GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: July 13, 2004

SUBJECT: BZA Case #17192, Variance and Special Exception Request

I. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning recommends that the proposed special exception relief pertaining to the subdivision on this property be approved, as the special exception tests have generally been met.

Although OP has had limited opportunity to adequately address the applicants analysis submitted in the Pre-Hearing Statement of July 6, 2004, OP feels that the applicant has not presented a sufficiently complete justification for the requested variance relief for the proposed development on 202 of the 209 lots being created, so is unable to recommend approval at this time.

II. APPLICATION-IN-BRIEF

Location Fort Lincoln Drive, NE, Washington DC
Square 4325, Lots 38, 39, & 40; Ward 5; ANC 5A

Applicant: Greenstein DeLorme & Luchs, PC for RLARC, owner

Zoning: R-5-A; within the Fort Lincoln Urban Renewal Plan Area

Proposal: Construction of a new 209 unit rowhouse development.

Relief Sought: The applicant has requested the following relief:

Special Exception for rowhouse use within an R-5-A zone, pursuant to §353;

Special Exception to permit more than one principal building on a single subdivided lot, pursuant to §2516; and

Variances to floor area ratio, lot occupancy, rear yard, and front yard setback requirements, pursuant to §3103.

Based on the applicant's submission, it appears to OP that the following relief is also required:

Special Exception approval of lot area and lot width, pursuant to §401.3; and

Variance to side yard setback regulations, pursuant to §3103.

BZA Case No. 17192 Exhibit No. 24

III. EXECUTIVE SUMMARY

On behalf of the owner, the Redevelopment Land Agency Revitalization Corporation (RLARC) and the future developer, Fort Lincoln-Pulte Limited Liability Company, Greenstein, DeLorme & Luchs, P.C. has submitted an application for the development of a 22.68-

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acre parcel of land in the Fort Lincoln Urban Renewal Area. The proposal involves the creation of a theoretical lot subdivision with private internal road system (rather than the platted but not constructed public road) and 209 rowhouse units in clusters of 4 to 6 units each. In addition to requiring BZA review and approval of this rowhouse development on a theoretical lot subdivision, the applicant is requesting one or more variances for 202 of the 209 lots.

In general, OP supports the goals, intent and general design of the development as proposed. It would provide a significant amount of relatively affordable, for sale, single-family dwellings, of a size and configuration that would relate well to area development and compliment current housing stock in the District. Existing services, including schools, recreation centers, roads, and utilities appear to be adequate to accommodate the proposed units. With additional attention paid to the façade design and site integration of the individual units, this development would be of considerable merit, although the use of a limited number of "standardized" dwelling unit types (3 types with minor variations), results in units with limited adaptability to the terrain and other constraints of the site, and appears to directly result in the large number of variances requested.

In preliminary discussions with the applicant, OP noted that the application lacked sufficient information to permit an adequate assessment. OP requested additional analysis related to building calculations, variances required, and the degree to which the proposal meets the zoning regulation variance tests and other requirements. In particular, it is OP's position following discussions with the Office of the Attorney General (OAG) that an assessment of each variance for each lot is required against the variance test contained in the zoning regulations.

The applicant provided some of this data in its pre-hearing statement, submitted Tuesday, July 6, 2004 (submitted in draft form to OP late in the afternoon of Thursday July 1, 2004). This includes a recalculation of variances required, and an assessment of each dwelling unit type against the variance test, rather than an anticipated analysis of each lot or each cluster of lots against the variance tests. OP considers this to be insufficient to satisfy Zoning Regulation requirements.

OP notes the following concerns and issues associated with this proposal and its review:

- Section 401.5 requires there be at least 1,800 sq.ft. of land for each new dwelling in the development – although the site as a whole provides this, 65 of the individual lots do not. Section 401.3 allows the BZA to prescribe a minimum lot area for each individual townhouse lot;

- Section 2516 allows for the theoretical lot subdivision, subject to BZA approval as a special exception;

- Section 2516.4 requires that all other requirements of the zoning regulations must be met.

The applicant also provided a list of cases dating from the 1980's and 1990's, which may relate to this case in terms of the assessment of variance for lots within theoretical lot subdivisions. In the short time span available, OP has been able to complete only a very cursory review of these cases and has not had an opportunity to discuss them with the OAG, to assess their relevance to BZA review of this application. As such, OP is not able to substantively comment on their applicability, and can provide only cursory comments on the application as a whole. However, concerns raised by OP in this report relate more to the exact form of development than with the theoretical lot subdivision.

IV. AREA AND SITE DESCRIPTION – Refer to Location Plan Attachment I, Site Plan Attachment II, and Context Photos Attachment III

The property is within Square 4325, close to the District border with Prince George's County. The square is bound by South Dakota Avenue to the west, 31st Street and Patricia Harris Drive to the north; Fort Lincoln Drive to the east, and 33rd Place to the south. The subject site occupies most of the square, although the Petersburg Apartments senior's development is located in the southwest corner of the square. One street has been platted through the site but not constructed, and an application has been made for its closure.

The site is undeveloped and heavily wooded. There is a significant grade change down from east to west. The site is entirely within the Fort Lincoln Urban Renewal Area (FLURA), described in more detail below.

To the east of the site is an elementary school, a community center, and undeveloped land slated for additional low to moderate density residential development. To the north are existing townhouses and multi-family buildings, including many subsidized housing units. To the south is land for a future shopping center. South Dakota Avenue to the west and New York Avenue to the south carry significant amounts of vehicular traffic, but do not currently provide neighborhood amenities or attractive pedestrian environments. Metro buses serve the area, but there is no subway station.

V. PROJECT DESCRIPTION

The owners wish to construct a new 209-unit housing development, in clusters of 4 to 6 units. The applicant has proposed a theoretical lot subdivision including the preservation of pockets of existing wooded area, the creation of two tot lots, and the new private roads with some on-street guest parking. The builder has chosen three housing unit types, each having two story plus basement units with an internal garage on the front elevation, accessed from new private streets to be constructed to DC standards. Each unit would have a front and a back yard, and the application provides for optional rear decks and full height rear additions. The units would be sold at market rate, to balance existing subsidized units in the FLURA.

