BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Re: 2525 Minnesota Avenue, S.E.
Square 5553, Lot 804

BZA Application No. 17173
Public Hearing: June 22, 2004
ANC 7A

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PRE-HEARING STATEMENT OF THE APPLICANT

June 8, 2004

This Pre-Hearing Statement ("Statement") is submitted on behalf of 2525 Minnesota Avenue, LLC and its partner, the Marshall Heights Community Development Organization (collectively, "Applicant"), by its attorneys, Greenstein DeLorme & Luchs, P.C., by John Patrick Brown, Jr., Esquire and Stephanie A. Baldwin, Esquire in support of an application for a special exception and variances described below.

I. Summary of Application

The Applicant seeks a special exception pursuant to the Zoning Regulations, 11 DCMR § 3104.1, for permission to develop ten (10) townhomes with thirteen (13) off-street parking spaces within a R-5-A zoning district pursuant to Section 353. In addition, the Applicant seeks area variances pursuant to 11 DCMR §3103.2 from the maximum floor area ratio requirements under Section 402 (3 lots), from the maximum lot occupancy requirements under Section 403 (3 lots), from the minimum side yard depth requirements under Section 405 (1 lot)[1] and from the requirement that parking spaces be located on the lot in which it serves under Section 2116.1 (8 lots).

[1] By letter dated May 24, 2004, the Applicant requested to amend the original application to include this side yard variance based on input provided by the Office of Planning.

BZA
Case No. 17173
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO. 17173
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II. Property Description; Existing Zoning; Proposed Development

The property is located at 2525 Minnesota Avenue, S.E. (Square 5553, Lot 804) (the "Subject Property"). The Subject Property is a vacant lot formerly owned by the D.C. Department of Housing and Community Development ("DHCD") as part of the "Homestead" program. Redevelopment of the Subject Property was awarded to the Applicant (a joint venture between Marshall Heights Community Development Organization, a D.C.-based, non-profit and CIH Homes, L.C.) pursuant to a request for proposal process administered by DHCD. Sale of the Subject Property to the Applicant specifically made development of the site subject to DHCD guidelines for "affordable housing," including the requirement to create "for-sale" housing.

The Subject Property is bounded by on the north by Minnesota Avenue S.E., on the east by 27th Street, S.E., an alley way to the south and a residential lot to the west. The Subject Property is zoned R-5-A.

The Subject Property is the former site of a 40-unit apartment building which was left vacant for many years. The building was razed by the Applicant utilizing funds provided by DHCD shortly after the RFP award when the roof began to collapse and the parapet leaned by 15 degrees. Applicant intends to subdivide the Subject Property into ten (10) individual record lots and construct ten (10) townhomes configured in two (2) separate, five-unit buildings (the "Townhouse Development" or "Development"). Building "A" will front on Minnesota Avenue and Building "B" will front on 27th Street. Each of the ten (10) townhomes will have three bedrooms and two and a half baths on two levels with an unfinished lower level. Ingress and egress to the Subject Property will be through a common driveway from 27th Street providing access to the rear of each townhouse and a total of thirteen (13) off-street parking spaces. Each

townhouse will be provided one (1) parking space. There will be three (3) additional unassigned parking spaces on the Subject Property.

III. Satisfaction of Burden of Proof for Zoning Relief Sought

The Applicant submits that, based upon (i) its Application and the materials submitted in conjunction therewith, (ii) this Pre-hearing statement, and (iii) the evidence to be presented at the public hearing, it will satisfy and comply with the applicable legal standards and burden of proof for the special exception and variances requested.

Special Exception Relief

The Application submitted by the Applicant will satisfy the requirements of a special exception pursuant to Section 3104.1 of the Zoning Regulations which require the special exception to "be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps ... ." In addition, the Application will comply with the requirements of Section 353.

The Subject Property is zoned R-5-A, which allows low building heights and densities. The development of a new residential community in a R-5-A zone district is controlled by Section 353 of the Zoning Regulations. This Section requires that the Application be reviewed by various District of Columbia agencies and comply with the requirements of Section 3104.1 of the Zoning Regulations. The Application will comply with these requirements.

