GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

SUPPLEMENTAL REPORT

TO: Board of Zoning Adjustment
FROM: Andrew Altman, Director
DATE: October 12, 2004
SUBJECT: BZA Case #17192, Variance and Special Exception Request

I. 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: Special Exceptions for rowhouse use within an R-5-A zone; to permit more than one principal building on a single subdivided lot; and for lot area and lot width.

Variances to floor area ratio, pursuant to §3103.

II. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

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

III. BACKGROUND – refer to Original Site Plan Attachment I

At its August 3, 2004 meeting, the BZA discussed this application for the creation of a theoretical lot subdivision with private internal road system and 209 rowhouse units in clusters of 4 to 6 units each. This followed the public hearing, held on July 20, 2004. The BZA indicated support for the proposal in concept, but also noted that the applicant had not sufficiently met the variance test, particularly the "practical difficulty" test, in that alternatives may be possible. The BZA also raised concerns related to a number of specific issues, including the amount of site disturbance proposed, the relationship of the road layout to the surrounding street grid and to the natural terrain on this site; retaining wall locations and design; protection of proposed undisturbed areas; and the need for a full landscape plan. The BZA set October 19, 2004 for the date of a new hearing, and requested additional information from the applicant, with analysis from the Office of Planning (OP).

OP met with the applicant on August 19 and September 9, 2004. The applicant revised the plans considerably and eliminated all but one of the requested variances, and supplied new drawings and a supplemental submission dated October 5, 2004. This report provides OP analysis of the applicant's supplemental submission.

BZA Case No. 17192 Exhibit No. 36

Board of Zoning Adjustment
District of Columbia
CASE NO.17192
EXHIBIT NO.36

IV. PLAN REVISIONS – refer applicant's submission, as well as Revised Site Plan, Attachment II and revised Project Profile, Attachment III

1. Housing Unit Change:

The applicant has replaced one of the housing unit types with two others for a total of 5 different unit types. The unit replaced (the Silverbrook model) was a single car garage product that backed onto existing external streets (Fort Lincoln Drive and 31st Place) and had pedestrian and vehicular entrance from the internal street. The two new units (Oakleigh and Parker models) are two car garage products which provide front facades along the existing external streets and double garages accessed from the proposed internal street, so the rear yards would be entirely driveway.

The applicant notes on page 3 of its submission that "*The introduction of the new models, Oakleigh and Parker, was prompted by the Office of Planning's concern with the design similarities between the original three models.*" OP noted in its July 13, 2004 report that "*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*" (p. 6). The new units do not appear to provide for a better response to existing site conditions, but do address other design related issues in that they will provide an improved streetscape along external streets. OP supports the improvement in how the development will relate to the surrounding neighborhood and streetscape, but is concerned that the new units essentially relegate one of the internal streets to a vehicular access alley with no opportunity for landscaped rear yard space.

Although the Zoning Regulations do not regulate the number of parking spaces other than to require at least one on-site, OP has encouraged the applicant to consider amending these units to provide only single car garages (a second car would be able to park in the driveway) to create an opportunity for rear yard space that owners can individualize; to provide a better opportunity for visitor access into the units from the shared parking areas along the alley / street, and to break up the extensive amount of continuous pavement along the internal alley / street. It would also provide an opportunity for additional living space in these units. The applicant has noted that, in order to market these units to families in this suburban-like setting with limited access to Metro, a two car garage is essential.

2. Site Plan Changes:

The proposed layout and configuration has been altered in a number of substantial ways, including:

- a revised internal street pattern to place streets longitudinally (north-south) on portions of the site that are less steeply sloping. Entry points to the site have not changed location;
- simplifying the street pattern and reducing the amount of street surface, by approximately 15% by OP calculations;
- an extension of the lower internal road south on the property, eliminating an area that was formerly intended to be undisturbed area;
- establishment of a new undisturbed area over the center, steeply sloping portion of the site;
- a general increase in the average lot size from an average 2,224 sq.ft. to 2,796 sq.ft. and in lot width from an average of 21.1 feet to 24.7 feet;
- an increase in the average front and rear yard depth of the lots;
- the addition of 28 additional visitor parking spaces;

- retention of the two tot lots, but in what appears to be a larger and more usable configuration; and
- revisions to the retaining wall scheme, principally to break large walls into series of lower walls separated by plantings.