VI. PLANNING AND ZONING ISSUES

1. Fort Lincoln Urban Renewal Area Urban Renewal Plan

The FLURA Plan, adopted in 1972, established a "new town" site inside District boundaries. It covers an area of 340 acres, bounded generally by Bladensburg Road to the north; South Dakota Avenue to the west; Anacostia Park to the south; and Prince Georges County to the east. The objective was to create "*an attractive and racially, socially, economically and functionally inclusive community*" in a "*physical arrangement of activities and uses which respect the area's environmental character and maximizes urban amenities and livability*". (FLURA Plan, p. 3-1)

The FLURA Plan provides for the development of:

- approximately 3,000 dwelling units intended to foster a variety of housing types, density, unit sizes, and affordability levels, and be "*of design appropriate to different conditions of slope, soils and drainage, wind, sun and views and vistas and with expanded opportunities for home ownership by all income groups*" (FLURA Plan, p. 3-1)

- a retail / warehouse area to accommodate a wide variety and range of goods, services and supporting facilities
- public and community facilities and services;
- public park and recreation areas;
- a balanced circulation system; and
- preservations / recognition of the area's natural ecology, scenic views, and historic landmarks.

Section 320 of the FLURA Plan describes in some detail the form and character of housing development anticipated, while various other sections of the FLURA Plan provide additional direction or requirements for development within the area. The applicant has submitted some analysis of the application against the objectives and requirements of the FLURA Plan. Generally, the proposal furthers the overall goals and objectives of the plan, in that the development of 209 market rate family-sized housing units will compliment existing area housing stock. OP has some concerns with the level of conformity of the specific layout and design to more detailed FLURA regulations. For example, the use of a minimal number of standardized units may increase affordability, but also limits the ability of the units to respond well to site condition.

2. Comprehensive Plan

The proposal would be not inconsistent with the Generalized Land Use Map designation of the subject site as "medium density residential" (multiple-unit housing and mid-rise apartments being the predominant uses, but low and moderate density housing also possible, as proposed).

The Fort Lincoln area is also designated on the Generalized Land Use Policies Map as a Housing Opportunity Area, where the District encourages a significant amount of new housing or rehabilitated housing; and a Development Opportunity Area, designated to accommodate the District's major growth and development needs. The proposed development is also not inconsistent with these designations.

The proposal would particularly further the following major themes of the Comprehensive Plan, as outlined and detailed in Chapter 1 - General Provisions Element:

(a) *Stabilizing and improving the District's neighborhoods*: The proposed residential development on the currently vacant land would assist in stabilizing the Fort Lincoln neighborhood.

(j) *Providing for diversity and overall social responsibilities*: The proposal would provide relatively low cost family-sized housing to encourage home ownership.

VII. THEORETICAL LOT SUBDIVISION

The applicant is proposing to front the 209 townhomes on private roads. Normally, any new lot must have frontage on a public road in conformance with §401.6. Section 2516.5 of the Zoning Regulations provides that, where proposed lots do not have such frontage, a "theoretical" lot subdivision is possible, subject to the following provisions.

(a) The front of the building shall be the side upon which the principal entrance is located;	All buildings front onto private streets, with principal entrance and vehicular entrance on that façade.
(b) Open space in front of the entrance shall be required that is equivalent either to the required rear yard in the zone district in which the building is located or to the distance between the building restriction line recorded on the records of the Surveyor of the District of Columbia for the subdivided lot and the public space upon which the subdivided lot fronts, whichever is greater;	The applicant has requested a variance to this section, as 139 of the 209 units would not provide the required 20' setback.
(c) A rear yard shall be required; and	A rear yard is provided for each of the units, although the applicant has requested a variance from this section for 53 of the 209 lots.
(d) If any part of the boundary of a theoretical lot is located in common with the rear lot line of the subdivided lot of which it is a part, the rear yard of the theoretical lot shall be along the boundary of the subdivided lot.	The applicant notes that the development conforms to this requirement.

VIII. PRECEDENT

The applicant, in the pre-hearing statement, provided references to a number of BZA cases that have relevance to this case. In the short time span available, OP has been able to undertake only a very cursory review of the Orders and associated files for these cases, and has not had an opportunity to discuss them with the OAG. OP has also not had an opportunity to review other past cases to see if there are others of relevance.

Case 15301 (August 17, 1990) – OP was not able to locate the file, but the meeting transcript indicated that the application was for a theoretical lot subdivision for the creation of 114 detached homes in the R-1-A district. The BZA application followed a PUD application that met with neighborhood disapproval and was withdrawn. The applicant subsequently negotiated agreement with the neighbors and submitted this BZA application. The transcript was not entirely clear, but the application appeared to include relief to allow the road area to be included in lot area; and variances to front yard and possibly lot occupancy. According to the OP testimony, these non-conformities were the result of pre-existing improvements (presumably roads) constructed on the property in accordance with an earlier agreement.

Case 16131 (September 23, 1996) – theoretical lot subdivision to create 62 flats and 30 single-family dwellings and a community center in the R-5-B zone district. The theoretical lot subdivision was described as temporary to expedite the review process, as public streets (I Street and Ellen Wilson Place) were being created. The approval included variances to front and rear yard, parking, and lot occupancy regulations, resulting from the odd square size resulting from the street pattern.

Case 15911 (March 22, 1994) – application by DHCD for a theoretical lot subdivision to re-subdivide 3 lots into 5 small townhouse lots to be developed with affordable housing in the C-2-A zone district. The application included variances to front and rear yard and parking requirements, but otherwise complied with all use, height and bulk regulations.

Case 15340 (August 17, 1990) – theoretical lot subdivision in the R-1-A zone district, for the creation of 34 single-family dwellings as part of the larger 129 unit Foxhall Crescent development. New units would front on previously constructed streets. The approval included front yard, rear yard, side yard, and FAR variances; approximately half of the lots did not provide the required lot area and/or width.