The Townhouse Development will not adversely affect neighboring or nearby property and meets the purpose and intent of the objectives of the zoning plan. The design of the Development is in harmony with the surrounding neighborhood. The scale, size, orientation and

materials of the proposed townhomes are compatible with the other residential buildings in the area, and the development of the townhomes as two separate five-unit buildings will be harmonious with the style of the surrounding neighborhood and the underlying zoning. Fifty percent (50%) of the exterior elevations will be brick and sixty percent (60%) of the units will include front porches in keeping with the surrounding neighborhood. Additionally, the Townhouse Development will provide a sufficient number of parking spaces to support its residents and their guests, and the surrounding road network will support the limited amount of additional traffic generated by the Development. Moreover, the construction of the Development will fulfill the development and homeownership goals of DHCD and bring vitality and life to the Subject Property which was previously vacant and desolate. As a part of DHCD's "Homestead" program, the development of the Subject Property meets the general objective of DHCD to provide "for-sale" "affordable housing" at the site. Finally, the Townhouse Development contributes the goals of the Housing Objectives for Ward 7 under the Comprehensive Plan to "stimulate the production of new ... housing to meet the need and to provide incentives for all types of housing at desired locations" (10 DCMR §1808.1(b)) and to "[p]rovide for the housing needs of low- and moderate-income households, ... to encourage ownership and reduce the overall cost of housing for low-and moderate-income households in the ward" (10 DCMR §1808.1(c)).

Thus, the Townhouse Development is in harmony with the surrounding community and the general purposes and intent of the Zoning Regulations and Zoning Map, consistent with the Comprehensive Plan and will not have any adverse impacts on surrounding properties nor the present or future character of the neighborhood.

Variance Relief

By this Application, variance relief is requested for selected lots from (i) the maximum floor area ratio requirements under Section 402 (3 lots), (ii) the maximum lot occupancy requirements under Section 403 (3 lots), (iii) the minimum side yard depth under Section 404 (1 lots) and (iv) the requirement that parking spaces be located on the same lot with the building it is intended to serve under Section 2116.1 (8 lots), the Application will satisfy the requirements of Section 3103.2 of the Zoning Regulations.

The development standard for the R-5-A zoning district requires a floor area ratio of 0.90, a maximum percentage of lot occupancy of forty percent (40%), and a minimum side yard depth of eight feet (8 ft.) where a side yard is required.

The overall floor area ratio and lot occupancy for the entire Subject Property as a whole are well within the requirements for a R-5-A zoning district. The total area for the site is 19,840.20 square feet, the aggregate floor area is 14, 610 square feet and the building footprints for the entire site is 6,761.98 square feet. This results in an overall floor area ratio of 0.71, which is less than the 0.90 allowed under Section 402. Additionally, the lot occupancy for the entire Subject Property is approximately thirty-four percent (34%), which is notably less than the forty percent (40%) maximum lot occupancy allowed under Section 403. Therefore, the intent of the Zoning Regulations, in regard to open space and density, are met by the Townhouse Development as a whole.

The variances requested by this Application (see the chart below) are minor and will satisfy the three variance requirements of Section 3103.2 of the Zoning Regulations.

REQUESTED VARIANCES

Lot Number	FAR Provided/Variance Requested	Lot Occupancy Provided/Variance Requested	Side Yard Provided/Variance Requested	Parking Provided on Lot/Variance Requested
1			7 feet/1 foot	0/1
2				
3				0/1
4				0/1
5				0/1
6	0.91/0.01			0/1
7	1.01/0.11	43.1% / 3.1%		0/1
8	0.97/0.07	43.1% / 3.1%		0/1
9		43.1% / 3.1%		0/1
10				

First, the Applicant must show that the property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition. The Subject Property has a unique shape, exceptional topography and conditions. First, the Subject Property has a unique shape with five sides, shaped in the form of a block "M" with a jagged western edge and sharply angled corners. The property fronts both Minnesota Avenue and 27th Street at their intersection which meets at an angle which is approximately forty-five degrees. Second, the Subject Property slopes upward from Minnesota Avenue along 27th Street. Third, the Subject Property is a vacant lot formerly owned by DHCD as a part of the "Homestead" program. The sale of the Subject Property to the Applicant was conditioned on the

development of the Subject Property subject to DHCD guidelines for the development of "for-sale" affordable housing. Finally, in order to construct affordable housing on the Subject Property, the Applicant must construct at least ten (10) townhomes in order to maximize the use of the Subject Property and make the Development economically viable. Thus, development on the Subject Property is controlled by its unique shape and exceptional topography and conditions and District imposed development restrictions.