These changes to the site plan have resulted in a significantly improved level of conformity of the proposed housing units to zoning regulations, and the elimination of all of the formerly requested lot occupancy, rear yard, side yard, and front yard variances. What remains are the special exception approvals for rowhouse use within an R-5-A zone, pursuant to §353; for lot area and lot width, pursuant to §401.3; and to permit more than one principal building on a single subdivided lot, pursuant to §2516; as well as variance relief for floor area ratio, for 116 of the 209 lots.

V. SPECIAL EXCEPTION RELIEF REQUESTED

As noted in past reports, OP concludes that the applicant has generally met the tests for the special exception approvals required. Refer to the OP report of July 13, 2004 for detailed analysis, which the revised site plan has not significantly changed.

VI. VARIANCE RELIEF REQUESTED – Floor Area Ratio

As described above, the applicant has amended the site design and unit types, resulting in the elimination of all but one form of variance - Floor Area Ratio:

Floor Area Ratio: (§402.5)	Max. Permitted:	Original Proposal:	Revised Proposal:	Variance:
Entire Development:	0.90 max. (889,353 sq.ft.)	.58 total (575,000 sq.ft.)	.55 total (546,946 sq.ft.)	
Each Lot:	0.90 max. per lot	.72 – 1.55 (average of 1.24)	.61 – 1.20 (average of .97)	**Variance Required for 114 of the 209 lots**

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

The applicant, in its supplemental submission dated October 5 2004, notes that the property contains large areas of steeply sloping land, greater than 25%. Compounding the difficulty is that the slopes are not uniform, but vary considerably at various sections of the site. Slopes of this severity are not particularly common in the District, especially in areas where row dwellings are permitted. The applicant also reiterated that the underlying soils are unstable.

The combination of slopes and unstable underlying soils results in a situation where soils must be either fairly extensively re-graded to achieve stability, or left in a natural condition. Measures such as incorporating the slopes into the design of individual units, which would normally be a preferred solution, are not as feasible in this instance. The longitudinal nature of the sloping terrain and the relatively narrow east-west width of the site for this form of development also appear to limit options to some extent. Finally, direct vehicular access from the surrounding streets –South Dakota Avenue, 31st Place, and Fort Lincoln Drive – is not desirable, resulting in the need for a more extensive internal street / alley system than might otherwise be the case, which further increases the practical difficulty associated with this site.

These exceptional conditions are compounded by a preference on the part of the applicant to preserve pockets of undeveloped land within the site, and to maintain steep slopes and retaining walls in common ownership for better long term maintenance and to ensure only usable (flat) yard space for each unit. In fact, the preference to not include retaining walls or steeply sloping land on private lots is at the center of the applicant's argument for the variances. In principle, OP agrees with these goals and feels that the required retaining wall work (resulting from the grades and the unstable soils) presents a unique circumstance in that it is appropriate for family oriented housing to have usable outdoor area without the homeowner facing the task of maintaining extensive retaining walls (which serve the entire development, not just individual lots) or difficult terrain areas, provided the homeowners association is adequately funded and prepared to maintain these areas to a high standard. It is also likely that the undisturbed and green space areas will be better maintained over the long term, to provide visual and environmental amenity to the area and improved site drainage, if they remain clearly in common ownership.

The exceptional conditions are further compounded by a reliance on units designed for flat lots with internal garages located on the lowest level of the house (as opposed to some units responding to slopes by possibly having garages on the main level and living space above and below, or units partially buried into slopes). This preference may result in some of the grading on the site. The applicant, however, has noted that the unstable soils limit opportunities for measures such as this – if the slope is to be disturbed for development, the soil instability must be dealt with through extensive re-grading.

These design preferences, in addition to being laudable, to some extent present "exceptional situations" in that the FLURA Plan includes requirements for this site that do direct the form of development to some degree, such as:

- *the provision of a wide range of housing types within the FLURA area* - the proposed development would provide market rate family housing to round out existing housing types within the FLURA; and

- *the preservation of portions of the site as green space* – the applicant has indicated areas where development is not proposed, and which would either remain undisturbed and in common ownership, or would be stabilized, re-landscaped, and retained in private ownership.