IX. ZONING REGULATION ANALYSIS

The property is zoned R-5-A, low-rise apartment, garden apartment and row dwellings being the predominant land use type. As such, the proposed townhouse use is permitted in the zone.

Analysis is facilitated by separating the two forms of relief required by the applicant – special exception relief for approval of the subdivision itself, and the variance relief required for almost all of the proposed townhouses on the individual lots.

1. Subdivision Special Exception Relief

In §353 New Residential Developments (R-5-A) of the Zoning Regulations, §353.1 states that "*In R-5-A Districts, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under § 3104 in accordance with the standards and requirements in § 410 and this section.*"

353.2 The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project.	DC Public Schools has indicated that existing area schools could accommodate the anticipated increased enrollment from this development.
353.3 The Board shall refer the application to the D.C. Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects.	To date, OP has not received a copy of a report from DDOT, but notes that the FLURA Plan, which has been in place for many years, envisions this level of residential development and that the streets proposed are private streets.
353.4 The Board shall refer the application to the D.C. Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood.	Refer to analysis of Section VI of this report, above. In general, the proposal meets these criteria. The combination of newly created lots and the desire to use a limited number of pre-established housing types has resulted in a limited ability to respond to site conditions and the need for 202 out of 209 lots needing variances.
§410 - Groups Of Residential Buildings In R-4 And R-5 Districts.	The proposal generally conforms to the requirements of this section.

With regards to the Special Exception test of §3104:

Will the special exception be in harmony with the general purpose and intent of the Zoning regulations and Maps?

The proposed subdivision would result in lots that, on average, are larger in area than anticipated in the zoning regulations for this zone district, and are generally 20 to 22 feet in width. Although OP has concerns regarding the degree to which the chosen house type permits conformance to zoning regulations, the many variances do not appear to be the result of the proposed lot configuration, although some of the individual lot variances could likely be eliminated if lots were made large enough to accommodate the desired house type. However, that this could impact the preservation of wooded areas and buffer areas from South Dakota Avenue.

Will the special exception adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps?

The proposed subdivision layout should not adversely affect the surrounding neighborhood. Rather, the form of development would be similar to that of existing development, and would compliment the area through the provision of owned family-sized ground oriented units.

2. Number of Principal Buildings Per Lot Special Exception Relief

The applicant is proposing 209 townhomes on one lot with a theoretical lot subdivision to create 209 lots for development. Normally, a maximum of one principal building per lot is permitted. §2516.1 of the Zoning Regulations provides that "*If approved by the Board of Zoning Adjustment as a special exception under § 3104, two (2) or more principal buildings or structures may be erected on a single subdivided lot, subject to the provisions of this section.*"

2516.2 This section applies to construction on a lot that is located in, or within twenty-five feet (25 ft.) of a Residence District.	The subject site is within a residential district.
2516.3 In addition to other filing requirements, the applicant shall submit to the Board, with the new application, four (4) site plans for all new rights-of-way and easements, and existing and preliminary landscaping and grading plans with approximate building footprints; provided:	Applicant requirement for submission to Office of Zoning.
(a) The applicant shall also submit, either with the original application or at a later time, final landscaping and grading plans and two (2) sets of typical floor plans and elevations; and	Applicant requirement for submission to Office of Zoning.
(b) If the applicant elects to submit the plans referenced in paragraph (a) of this subsection at a later date, the Board's original approval shall be conditional, subject to a later public hearing and final decision on the project as a whole.	
2516.4 The number of principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter (such as use, height, bulk, open spaces around each building, and limitations on structures on alley lots pursuant to § 2507), and §§ 3202.2 and 3202.3 are met.	The term "requirements of this chapter" indicates that this section is not intended to ensure that development on each lot conforms to the zoning requirements listed in Chapter 4 –Residential District Height, Area and Density Regulations. Nor does it read to allow variances simply through the use of theoretical lots. Therefore, OP has requested a variance test analysis for each lot.

2516.5 If a principal building has no street frontage, as determined by dividing the subdivided lot into theoretical building sites for each principal building, the following provisions shall apply	This provision is analyzed in Section VII of this report, above, with no major issues of concern.
2516.6 In providing for net density pursuant to § 2516.11, the Board shall require at least the following:	
(a) The area of land that forms a covenanted means of ingress or egress shall not be included in the area of any theoretical lot, or in any yard that is required by this title;	The applicant notes that the development conforms to this requirement.
(b) Notwithstanding any other provision of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five feet (25 ft.) in width, but need not be paved for its entire width;	The applicant notes that the development conforms to this requirement, in that the private roadways are 25 feet in width (which may include sidewalks). Private driveways to each principal building, however, correspond to the width of the garages, so may technically require relief from this section. OP would have not object to such relief.
(c) If there are not at least two (2) entrances or exits from the means of ingress or egress, a turning area shall be provided with a diameter of not less than sixty feet (60 ft.); and	The applicant notes that the development conforms to this requirement. The units siding onto South Dakota Avenue may not meet the letter of this requirement, and may require relief, to which OP would not object, subject to DDOT and FEMS approval.
(d) The requirements of paragraphs (b) and (c) of this subsection may be modified if the Board finds that a lesser width or diameter will be compatible with, and will not be likely to have an adverse effect on, the present character and future development of the neighborhood; provided, that the Board shall give specific consideration to the spacing of buildings and the availability of resident, guest, and service parking.	The applicant has not requested any modification to sections (b) and (c) above. As noted above, relief may be required.
2516.7 Where not in conflict with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Code, 2001 Ed. §§ 6-601.01 to 6-601.09 (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), the height of a building governed by the provisions of this section, in all zone districts, shall be measured from the finished grade at the middle of the front of the building.	The applicant has noted that, at a height of 35 feet, the individual units would conform to building height regulations. Details regarding the method of height calculation were not submitted.
2516.8 The provisions of this section shall also apply to buildings erected under the terms and conditions of § 410, relating to a group of one-family dwellings, flats, or apartment houses, or a combination of such buildings.	The proposal generally conforms to the requirements of §410; with the following comments: • Adequate access for fire protection – The District of Columbia Fire & Emergency Medical Services (F&EMS) Department noted no objection to the proposal, so long as International Fire Codes and D.C. Laws are complied with.