The second prong of the area variance test is that strict application of the Zoning Regulations would result in a peculiar and exceptional practical difficulty. The Applicant submits that the Application complies with this requirement because the unique conditions of the Subject Property (discussed above) result in and cause such practical difficulty.

All of the townhome units are identical in floor plan design and size in order to preserve cost-effectiveness of the Development although exterior elevations vary somewhat to add architectural interest. Due to the irregular shape of the Subject Property, the lots for each townhouse unit are irregular in shape and vary in size. Furthermore, as a result of the irregular topography of the Subject Property, the lots for each townhome unit are at differing grades. These conditions result in the need for the following variances.

Floor Area Ratio: An R-5-A zoning district requires a floor area ratio of 0.90 (§ 402.4). Lots 6, 7 and 8 each require a minor variance from the maximum FAR as a result of the sloping topography of the Subject Property. Each of these lots are located in Building "B" along Minnesota Avenue, closest to 27th Street. Due to the steep grade change from Minnesota Avenue towards 27th Street, the lowest level of these townhomes are exposed (unlike the remainder of the townhomes in the Development), resulting in "basements" which are counted towards a FAR

calculation (the remaining townhomes have lower levels which are less exposed and as such, are considered "cellars" which are not counted towards a FAR calculation). Additionally, because the lot for each townhome unit differs in shape and size from each other lot, some lots are smaller than other lots. Thus, although all of the townhome units are identical in size, because of the irregular topography and lot sizes on Lots 6, 7 and 8, the townhomes on those Lots require minor variances from the required FAR based on their reduced size.

Lot Occupancy: The lot occupancy requirement for a R-5-A zone district is forty percent (40%) (§403.2). Lots 7, 8 and 9 require a minor variance from the maximum lot occupancy. These lots are the three center lots located in Building "B" along Minnesota Avenue. As discussed previously, the awkwardly shaped Subject Property produces lots that are irregular in shape and vary in size. Lots 7, 8 and 9 are the smallest lots on the Subject Property and are, in part, limited in size by the fact that each is bounded by another lot in the Development on three sides, unlike the other lots on the site. Because the townhouse units are identical in size and design and Lots 7, 8 and 9 are smaller than the other lots, the townhomes on these Lots require minor variances from the required lot occupancy.

Side Yard: The minimum width of each side yard in a R-5-A zone district is 3 inches per foot of height of building, but not less than 8 feet (§ 405.9). Each of the townhomes are identical in design and size, and are each 21.8 feet in height. This results in required side yard of 8 feet. The side yard of Lot 1 requires a minor variance of one (1) foot. Lot 1 is located at the end of Building "A" along 27th Street. Because of the irregular shape of the Subject Property, Lot 1 is also irregular in shape with a side yard in the form of a triangle. Although the width of the side yard at the front of the townhouse is approximately twenty-two feet (22 ft.), the width of

the side yard at the rear of the townhouse is seven feet (7 ft), resulting in the need of a variance of one (1) foot. Due to the awkward shape of the Subject Property, a variance is required for the depth of the side yard towards the rear of the townhouse on Lot 1. However, it should be noted that the overall size of the side yard provides sufficient open space due to its great width at the front of the townhouse. Additionally, the adjoining property at this point is a parking area behind a small commercial structure.

