daily traffic volumes for nearby streets have remained generally stable for many years and can readily accommodate traffic generation from the PUD, and that the number of parking spaces included in the proposed PUD is adequate. The Applicants plan to relocate Blaine Street when construction of the remainder of the New East Capitol project is underway, so as to integrate the street plans for the senior building within the larger New East Capitol development.

14. The Applicants are negotiating a land exchange with the National Park Service that would regularize the site boundaries from their present stair-step configuration and would further protect Watts Branch Park.

15. The proposed PUD provides the following public benefits and project amenities:

    (a) Housing and affordable housing that will help to meet the overall goals of DCHA, the U.S. Department of Housing and Urban Development, and the Housing Opportunity Area policies of the Comprehensive Plan.

    (b) Architecture, urban design, landscaping, and creation and preservation of open spaces, including preservation of open space along the borders of the site, creation of new landscaped open spaces preservation, and minimization of impacts on adjacent Watts Branch Park and stream.

    (c) Site planning and efficient and economical land utilization through new development on a vacant site that will create a new community with an attractive urban design and new landscaping.

    (d) Environmental benefits, including provision of superior water quality and storm water runoff control by means of a sand filter, correction of sanitary sewer infrastructure problems, stabilization of soils, and minimization of curb erosion on the existing site.

    (e) Efficient and safe vehicular and pedestrian access, including a comprehensive pedestrian circulation system and safe vehicular access to the building.

    (f) Uses of special value to the neighborhood and the District of Columbia as a whole, as a result of the provision of affordable housing for senior citizens.

    (g) Social services and facilities, including a care management program, nurse's office, game room, fitness room, library, multi-purpose room, and meeting rooms.

16. The proposed PUD was formulated in full partnership with the residents of Capitol View Plaza I, public housing for senior citizens located on a neighboring site, who will be relocated to the senior building. The Applicants also met with ANC 7C in planning the proposed PUD and convened quarterly meetings of a Steering Committee to provide updates and solicit input on the development plans. The East Capitol View Community Development Corporation ("ECV-CDC"), a non-profit community development corporation, was formed in June 2000 to assist residents affected by the redevelopment and will continue to serve the New East Capitol community, including residents of the senior building, upon project completion.

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 exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, or 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 or with other adopted public policies and programs related to the site. The PUD Site is located within a Housing Opportunity Area designated by the Land Use Element as an area characterized by having large amounts of vacant or poorly used land, where that new development can be used to improve neighborhood quality and stability. The proposed PUD is not inconsistent with the Moderate-Density Residential Development designation on the Generalized Land Use Map. The proposed PUD is also not inconsistent with several of the Major Themes of the Comprehensive Plan, especially those relating to stabilizing and improving the District's neighborhoods, respecting and improving the physical character of the District, preserving and promoting cultural and natural amenities, and preserving and ensuring community input. The Housing and Ward 7 Elements emphasize the importance of housing, especially housing opportunities for low- and moderate-income, elderly persons.

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

7. The impact of the proposed PUD on the surrounding area and upon the operation of city services and facilities is favorable and acceptable given the quality of public benefits in the project.

8. The proposed PUD can be approved with conditions that ensure that the development will enhance the neighborhood and ensure neighborhood stability.

9. 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 ANC. The Commission notes that the affected ANC did not submit written recommendations in this proceeding, or testify at the public hearing.

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

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 PUD and related Zoning Map amendment for Lots 57 and 60-63 in Square 5273. 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 firms of Sorg and Associates Architects, PC and Grimm & Parker Architects; the site and civil plans by the engineering firm of Ben Dyer Associates, Inc.; and the landscape plans by The Edgecombe Group Landscape Architects, marked as Exhibits 1A, 17, and 44A, as modified by the guidelines, conditions, and standards of this order.

2. The subject property shall be zoned R-5-A only for purposes of this PUD.

3. The development approved in this PUD shall be a new, four-story apartment building containing 150-156 apartments for senior citizens. Rents will be in the affordable range, and the building will be known as the Senior Building in the New East Capitol community.

4. The total FAR of the development shall not exceed 0.90 and the maximum lot occupancy of the development as a whole shall not exceed twenty percent (20%).

5. The height of the building shall not exceed fifty (50) feet.

6 The development shall provide off-street parking for thirty (30) vehicles, with at least twenty-six (26) parking spaces located inside the building.

7. Exterior materials shall include brick, and Hardi-Panel or EIFS, and an asphalt shingle roof.

8. The building shall contain meeting space for such activities as religious observances, diet and health instruction, and social and recreational activities.

There shall also be a medical examination room and case management room. In addition, the building shall contain a fitness room, game room, and a library.

9. The Applicants shall have the flexibility to:

   (a) Vary the location and design of all interior components of the building, provided that such changes do not change the exterior configuration of the building;

   (b) Vary the number of apartments in the range of 150 to 156 units;

   (c) Adjust the site boundaries to accommodate contemplated land exchanges with the National Park Service so as to augment the treed buffer area and streamline the property boundary;

   (d) Adjust the site boundaries when Blaine Street is relocated to delete new duplex lots that will be carved out of a portion of the PUD site;

   (e) Relocate the fire lane to the northeast by no more than forty (40) feet; and

   (f) To make minor adjustments:

      (1) in the façade detailing and fenestration (location of windows); and

      (2) in the location and appearance of signage, provided that such signage shall be generally consistent with the approved plans.

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

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

12. Pursuant to 11 DCMR §§ 2409.3 and 3028.9, no building permit shall be issued for this PUD, and the related Zoning Map amendment shall not take effect, until

the Applicants have 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 Corporation Counsel and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs ("DCRA"). This covenant shall bind the Applicants and all successors in title to construct on and use the subject property in accordance with this order or any amendment thereof.

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

14. The PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this order. Within such time, application shall be filed for a building permit as specified in 11 DCMR §§ 2408.8 and 2409.1. Construction shall start within three (3) years of the effective date of this order.

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

Vote of the Zoning Commission taken at its public meeting of July 8, 2002, by a vote of **5-0-0** to **APPROVE** (Anthony J. Hood, Peter G. May, Carol J. Mitten, and James H. Hannaham to approve; John G. Parsons to approve by absentee vote). This order was **ADOPTED** by the Zoning Commission at its public meeting of September 9, 2002, by a vote of **5-0-0** (Anthony J. Hood, John G. Parsons, Carol J. Mitten, Peter G. May, and James H. Hannaham to adopt).

In accordance with the provisions of 11 DCMR 3028, this order shall become final and effective upon publication in the D.C. Register, that is, on NOV 29 2002.

CAROL J. MITTEN
Chairman
Zoning Commission

JERRILY R. KRESS, FAIA
Director
Office of Zoning