	• Building height measurement - The applicant did not provide in its application an indication of how height was measured, but notes that, despite the grade changes on the site, each building will have a height of 35 feet.
2516.9 The proposed development shall comply with the substantive provisions of this title and shall not likely have an adverse effect on the present character and future development of the neighborhood.	The proposal, overall, should have no adverse impact on the surrounding community. However, the proposed development does not comply with the provisions of the zoning regulations in substantive ways, in that numerous floor area ratio, lot occupancy, and setback variances have been requested.
2516.10 Before taking final action on an application under this section, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report, including:	OP forwarded the application to various District departments and agencies for comment.
(a) The relationship of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:	• OP analysis of the application against the zoning regulations is provided throughout this report; • Cursory analysis against the FLURA Plan is provided by the applicant and in Section VI of this report; • Analysis against the Comprehensive Plan is provided in Section VI of this report.
(1) Public safety relating to police and fire concerns;	The F&EMS Department noted no objection to the proposal, so long as International Fire Codes and D.C. Laws are complied with. OP did not receive a comments from the Metropolitan Police Department (MPD).
(2) The environment, relating to water supply, water pollution, soil erosion, and solid waste management;	OP did not receive comments from the Department of Health or the Department of Public Works. The applicant has noted the difficult terrain and soil conditions of the site and that the proposed layout is a response to these conditions. The applicant has proposed preservation of some of the wooded area, and will incorporate soil erosion control measures during the construction phase. The use of a limited number of pre-existing unit designs, each with internal parking, would limit ability to properly address site and terrain issues in an environmentally sensitive way.
(3) Public education;	DC Public Schools has noted that existing area schools could accommodate the anticipated increased enrollment from this development.
(4) Recreation;	OP did not receive comments from the Department of Parks and Recreation. The applicant is proposing the construction of two tot lots on site, and the site is close proximity an existing recreation center.
(5) Parking, loading, and traffic;	OP did not receive comments from the District Department of Transportation. The applicant is proposing at least one internal parking space per unit, as well as 62 guest parking

	spaces adjacent to the private streets.
(6) Urban design; and	The form of development – clusters of townhouses facing the street – is common to the area and to the District. Internalizing the units so that they face on private streets and back onto the existing public streets is not unusual for the Fort Lincoln area, and, in the case of South Dakota Avenue, desirable. Provided that there is no future "gating" of the community, OP has no major concerns with the relationship of the proposal to the overall urban fabric. The most distinctive and unusual (for the District) aspect of the development is that each unit will have a private internal garage facing the street, creating a "garage-scape" along the street. OP has some concerns with this, but notes that the area is close to the boundary of the District so is already more "suburban" in character than most of the District, and that this form of development is desired by some people for convenience and safety reasons, so could provide an alternative to existing housing stock in a location that would have minimal impact on overall District urban form and character.
(7) As appropriate, historic preservation and visual impacts on adjacent parkland;	No historic resources have been identified in this area, and the Historic Preservation Office has no comments on this application. Visual impacts on existing and future park space in the area should be minimal.
(b) Considerations of site planning; the size, location, and bearing capacity of driveways; deliveries to be made to the site; side and rear yards; density and open space; and the location, design, and screening of structures;	• Site planning – refer to "urban design" comments above; • Driveways – OP has not received comments from DDOT, but notes that the driveways are all accessed from local private streets, and will dominate the front elevations and the streetscape; • Deliveries – as the proposal is for a townhouse residential development, deliveries would be minimal, and would be accommodated by the road and driveway system proposed; • Density and Open Space – the applicant is proposing considerable open space on the site, including tot lots, preserved woodlands, and front and rear yards for each unit. The density, at 9 units per gross acre, is relatively low, and even net of all the open space areas (preservation areas, tot lots, roads), the density is about 19.5 units per acre, and the average lots area of 2,224 square feet is greater than the anticipated average lot area for the R-5-A zone noted in §401.5 (1,800 sq.ft.).
(c) Considerations of traffic to be generated and parking spaces to be provided, and their impacts;	OP has not received comments from DDOT, but notes that greater than the required amount of parking would be provided. The applicant has submitted a Traffic Impact Study that indicates that the proposed development would have minimal impact on existing intersections, but recommends timing improvements to improve existing

	deficiencies.
(d) The impact of the proposed development on neighboring properties; and	The development is somewhat "internalized" with only three points of access and all lots facing inwards rather than out towards the public streets. This would minimize any impacts on surrounding developments.
(f) The findings, considerations, and recommendations of other District government agencies.	The comments of District department and agencies are provided in Section XI of this report.
2516.11 The Board may impose conditions with respect to the size and location of driveways; net density; height, design, screening, and location of structures; and any other matter that the Board determines to be required to protect the overall purpose and intent of the Zoning Regulations.	Assuming that the BZA accepts the proposed development and if it is within the authority of the BZA to do so, the BSA may wish to consider the following requirements in the Order: • that the Order be, by private covenant, placed on title for each lot, and possibly that future additional additions to individual units be prohibited; • that the development not be gated in the future; • that adequate screening along South Dakota Avenue be provided and maintained (as proposed by the applicant); • that preserved wooded areas are required to be preserved in perpetuity; and • that tree preservation areas be carefully protected and fenced during the construction phase to minimize potential accidental damage.

With regards to the Special Exception test of §3104:

Will the special exception be in harmony with the general purpose and intent of the Zoning regulations and Maps?

The proposed theoretical lot subdivision which technically results in more than one principal building on the lot, would not seem to be contrary to the purpose or intent of the zoning regulations, as the lots created would be of a size that is generally in line with what is anticipated for this type of development. Although the application involves numerous variances, these seem to be more the result of the chosen housing types than the lots they are intended to sit on.

Will the special exception adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps?

OP does not feel that the proposed form of subdivision layout would adversely affect the surrounding neighborhood. From the outside, the development will be consistent in form with other townhouse development in the area.