Parking: The Zoning Regulations require that a parking space be located on the same lot as the building in which it serves (§ 2116.1). One (1) off-street parking space is required for each townhouse unit, however a total of thirteen (13) parking spaces will be provided within the Townhouse Development. Because of the awkward shape of the Subject Property, many of the parking spaces are positioned over two or more lots, but not entirely on one lot or if a parking space is located entirely on one lot, it is not necessarily on the lot in which it is intended to serve. Accordingly, a variance from the parking space requirements of Section 2116.1 of the Zoning Regulations will be required for Lots 1, 3, 4, 5, 6, 7, 8 and 9. The proposed parking layout on the awkwardly shaped lot and resulting variances was developed to maximum the off-street parking provided which was important to the community.

Under the third prong of the variance test, relief granted cannot cause substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zoning plan. (§3103.2). No substantial adverse impacts or detriment to the public good will result if the variances are granted. The FAR, lot occupancy and side yard variance for the affected lots will not cause a substantial adverse effect or cause detriment to the public good

because of the low density of the entire Development, which is well within the FAR and lot occupancy requirements of a R-5-A zone district.

The area variances requested are minor and a direct result of the awkward shape and size of the Subject Property and its inconsistent grade and exceptional conditions. Based on the unique and exceptional conditions of the Subject Property, strict application of the FAR, lot occupancy, side yard and parking location requirements would create exceptional and practical difficulties to the Applicant in developing the required affordable housing on the Subject Property.

Furthermore, the Townhouse Development will contribute to the vitality of the neighborhood. The Subject Property, once the site of a deteriorating vacant apartment house, will provide ten affordably priced new townhomes. The construction of the townhomes will meet the goals of DHCD's "Homestead" program by providing affordable "for-sale" housing. Additionally, the Townhouse Development will meet the purpose and intent of the housing objectives of the Comprehensive Plan's Ward 7 Plan. The Ward 7 Plan includes support for objectives which "encourage the rehabilitation of housing units in disrepair" (§ 1808.1(a)), to "stimulate the production of new ... housing" (§ 1808.1(b)) and to "encourage homeownership" (§ 1808.1(c)). Additionally, the design of the Townhouse Development conforms with the requirements of the R-5-A zone district while also complementing and enhancing the surrounding neighborhood. The Development will provide sufficient parking for its residents and guests. The surrounding road network will support the limited additional traffic generated by the community. Thus, granting of the requested variances will not have any adverse impacts

V. Conclusion

For the reasons set forth above, 2525 Minnesota Avenue, LLC and Marshall Heights Community Development organization, by and through counsel, submits that the Application has satisfied (and will satisfy) all applicable zoning requirements and the requisite burdens of proof and, therefore, should be granted.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

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By: _____
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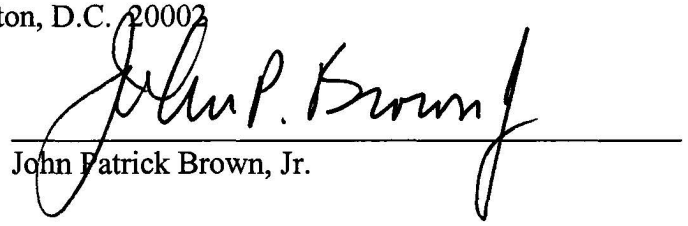
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Pre-Hearing Statement of the Applicant was served by first-class mail, postage prepaid, this 8th day of June, 2004, upon:

Ms. Dolly A. Davis
ANC 7A
2727 Fairlawn Avenue, S.E.
Apartment 102
Washington, D.C. 20019

Mr. Joel Lawson
Office of Planning
801 North Capitol Street, N.E.
Room 3000
Washington, D.C. 20002



John Patrick Brown, Jr.

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GENERAL NOTES:

1. THE BUILDING INF[illegible]ON (DIMENSIONS, UTILITY CONNECTIONS, ETC.) SHOWN ON THIS P[illegible] WAS TAKEN FROM PLANS PREPARED BY

MCALLISTER ARCHITECTS, P.C.	6/03
ARCHITECT	DATE
N/A	N/A
MEP	DATE

IT IS THE CONTRACTOR'S RESPONSIBILITY TO OBTAIN THE MOST CURRENT APPROVED ARCHITECT / MEP PLANS AND COORDINATE SAME WITH SITE PLAN, PRIOR TO BEGINNING CONSTRUCTION OPERATIONS.

