TESTIMONY OF
PAULA E. NICKENS
BEFORE THE
BOARD OF ZONING ADJUSTMENT

April 20, 2004

RE: Application Number 17148 (Request for Zoning Variance)
3034 Clinton Street, N.E. (Square 4319, Lot 72)
Applicant: Marshall Heights Community Development Corporation

Good Morning:

My name is Paula E. Nickens

- Former Chairperson of the District of Columbia Democratic State Committee.
- Resident of 3024 Clinton Street, NE, Washington, D.C.
- I am a representative property owner, who along with nine (9) other property owners on the 3000 block of Clinton Street, participated in a meeting of Advisory Neighborhood Commission, ANC 5A11 on March 9, 2004 and voted to oppose the Application for Zoning Variance requested in Application Number 17148. ANC 5A11 vote was ratified unanimously by the full ANC 5A on March 24, 2004.

BZA
Case No. 17148
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
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First, let me say I am a native Washingtonian. I have lived in the Woodridge community, on Clinton Street for more than 35 years. My family owns the property at 3024 Clinton Street, NE. Woodridge is a community that we have grown to love. For anyone who knows anything about the District of Columbia, you know that Woodridge is one of the only communities in the District of Columbia that is known for its "gallery of trees".

Woodridge is a majority single family, detached, middle-to-moderate income community. All of the houses on Clinton Street are detached and the property values averages approximately $150,000 to $200,000.

Clinton Street is a spacious, wooded community, located in a R-1-B District. It is a relatively old community and all of the Victorian style houses are constructed according to a consistent pattern. Any newly constructed houses should be required to maintain the existing pattern.

Marshall Heights Community Development Corporation has filed an application requesting a variance to the "side yard" restriction of 8 feet minimum width on each side yard. Their request is based on the fact that there is insufficient space in Lot 72 to construct a building consistent with the pattern.

We oppose this application for variance for a number of reasons.

1. Our property is located just three lots south of Lot 72 (where the variance is being requested);

2. Both, our neighbor, who owns the property adjacent to Lot 72 and I, have attempted on several occasions within the last two years to obtain information from the D.C. Department of Consumer & Regulatory Affairs regarding ownership of Lot 72. We were repeatedly told that the property owners were not known.

   a. It was not until we received the Notice of this Public Hearing on or about February 21, 2004 that we realized that the District Government had any knowledge about the ownership of the property; and was surprised to learn that the City had acquired the property, through imminent domain, or otherwise without any consideration for existing area property owners.

   b. As a property owner adjacent to Lot 72, our neighbor is interested in purchasing and upgrading the Lot, and informed the DCRA employees of his interest when inquiring about the property ownership status.

   c. I believe that area property owners, especially our neighbor, has been denied due process consideration as required by both District and Federal Housing and Affirmative Action Laws. I believe such considerations should be paramount to any non-competitive disposure of the property.

3. Upon receiving the notice of this hearing sometime after February 21, 2004, I contacted Marshall Heights Community Development Corporation and was told that they have been granted the rights to this property as part of a "bundle" awarded to them by the City Government for development pursuant to the City's *"Home Again"* Initiative.

4. This property does not appear to meet the qualification criteria established by the City for *Home Again"* consideration, i.e., "vacant and abandoned residential properties..." that "contribute to blight, crime, and neighborhood instability." Additionally, it is not located in the "focus areas" of the *"Home Again"* Initiative. Assuming that the City identified the current owners of Lot 72, no consideration was given to adjacent property owners who expressed an interest in purchasing and upgrading the property, avoiding the need for any variance and maintaining the neighborhood's existing housing pattern.

5. Marshall Heights Community Development Corporation's Application for variance **has failed to** meet the *Burden of Proof,* three-prong test requirements outlined in DCMR § 3102. Specifically, Marshall Heights Community Development Corporation has failed to:

a. Demonstrate that the property is unique or exceptional.

i. There is nothing that requires that a house or any other structure be built on the Lot.

ii. Due to the size of the Lot, it would be reasonable to think that an adjacent property owner, interested in purchasing the property, would be given adequate due process consideration for purchase of the property;

iii. Finally, assuming that Marshall Heights Community Development Corporation owns the property, there is nothing that would prevent building a setback structure on the property.

b. Demonstrate that as a result of the unique or exceptional conditions of the property, that the owners would confront "practical difficulties" or "undue hardship" if the Zoning Regulations are strictly applied.

i. Marshall Heights Community Development Corporation has failed to demonstrate that it owns the property. As of the March 9, 2004 ANC 5A meeting, Marshall Heights Community Development Corporation represented that it did not yet own the property.

ii. Variances should not be granted to an acquirer of the property through a "reduced" non-competitive transaction seeking special financial considerations. At any rate, such transactions should not take priority over adjacent property owners, the community at-large, or any normal purchaser. Marshall Heights Community Development Corporation should be required to develop the property consistent with zoning requirements and encumber all costs associated with offsetting the property.

c. Demonstrate that the granting of the variance would not be detrimental to the public good or the zone plan.

i. The majority of the residents are opposed to the variance. Existing property owners should not have to endure a zoning variance altering the space restrictions to accommodate a non-conforming use due to financial considerations.

ii. Granting the variance would significantly alter the "zone plan" for the area and would subject existing property owners to lose the one thing we treasure, space and openness and would set an unnecessary precedent.

6. Additionally, Marshall Heights Community Development Corporation has shown total disregard for the concerns of the community.

   a. Marshall Heights Community Development Corporation sent a representative to ANC 5A11 meeting on March 9, 2004. The representative was totally unprepared to answer questions raised by property owners present at the meeting; inferred that 1) they only had to satisfy requests from the BZA; 2) attempted to limit resident's questions to the narrow scope of approving the variance; and 3) failed to insure that answers to questions were supplied to residents following the meeting, as promised.

In Summary, Marshall Heights Community Development Corporation's request for zoning variance should be ***DENIED*** for all of the foregoing reasons.

Respectfully Submitted

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