3. Lot Width and Lot Area Special Exception Relief

Although the application does not request this special exception relief, it appears that it is required as §401 – Minimum Lot Dimensions, §401.3 states that within the R-5-A zone, lot area and lot width

shall be "*as prescribed by the Board (of Zoning Adjustment) pursuant to §3104 (Special Exception Review)*":

Will the special exception be in harmony with the general purpose and intent of the Zoning regulations and Maps?

The proposed lot width of 20 to 22 feet minimum conforms to requirements for similar forms of development. The proposed lot area varies from 1,630 to 3,762 square feet, with an average of 2,224 square feet. This exceeds the normal lot area requirement for rowhouse development of 1,800 square feet. Each lot provides adequate area for private outdoor space. As such, the proposed lot area and width are in keeping with the intent of Zoning Regulations.

Will the special exception adversely affect the use of neighboring property in accordance with the Zoning Regulations and Maps?

The proposed lot area and width, and the proposed lot configuration, would not adversely affect neighboring properties, particularly since the lots are of a size which permits moderate density development, and none of the lots sits directly adjacent existing or future development.

4. Variance Relief

The applicant has requested the following variance relief:

Floor Area Ratio: (§402.5)	0.90 max. per lot	.72 – 1.55 (average of 1.24)	**Variance Required for 193 of the 209 lots**
Lot Occupancy: (§403.2)	40% max.	27% - 58% for each lot (average of .46)	**Variance Required for 139 of the 209 lots**
Rear Yard: (§404.1)	20 feet min.	14 – 40 ft. (average of 24 feet)	**Variance Required for 53 of the 209 lots**
Front Yard: (§2516.5b))	= to required rear yard = 20' min.	5 – 20' (average of 13 feet)	**Variance Required for 139 of the 209 lots**

In reviewing the applicant's submission, it appears to OP that the following variance is also required:

Side Yard: (§405.2)	0' for internal units; 8.75' min. for end units	0 - 9' min.	**Variance Required for 1 lot – Lot 36**

In its original submission, the applicant analyzed variance relief for the development as a whole, noting that the variances are the result of the applicant's desire to preserve wooded areas and to respond to topographical difficulties on the site. OP informed that applicant that this analysis was insufficient and that OP's conclusion, based on discussions with the Office of the Attorney General, is the variance test must be applied to each individual lot, not to the entire development as a whole. The flexibility afforded in the R-5-A District by BZA approval of development forms cannot be used to justify variances for proposed development on individual lots. OP noted, however, that §410.12 may permit the analysis to be done on a "cluster by cluster" basis, rather than a lot by lot bases.

The applicant provided in the pre-hearing statement additional variance test analysis, based on the proposed dwelling unit types. This analysis is virtually identical for each unit type and for each variance requested, with only minor variation for some unit types, which undermines the "uniqueness" test. Also, the various unit types are not always concentrated on one section of the site with identical site conditions and constraints.

The applicant's argument is essentially based on a number of unique conditions on the site as a whole; conditions that may or may not impact individual lots to a greater or lesser degree:

- Overall conformity - the development as a whole conforms to FAR and lot occupancy requirements for this zone, with an overall FAR of .58 and lot occupancy of 21%.

- Irregular topography, with a grade change of as much as 75 feet from high to lot points – OP agrees that this is a unique circumstance, but the applicant has not adequately addressed how this necessitates the requested variances.

- Unstable soil conditions which, along with topography, results in a need for extensive regrading of the site – again, the applicant has not clearly indicated how this necessitates each individual variance request.

- Tree preservation – OP agrees that this is a desirable characteristic of the application and would be an important aspect of a PUD application. However, the applicant has not indicated how this laudable decision results in individual hardship on individual lots, particularly since the lots being created average over 2,200 square feet in area (greater than normally expected for a townhouse development in this zone).

- The FLURA Plan itself, for which a system of townhouses facing internal streets with private garages is more appropriate – OP does not accept that the FLURA Plan presents unique or particular circumstances, particularly since it does not establish required lot size, house size, or a required number of units for each individual site.

The applicant's analysis infers that that there is little that is unique when comparing one lot to another, and highlights that the variances are the result of the unit types chosen by the applicant, rather than particular hardships or unique circumstances associated with specific conditions of the lots. Although some of the lots would be smaller than would otherwise be possible on this site (but not small by normal townhouse lot standards) development on those lots would be anticipated by Zoning Regulations to be appropriately sized.

A first step in any variance test would be the applicant proving that there is an absence of a reasonable alternative that conforms to regulations. At an average of 2,224 square feet, the average building size would be 2,000 square feet. Conversely, the average building proposed has a defined square footage of 2,444 square feet, which would require a lot of 2,715 square feet. Neither of these options appear to be unreasonable, although the form of development – family sized units on lots small enough to preserve significant areas of wooded land – is desirable and preferable. In fact, OP's concern with this application is not with the form or density of development, but with the ability of the variance process to acknowledge the desirable features of the proposed development and the objectives of the applicant.

BZA approval for this form of development as permitted in R-5-A is intended to provide PUD-like flexibility in the creation of new lots in this zone district, and the rationale and reasoning put forward

by the applicant is appropriate for a PUD application. OP recommended the PUD process to the applicants, who note timing concerns associated with the PUD review process for not taking this route. However, this does not exempt the applicant from meeting the normal variance test requirements for the lots proposed to be created.

X. ADVISORY NEIGHBORHOOD COMMISSION (ANC) COMMENTS

ANC 5A reviewed this request at its meeting on Wednesday June 16th, 2004. In addition to members of ANC 5A, approximately 300 community residents and stakeholders attended this meeting. The ANC unanimously adopted a motion recommending approval of the proposal.

XI. OTHER AGENCY COMMENTS – refer to Attachment V for complete comments.

To date, no other District Agency has indicated opposition or significant concerns with this proposal. Comments submitted to OP, as of the date of submitting this report, are attached.

XII. OP SUMMARY RECOMMENDATION

The applicant has generally met the special exception tests for the creation of the theoretical lot subdivision, but has not provided adequate detailed analysis of the variance tests for the development. As such, OP cannot recommend approval of the variances at this time.