2. THE CONTRACTOR IS TO VERIFY THAT THE RELOCATION OF ANY UTILITY IN CONFLICT WITH PROPOSED WORK HAS BEEN COMPLETED, INCLUDING UTILITY POLES AND GUY WIRES.
3. IF THE CONTRACTOR HAS ANY QUESTIONS AS TO THE NATURE, METHOD, OR DETAIL OF THE PERFORMANCE OF HIS WORK OR THE CONTRACT DOCUMENTS, HE SHOULD CONTACT VIKA INC. AT 703-442-7800 PRIOR TO COMMENCING WORK. VIKA INC. ACCEPTS NO LIABILITY OR ASSUMPTIONS OR INTERPRETATIONS MADE BY THE CONTRACTOR OR HIS SUBCONSULTANTS.
4. THE CONTRACTOR SHALL NOTIFY "MISS UTILITY" FOR MARKING LOCATIONS OF EXISTING UTILITIES AT 1-800-257-7777, 48 HOURS PRIOR TO ANY EXCAVATION OR CONSTRUCTION.
5. INFORMATION CONCERNING UNDERGROUND UTILITIES WAS OBTAINED FROM AVAILABLE RECORDS. THE CONTRACTOR MUST DETERMINE THE EXACT LOCATIONS AND ELEVATIONS OF THE UTILITIES BY DIGGING TEST PITS BY HAND AT ALL UTILITY CROSSINGS WELL IN ADVANCE OF TRENCHING. IF CLEARANCES ARE LESS THAN SPECIFIED ON THIS PLAN OR LESS THAN 12 INCHES WHEN NOT SPECIFIED, CONTACT THE ENGINEER, AND THE OWNER OF THE OTHER INVOLVED UTILITY BEFORE PROCEEDING WITH CONSTRUCTION.
6. IT IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR TO NOTIFY VIKA, INC. IMMEDIATELY OF ANY OMISSIONS AND/OR ADDITIONS OF UTILITIES FOUND BY ANY CONTRACTOR ENGAGED IN EXCAVATION AT THIS SITE.
7. GRADING SHALL BE DONE IN SUCH A MANNER AS TO PROVIDE POSITIVE DRAINAGE.
8. THE CONTRACTOR SHALL MAKE FIELD ADJUSTMENTS TO STRUCTURES, WHEN NECESSARY, TO MEET EXISTING CONDITIONS OR AS DIRECTED BY THE OWNER'S REPRESENTATIVE.
9. ALL EXISTING UTILITIES AND STRUCTURES NOT SHOWN TO BE REMOVED ARE TO REMAIN AND PRESERVED AS FUNCTIONAL.
10. REPAIRS TO UTILITIES OR PROPERTY DAMAGED AS A RESULT OF THE CONTRACTOR'S NEGLIGENCE OR METHOD OF OPERATION MUST BE MADE AT THE CONTRACTOR'S EXPENSE BEFORE PROCEEDING WITH CONSTRUCTION.
11. ALL ROOF LEADERS TO BE 4" HDPE SMOOTH INTERIOR PIPE SLOPED AT A MINIMUM OF 1% WITH 2' MINIMUM COVER. PROVIDE HIGH-FLOW BYPASS AT GRADE.

GENERAL ROADWAY PAVING CONSTRUCTION NOTES

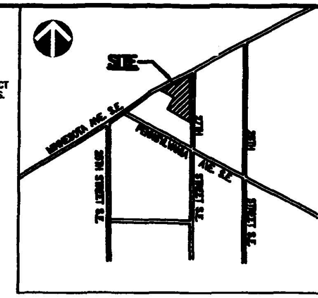
1. ALL ROADWAY WORK WILL BE PERFORMED IN ACCORDANCE WITH DCDOT STANDARDS AND SPECIFICATIONS.
2. ALL EXISTING UTILITIES WILL BE ADJUSTED TO GRADE AS NECESSARY BY THE CONTRACTOR.
3. STABLE SUBGRADE IS DEFINED AS THAT SOLID, UNDISTURBED EARTH CAPABLE OF SUPPORTING STREET LOADING WITHOUT DAMAGING SETTLEMENT AS DETERMINED BY THE GEOTECHNICIAL ENGINEER.
4. WHERE UNSTABLE SUBGRADE IS ENCOUNTERED, IT SHALL BE MADE STABLE BY COMPACTION OR REPLACEMENT, AS REQUIRED.
5. CONTRACTOR TO PROVIDE ROADWAY UNDERDRAINS PER GEOTECHNICAL DIRECTION IF REQUIRED.