OP further notes that the applicant's analysis of uniqueness is for the entire site as a whole, rather than for the individual lots being created as part of this subdivision. As noted in the OP report of July 13, 2004, §410.12 may permit the analysis to be done on a "cluster by cluster" basis, rather than a lot-by-lot basis, although this would appear to apply only to a connected group of rowhouses. The proposed form of analysis (dividing the lots into 4 different types of "practical difficulty") may be appropriate in this case, given the large number of the lots. However, the "grouping" of the units in this way could be seen to detract from the "uniqueness" portion of the variance test. Conversely, it could be said that the site itself presents the unique circumstance resulting in practical difficulty, in that areas where this level of development on sites with steep slopes, unstable soils, and access constraints are not common in the District.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant with regard to the lot area and width?

As noted, in their submission, the applicant divides the units into 4 different types of "practical difficulty" that result in unnecessary burden. To facilitate analysis, OP has attempted to summarize the applicants' submission:

	Map Desig'n	Description	Unique Circumstances	Practical Difficulty
1	**Red**	15 Oakleigh and 25 Hathaway units mostly backing onto the steeply sloping, undeveloped center portion of the site	• fit between best street location and steep slope • retain steep slopes in common ownership	• smaller lots than would otherwise be possible, which would permit dwellings at requested FAR
2	**Blue**	6 Oakleigh units fronting onto 31st Place NE, and 17 Hathaway units, fronting onto the lower internal road	• fit between best street locations and site boundary	• smaller lots than would otherwise be possible, which would permit dwellings at requested FAR
3	**Green**	18 Oakleigh Units, fronting onto Fort Lincoln Drive and the upper internal alley/road	• fit between best street locations and site boundary • street grades	• smaller lots than would otherwise be possible, which would permit dwellings at requested FAR • impracticality of a buried basement, exempt from FAR
4	**Yellow**	33 Fairlington Units fronting onto the lower internal road	• fit between best street locations and extensive retaining walls along South Dakota Ave. • retain retaining walls in common ownership	• smaller lots than would otherwise be possible, which would permit dwellings at requested FAR

Although the "exceptional conditions" on the site are similar for each of the lots for which a variance is required (soil conditions, topography, site shape, and nature of surrounding streets), the "unique circumstances" change to some extent for the four groups identified by the applicant.

However, from the applicant's analysis, the resulting "practical difficulty" arising from these circumstances is similar for the four groupings – essentially that these conditions limit the ability of the applicant to make the lots as large as they otherwise could be. The required location of the streets, resulting from topography and soil conditions circumstances, and the retention of steeply sloping land in undeveloped form and common ownership, present practical difficulty for virtually all of the individual lots requiring a variance. Particularly for the "red" and "yellow" lots, the required retaining wall work presents an additional practical difficulty, in that it is appropriate for them to remain in common ownership for safety and long term maintenance reasons, and so as to not burden residents with maintaining extensive retaining walls. These factors limit the available size and dimensions of land available for subdivision. Lot size in turn dictates permitted FAR, the regulation from which the applicant requests relief on just over half of the lots – larger lots would permit larger houses.

In short, the applicant's case appears to rest largely on the assertion that lots which site conditions a require to be smaller than would otherwise be the case permit smaller houses than would otherwise be

supported by the site, and this presents a practical difficulty to the applicant in creating marketable housing units that fulfill the FLURA goals to the greatest degree possible.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

As detailed in the July 13, 2004 OP report, the proposal is consistent with the Comprehensive Generalized Land Use Map designation of the subject site as "medium density residential", and consistent with the designation of the site 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 proposal would further Comprehensive Plan policies related to the stabilization and improvement of neighborhoods and the provision of new housing, particularly relatively affordable family-sized ground oriented housing. The development has been redesigned to provide a better fit with the neighborhood, with improved Fort Lincoln Drive and 31st Street streetscapes, as well as improvements to the retaining walls along South Dakota Avenue. The project also furthers general objectives of the Fort Lincoln Urban Renewal Area (FLURA) Plan, and the specifics of the design will be subject to further review by the RLARC and NCPC review and approval of the application against FLURA Plan goals, objectives, and criteria (FLURA §§631 & 632). Overall, the development conforms to zoning regulations related to building bulk and lot occupancy. The large amount of open space on the site will mitigate potential concerns related to over-development of the site, while the development will be at a scale and orientation that will complement existing neighborhood development.