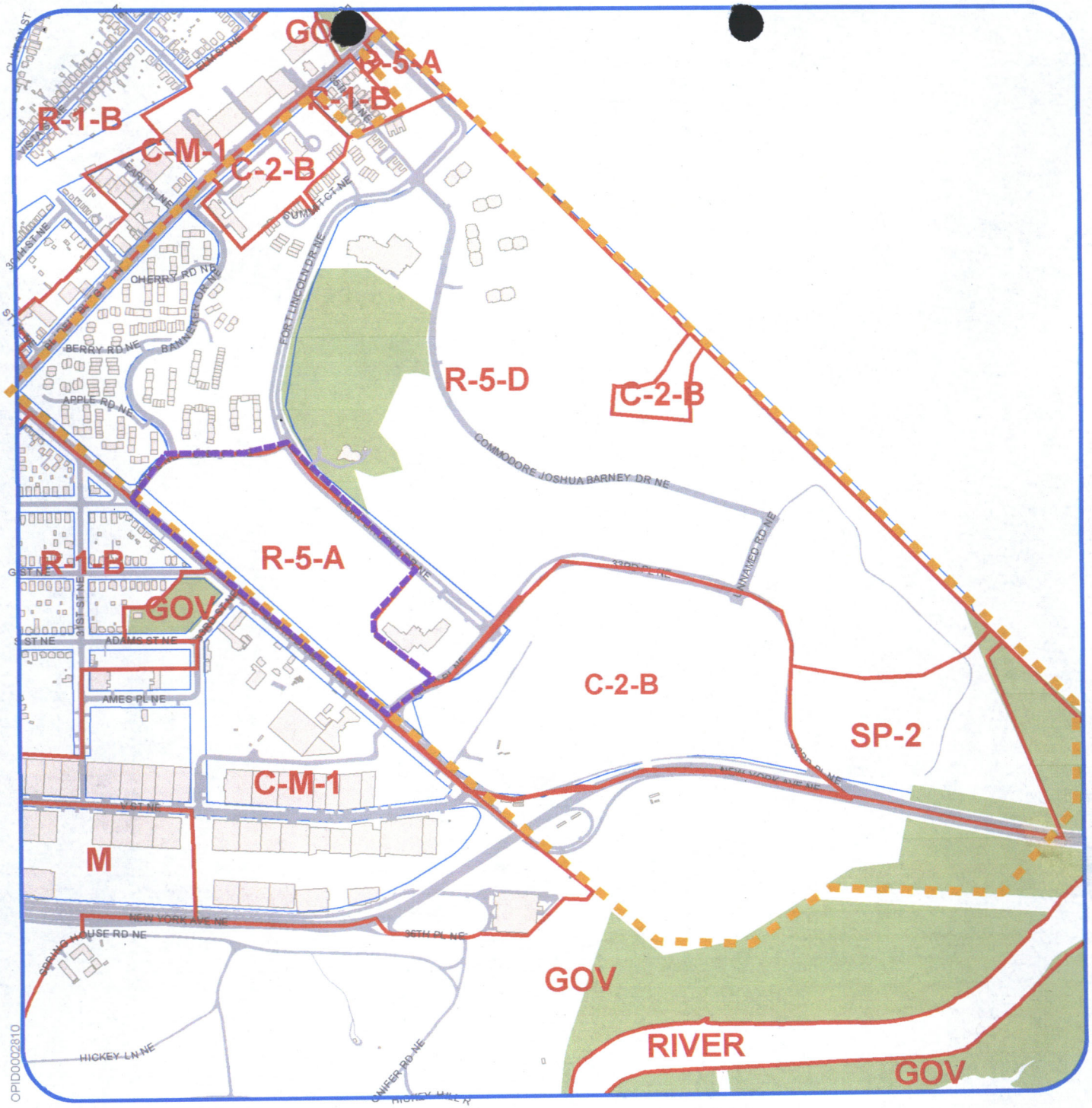
OP is also concerned that, without adequate analysis of each individual lot, the review and assessment of any future additions to individual units within the development will be complicated and costly to homeowners, in that it would appear to require a modification to the Order which approved the original development, a detailed analysis of all existing development on the site; and the approval of all homeowners in the development.

Should the BZA wish to consider approval of the application as proposed, BZA may wish to consider a condition requiring that the Order be attached to a privately registered covenant for each lot created, such that each future owner is made fully aware that zoning regulation requirements are based on the development as a whole, rather than individual lots. Conversely, the BZA may wish to consider an even stronger condition, such that future additions to individual units not be permitted at all, with the exception of the optional rear additions and decks shown on the applicant's plans.

AA/jl

ATTACHMENTS:

I. Context Plan
II. Site Plan
III. Context Photos
IV. Project Profile
V. Agency comments



Legend

- Property Squares
- Zoning Districts
- Parks
- Site
- FLURA Plan

BZA Case 17192
Ft. Lincoln Townhomes

Government of the
District of Columbia
Anthony A. Williams, Mayor

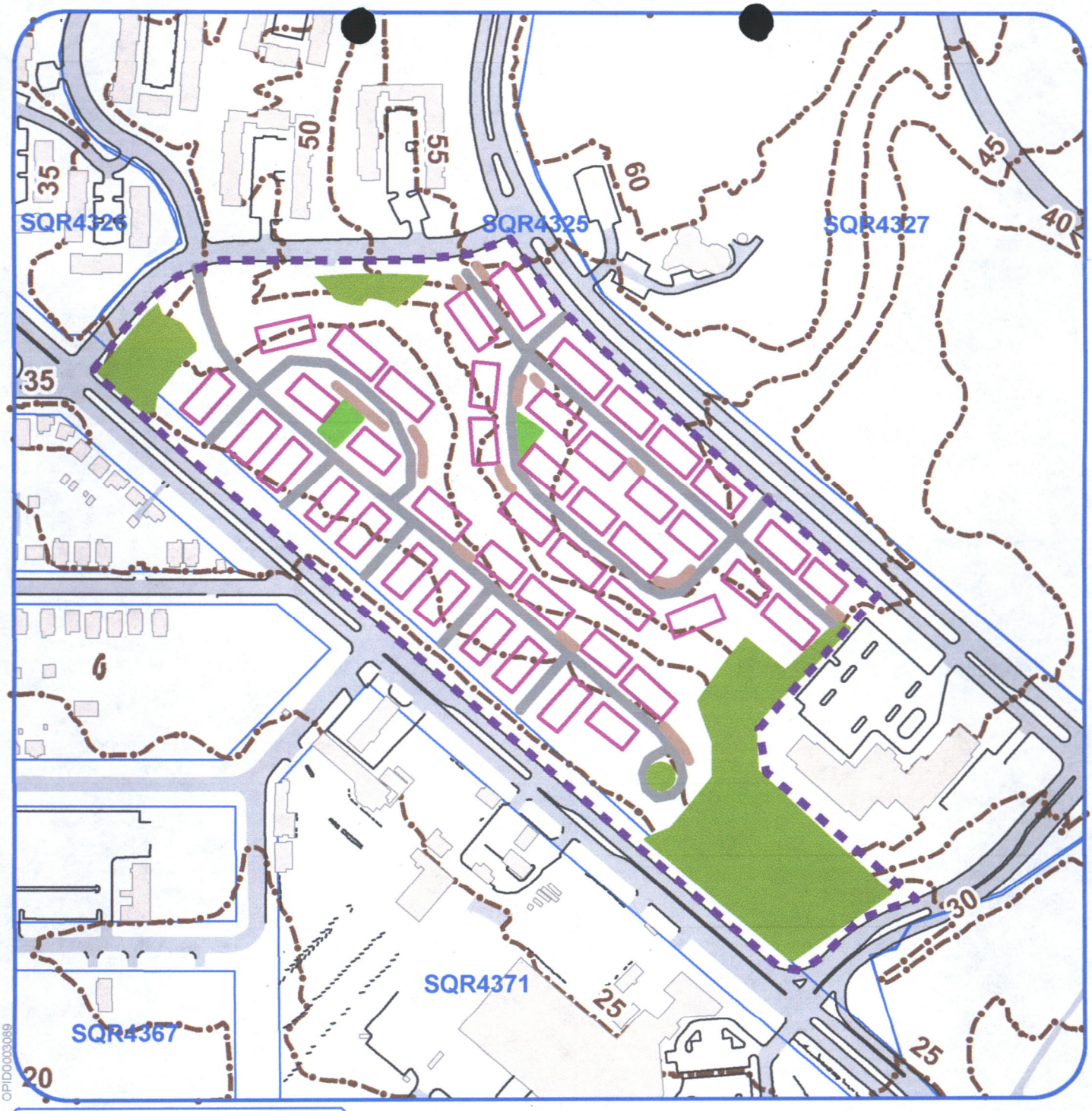
Office of Planning ~ July, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

N

1:10,000

CONTEXT PLAN
ATTACHMENT I



Legend

- Property Squares
- Site
- Playground?
- Wooded Remnant
- Proposed Building
- Proposed Road
- Visitor Parking
- 1m Contour Lines
- 5m Contour Lines

BZA Case 17192 - Ft. Lincoln Townhomes Topography

Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ June, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

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SITE PLAN ATTACHMENT II


Bladensburg Rd.
Joshua Barney Dr.
31st St. NE
Ft. Lincoln Dr. NE
S. Dakota Ave. NE
SITE
33rd Pl. NE
New York Ave. NE
National Arboretum
Facing North-East


Future
Commercial
New York Ave. NE
Joshua Barney Dr.
Ft. Lincoln Dr. NE
Senior's
Housing
33rd Pl. NE
Community
Center
SITE
S. Dakota Ave. NE
31st St. NE
Facing East

Standard	R-5-A Zone Regulations	Proposed	Relief
Dwelling Type: (§353.1)	Row dwellings, low rise apartment; BZA review required for non (semi)detached	209 row houses and semi-detached dwellings	**Special Exception Required**
Site Area:		988,170 sq.ft. total[1]	
Height (§400.1)	40 feet max.[2]	35 ft.	Conforming
Stories (§400.1)	3 stories max.	3	Conforming
Lot Area (§401.5)	As prescribed by BZA; 1,800 sq.ft. min.[3]	1,630 – 3,762 sq.ft. each lot (average of 2,224 sq.ft.)	**BZA Review Required**
Lot Width (§401.5)	As prescribed by BZA	20 – 31 feet each lot	**BZA Review Required**
Floor Area Ratio: (§402.5)	0.90 max. (889,353 sq.ft.)	.58 total (575,000 sq.ft.)	
Each Lot:	0.90 max. per lot	.72 – 1.55 (average of 1.24)	**Variance Required for 193 of the 209 lots[4]**
Lot Occupancy: (§403.2)	40% max. (395,268 sq.ft. tot.)	21% inc open space (207,516 sq.ft.)	**Variance Required for 139 of the 209 lots[5]**
Each Lot:	40% max.	27% - 58% for each lot (average of .46)	
Rear Yard: (§404.1)	20 feet min.	14 – 40 ft. (average of 24 feet)	**Variance Required for 53 of the 209 lots[6]**
Side Yard: (§405.2)	0' for internal units; 8.75' min. for end units	0 - 9' min.	**Variance Required for 1 lot – Lot 36[7]**
Front Yard: (§2516.5b))	= to required rear yard = 20' min.	5 – 20' (average of 13 feet)	**Variance Required for 139 of the 209 lots**
Parking: Number (§2101.1)	1/unit min. = 209 min.	388 total, including 61 public spaces	Conforming
Location (§2116.1)	on-site	1 to 2; internal garage	Conforming
No. of Principal Buldings / lot (§2516)	1 max.	209	**Special Exception Required**

draft

1 Approx. 4,728 sq.ft. lot per lot for entire site, including open space/roads; net average = 2,224 sq.ft..
2 Although the base zone permits 40' max, the alley lot regulations limit height to equivalent to alley width plus any front yard setback.
3 Based on consideration of the lot as a single family dwelling lot, rather than a row dwelling.
4 Assuming all rear additions are constructed. If not constructed, 182 lots are non-conforming.
5 Assuming all rear decks and additions are constructed. If not constructed, 88 lots are non-conforming.
6 Assuming all rear decks and additions are constructed. If not constructed, 0 lots are non-conforming.
7 Not requested by the applicant.