COORDINATION NOTES:

1. THE CO[illegible]OR IS RESPONSIBLE FOR COORDINATION OF CONSTRUCTION WITH THE FOLLOWING UTILITY COMPANIES SERVING THE SITE: PEPCO, VERIZON, WASHINGTON GAS, DISTRICT CABLE VISION.
2. CONTRACTOR TO COORDINATE WITH THE OFFICE OF THE DC SURVEYOR TO ENGAGE A SURVEYOR LICENSED BY THAT OFFICE TO PREPARE A WALLCHECK SURVEY AS REQUIRED BY THE DC CODE IN ADVANCE OF PLACING CONCRETE ASSOCIATED WITH THE FOUNDATION.
3. CONTRACTOR SHALL COORDINATE WITH DC OFFICE OF PUBLIC SPACE AND SHALL OBTAIN ALL PUBLIC SPACE PERMITS.

TEST PIT NOTE:

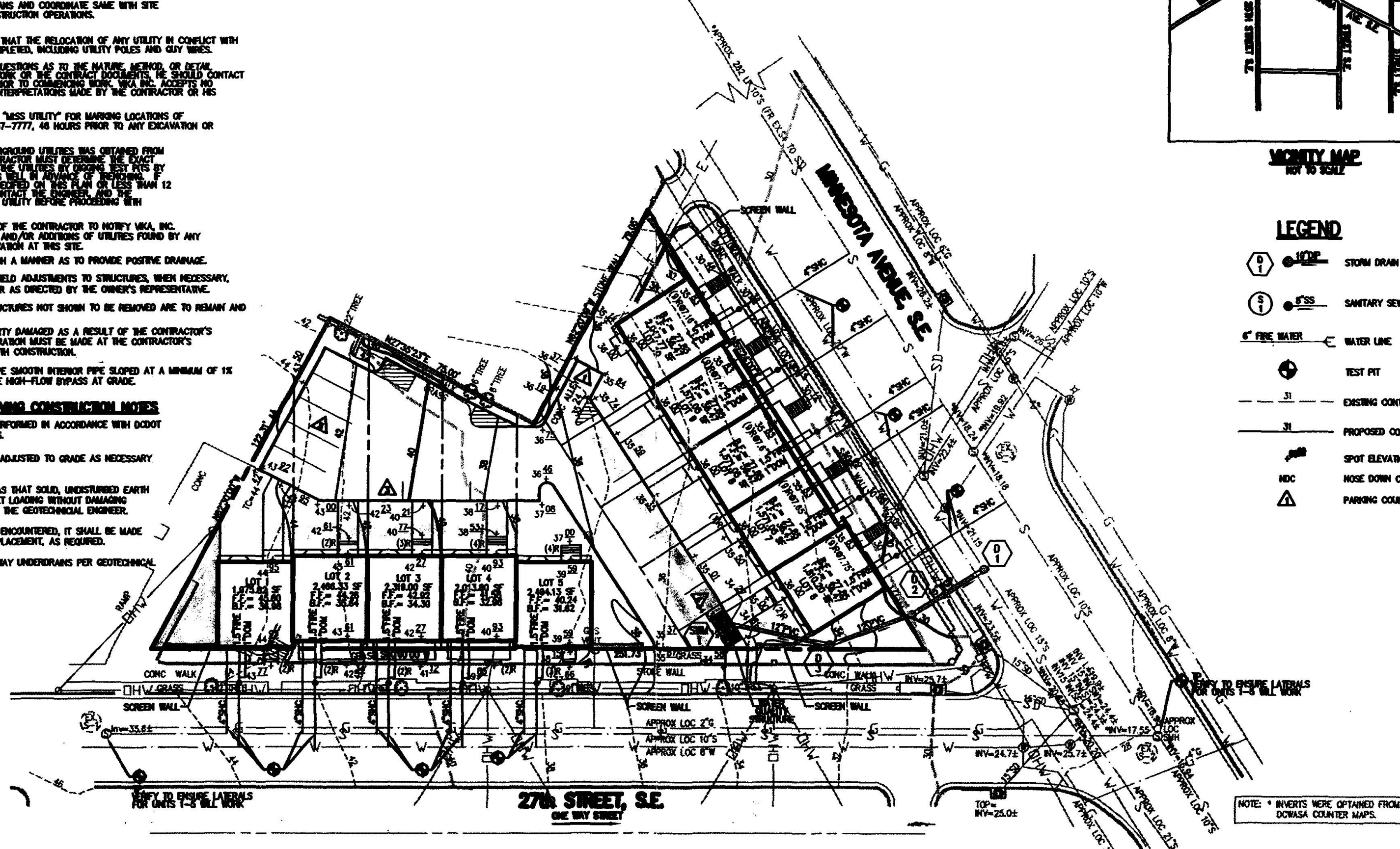
INFORMATION CONCERNING UNDERGROUND UTILITIES WAS [redacted] FROM AVAILABLE RECORDS. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION, ELEVATIONS, AND SIZES OF EX. UTILITIES BY DIGGING TESTS PITS BY HAND AT ALL POINTS OF CONNECTION AND AT CROSSINGS. RESULTS FROM THESE TEST PITS SHALL BE SUBMITTED TO THE ARCHITECT FIVE (5) WORKING DAYS PRIOR TO COMMENCING CONSTRUCTION AND/OR ORDERING MATERIALS.