VII. CONDITIONS

The BZA, at its August 3, 2004 meeting, noted a number of issues and conditions within the various OP reports, and requested that the applicant address these issues. OP comments are below.

From the July 13, 2004 OP report, OP recommended that:

- 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.

At the Public Hearing, the applicant indicated agreement to these conditions.

From the July 13, 2004 OP report:

No retaining wall greater than 8 feet in exposed height	• The supplemental submission from the Applicant indicates agreement with this condition.

No retaining wall greater than 4 feet in height is permitted along a site boundary line	• The supplemental submission indicates that no wall would be greater than 8 feet in height, presumably including ones along the west (South Dakota Avenue) lot line – this would not conform to this condition. However, the attached plans indicate 4' walls along the west lot line. The wall directly adjacent to the road right-of-way should be kept to the more pedestrian-friendly height of 4 feet maximum, even if this means that other retaining walls further from the site line are required to be slightly taller.
No retaining wall greater than 4 feet in height located any closer than 8 feet from another retaining wall	• The applicant has agreed to this condition.
Any retaining wall facing a public street and within 40 feet of the site boundary is required to be faced in stone.	• The applicant has agreed to this condition.
Any private or public area located between a retaining wall and a public street or sidewalk is required to be landscaped to minimize visual impacts of the retaining wall on public ways.	• The applicant has indicated that spaces between walls would be landscaped. Landscaping is indicated but not detailed on the revised landscape plan.
Landscaped areas between stepped retaining walls and between retaining walls and property lines are to be required to be maintained by the homeowners association with adequate funding provided by the developer.	• The applicant has indicated that this will be the case, but has not detailed a funding mechanism.
Landscaped areas between stepped retaining walls and between retaining walls and property lines are required to have underground automatic watering systems installed at the time of retaining wall construction.	• The applicant has agreed to this condition.
OP suggested that the applicant investigate the use of indigenous plant species to better ensure plant material viability.	• The application does not address this level of detail in the landscape plan.
Tree preservation areas are to be protected to ensure their retention and protection during the construction phase – installation of protective fencing; agreement that no fill or construction materials be placed temporarily or permanently within the drip lines of trees to be retained, protection from excessive runoff, and inspection and approval by a Certified Arborist of protection measures prior to the construction of any homes on the site.	• The applicant has agreed to provide chain link fencing around tree preservation areas, to not permit temporary storage of construction materials within tree drip lines, and to protect these areas from excess stormwater water runoff.
Resubmission of a landscape plan in accordance with these conditions, reflecting mandated retaining wall and landscape changes, prior to issuing the Order.	• The applicant has submitted a revised landscape plan as well as retaining wall details.

At the request of OP, the applicant has also provided a plan showing proposed sidewalk connections through the site. Additional pedestrian connections connecting the lower and upper internal roads and the end of the cul-de-sac (shown in red dotted line on the Revised Site Plan Attachment II), should also be provided if grades permit, in conformance with FLURA Plan objectives for such connections, to allow easier connections from all units to each other, to the tot lots, and to the future retail development anticipated at the end of Fort Lincoln Drive. These paths would likely include stairs, and should be well lit. The applicant has indicated that these connections appear to be possible, and will investigate further as engineering drawings are completed.

OP has also suggested to the applicant that, given the changes to the units now facing Fort Lincoln Drive (the Oakleigh and Parker units), two means of egress to the internal road which will function as an alley may not be necessary. The elimination of the egress closest to 31st Street NE would eliminate a new intersection closest to the existing one, which may improve overall safety, and could provide space for units to be moved from more steeply sloping portions of the site to this area. Further, if the other access way was also shifted to the north to be opposite the proposed tot lot location, the negative impacts of car headlights shining into housing units would be reduced. The applicant has agreed to investigate this option, pending any possible concerns from DDOT or the Fire and Emergency Rescue Departments.

OP does not feel that, given the applicant's willingness to further investigate and, if possible, incorporate these issues, neither should delay BZA action on this application.

VIII. OP SUMMARY RECOMMENDATION

With the changes to the site and unit design as well as the provision of a more detailed analysis, the applicant has adequately met the special exception tests for the creation of the theoretical lot subdivision, as well as the variance tests for the specific lots within this development. As such, OP recommends approval of the application.

AA/jl
ATTACHMENTS:

I. Original Site Plan
II. Revised Site Plan
III. Revised Project Profile