Department of Employment Services (letter attached)

Department of Housing and Community Development (letter attached)

Water and Sewer Authority (letter attached)

DC Public Schools (via email)

Our comments at DC Public Schools Office of Facilities Management Planning Unit is as follows:

* The planned development that is bordered between 31st Place N.E. and 33rd Place N.E. and South Dakota Ave., N.E. and Fort Lincoln Drive, N.E. is located in the boundary of Thurgood Marshall Elementary School (a K-8th grade school), Browne Jr. High School and Spingarn Senior High School.
* Thurgood Marshall's Program Capacity is 368 students. The 2005/2006 projected enrollment figures are 336 students (32 seats available). Browne Jr. High's Program Capacity is 775 students. The 2005/2006 projected enrollment figures are 493 students (282 seats available). Spingarn Senior High School's Program Capacity is 835 students. The 2005/2006 projected enrollment figures are 612 students (223 seats available).
* The planned development will net approximately 34 students to the community and subsequently the three schools within the new communities boundaries. It is expected that the majority of new students within this new planned community will be of elementary age. The total number of students will not create a strain on either school's programmed capacity.

Fire and Emergency Medical Services Department (via email)

The District of Columbia Fire & EMS Department as no objections, so long as all 2000 International Fire Codes and D.C. Law are complied with.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

Office of Employer Services

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

FROM: Margaret V. Wright
Acting Associate Director
Office of Employer Services

DATE: JUN 2 4 2004

SUBJECT: Review of BZA Case # 17192, Fort Lincoln Town Homes

As requested, the Department of Employment Services (DOES) has reviewed the BZA Application Case Number 17192, Fort Lincoln Town Homes.

The Applicant, Fort Lincoln-Pulte Limited Liability Company, is the developer of the property located at Fort Lincoln Drive and 31st Street N.E. The developer proposes to construct 209 three-story townhouses with 327 garage parking spaces, 61 surface parking spaces, and 12 handicap parking spaces. The project will also include two playgrounds.

In evaluating the application, Fort Lincoln-Pulte Limited Liability Company did not sign a First Source Employment Agreement to ensure that District residents receive 51% of the new jobs created by this project. Fort Lincoln-Pulte Limited Liability Company must enter into a First Source Employment Agreement with DOES in order for the application request to be considered.

It is advised that Fort Lincoln-Pulte Limited Liability Company contact Vernell Jordan at (202) 698-5774 or vernell.jordan@dc.gov for assistance in acquiring and completing the First Source Employment Agreement.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

FROM: Lawrence C. Cager, Jr.
Deputy Director for Development Finance

DATE: April 16, 2004

SUBJECT: Department of Housing and Community Development (DHCD) Review of BZA Application No. 17192 – Fort Lincoln Townhomes

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DHCD has reviewed the above referenced BZA Application you sent by e-mail on June 17, 2004. This memorandum offers comments on the BZA application. After staff review of the application materials, DHCD supports the BZA Application No. 17192 for the following reasons:

1. The proposed project site in Fort Lincoln is designated as a "housing opportunity area" on the Generalized Land Use Policies Map.
2. The design, scale, size and orientation of the 209 proposed townhomes are compatible with other residential developments in the Fort Lincoln neighborhood.
3. The proposed development will be served by two major private streets – Patricia Roberts Harris Lane accessed off 31st Place NE and Theodore R. Hagans Drive accessed off Fort Lincoln Drive. As is the case in other residential developments in Fort Lincoln, the townhomes in this project will not have direct access from adjacent public streets but instead will be accessed by the two major private streets described above.
4. The desire to screen the proposed townhome project from the commercial character of adjacent South Dakota Avenue NE and the steep irregular topography of the project site were both major considerations in the design decision to have all townhome units facing and being served by the two new private streets.
5. In this project where the townhome lots have no public street frontage, the proposed two private streets are the width required to serve the theoretical lots used in the project design and layout.

6. The proposed project will provide nearly double the number of parking spaces required – 209 are required, but 388 parking spaces will be provided. Of the 388 parking spaces, 327 will be provided as garage spaces in the townhomes and the remaining 61 spaces will be surface spaces (primarily for guest parking).

DISTRICT OF COLUMBIA SEWER AND WATER AUTHORITY
5000 OVERLOOK AVE SW, WASHINGTON, DC 20032

MEMORANDUM:

June 30, 2004

To: Joel Lawson, Development Review Planner
DC Office of Planning

From: Jodye Levy Russell, Planning Supervisor
DC Water and Sewer Authority

Subject: BZA Case # 17192 – Fort Lincoln Townhomes

Thank you for the opportunity to review this project. The District of Columbia Water and Sewer Authority (DCWASA) has reviewed the information for the above referenced project. We offer the following comments:

1. Capacity of the existing storm sewers must be evaluated because the proposed zoning will change the existing land use area from undeveloped heavily wooded condition to full developed area with urban setting. This land use change will increase the surface runoff as well as peak flows. If the existing storm sewer on South Dakota Avenue and Fort Lincoln Drive do not have adequate hydraulic capacities, on-site storage of storm water management and/or a construction of new storm sewer, improper discharge into the river will occur.
2. The existing 8" and 12" water mains on South Dakota Avenue and Fort Lincoln Drive may not be enough to supply adequate water for fire protection and daily uses. Pressure and flow tests of the existing water mains will be required to assess availability of water. Also, water flow requirements for fire protection will be needed to evaluate the impact of the new development on the water system.
3. In order to evaluate adequacy of the sanitary sewer, you will need to provide future average and maximum daily wastewater flow from the new development.

If you have any questions, please feel free to call me on 202-787-2248 or Dr. Hung Truong, Hydraulic Engineer, on 202-787-2439 or e-mail to htruong@dcwasa.com.