VICINITY MAP
NOT TO SCALE

LEGEND

- STORM DRAIN (10" DIP)
- SANITARY SEWER (8" SS)
- WATER LINE (6" FIRE WATER)
- TEST PIT
- EXISTING CONTOUR LINE
- PROPOSED CONTOUR LINE
- SPOT ELEVATION
- NDC — NOSE DOWN CURB
- PARKING COUNT



LEGEND

- CABLE TELEVISION CONDUIT
- ELECTRICAL CONDUIT
- EDGE OF PAVEMENT
- FENCE LINE
- NATURAL GAS CONDUIT
- OVERHEAD WIRES
- TELEPHONE/COMMUNICATIONS CONDUIT
- PROPERTY LINES
- PUBLIC UTILITIES EASEMENTS
- SANITARY SEWER CONDUIT
- STORM DRAIN CONDUIT
- WATER CONDUIT

- SANITARY CLEANOUT
- STORM DRAIN MANHOLE
- ELECTRICAL JUNCTION BOX
- ELECTRICAL MANHOLE
- FIRE DEPARTMENT CONNECTION
- FIRE HYDRANT
- GAS MANHOLE
- GUY POLE
- GAS VALVE
- LIGHT POLE
- PHONE PEDESTAL
- PHONE MANHOLE
- UTILITY POLE

- SANITARY MANHOLE
- TRAFFIC CONTROL BOX
- TRAFFIC SIGNAL POLE
- TREE
- CABLE TELEVISION PEDESTAL
- UNKNOWN UTILITY MANHOLE
- WATER METER
- WATER MANHOLE
- WATER VALVE
- BOLLARD
- SIGN POST
- WOOD POST
- INLETS
- CURB INLET

- CONC. ...... CONCRETE
- C&G ...... CURB AND GUTTER
- BLDG. ...... BUILDING
- STY. ...... STORY
- TRF ...... ELECTRICAL TRANSFORMER
- ASPH. ...... ASPHALT
- ESMT. ...... EASEMENT
- RCP ...... REINFORCED CONCRETE PIPE
- CMP ...... CORRUGATED METAL PIPE
- BRL ...... BUILDING RESTRICTION LINE
- R/W ...... RIGHT-OF-WAY
- (R) ...... RECORD INFORMATION

NORTH
SCALE: 1"=50'