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**Outline of Testimony
before the Board of Zoning Adjustment**

BZA Application No. 17837

Southern Avenue, S.E.

**Steven E. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP**

November 18, 2008

- I. Site location and description
 - A. Located between Branch Avenue and Naylor Road along the continuation line of Southern Avenue, S.E.
 - B. Comprised of Parcels 208/4, 208/61, 208/64, 208/65 and 215/27
 - C. Large property with frontage of only 70 feet on Branch Avenue
 - D. Total land area of approximately 547,592 square feet (12.57 acres)
 1. 128,259 square feet (2.94 acres) to be dedicated to the District for the connection of Southern Avenue between Branch Avenue and Naylor Road
 2. 204,408 square feet (4.69 acres) to be reserved for permanent open space at the northwest corner and along the northern boundary of the site
 3. 196,916 square feet (4.93 acres) remaining to be developed
 - E. Current site conditions:
 1. Parking lot at the south end for the adjacent Marlboro House apartments (portion of parking lot and apartment building itself are in Maryland)
 2. Remainder is vacant

BOARD OF ZONING ADJUSTMENT
District of Columbia

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EXHIBIT NO. 43

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3. Site slopes from a high point of elevation 280 at the northwest corner to a low point of elevation 154 near the southwest corner (northeast corner is at elevation 246 and southeast corner is at elevation 214)
4. Much of the site is wooded, especially the northern portion

II. Description of surrounding area

- A. Hillcrest/Naylor Gardens Area
- B. Site is approximately 1,500 feet from the Naylor Road Metrorail Station on the Green Line
- C. To the north:
 1. Detached single family dwellings
 2. Winston Educational Center on the north side of Erie Street
 3. Hillcrest Recreation Center
- D. To the west:
 1. Naylor Gardens cooperative garden apartment complex (2 stories) in the area bounded by Naylor Road and Denver, Erie and, 31st Streets (approximately 800 units in forty-five buildings)
 2. Apartment houses (3 stories) on the west side of Naylor Road
 3. One story retail along Naylor Road
- E. To the south:
 1. Marlborough House apartment house (9 stories) in Maryland (approximately 300 units)
 2. Suitland Parkway
 3. Naylor Road Metrorail Station and bus and parking facilities
- F. To the east:
 1. Parkland (open space) bounded by Erie Street and Branch and Southern Avenues

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2. Church at the eastern corner of the intersection of Branch and Southern Avenues

III. Existing zoning: R-1-B

- A. Uses (§§201 – 221) - One family detached dwelling permitted as a matter-of-right (§201.1(a))
- B. Height – maximum of 3 stories, 40 feet (§400.1)
- C. Lot area – minimum of 5,000 square feet (§401.3)
- D. Lot width – minimum of 50 feet (§401.3)
- E. Percentage of lot occupancy – maximum of 40% (§403.2)
- F. Rear yard – minimum of 25 feet (§404.1)
- G. Side yard – minimum of 8 feet in each side (§405.9)
- H. Parking (§2101.1): minimum of 1 space for each dwelling unit

IV. Proposed development

- A. Use: total of 54 detached single family houses
- B. Area set aside for dedication to the District of Columbia for the extension of Southern Avenue between Naylor Road and Branch Avenue
- C. Height: less than 40 feet measured from the finished grade at the front to the ceiling of the top story
- D. Minimum lot dimensions:
 1. Exclude area of private roadways
 2. Areas vary from 1,955 square feet to 3,385 square feet
 3. Widths vary from 33.76 feet to 54.55 feet
- E. Percentage of lot occupancy: ranges from 25.0% to 39.3%
- F. Rear yards: range from 5.00 feet to 29.92 feet

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- G. Side yards: range from 5.00 feet to 6.17 feet
 - H. Front yards: range from 15.04 feet to 24.48 feet
 - I. Parking: 50 of the units have at least one parking space in a garage or on an outdoor parking pad; remaining 4 units take open spaces elsewhere on the record lot
- V. Relief requested:
- A. Special exception for theoretical building sites on a single subdivided lot (§2516)
 - B. Variances
 - 1. Lot area (all lots):
 - a) Required: 5,000 square feet
 - b) Provided: ranges from 1,955 to 3,385 square
 - c) Variance: ranges from 3,045 to 1,615 square feet
 - 2. Lot width (50 specified lots only):
 - a) Required: 50 feet
 - b) Provided: ranges from 33.76 to 56.98 feet
 - c) Variance: ranges from 16.24 to 4.13 feet
 - 3. Rear yard (25 specified lots only):
 - a) Required: 25 feet
 - b) Provided: ranges from 5 to 29.92 feet
 - c) Variance: ranges from 20 to 1.53 feet
 - 4. Side yard (all lots):
 - a) Required: 8 feet
 - b) Provided: ranges from 5 to 6.17 feet

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- c) Variance: ranges from 3 to 1.83 feet
- 5. Front yard (35 specified lots only) (§2516.5(b)):
 - a) Required: 25 feet
 - b) Provided: ranges from 14.99 to 24.48 feet
 - c) Variance: ranges from 5 to 9.96 feet
- 6. Height in stories (23 specified lots only):
 - a) Permitted: 3 stories
 - b) Proposed: up to 4 stories
 - c) Variance: 1 story

VI. Standards for the theoretical site special exception (§2516)

A. Plan submission requirements

B. For lots having no street frontage

- 1. Front is side containing the principal entrance
- 2. Required front yard equivalent to minimum rear yard
- 3. Rear yard is required
- 4. Location of rear yard

C. Net density

- 1. Covenanted means of ingress or egress not to be included in area of any lot or any yard
- 2. Vehicular access to be minimum of 25 feet
- 3. Board may modify if lesser dimension does not have adverse effect on present character and future development of the area
- 4. Specific consideration to spacing of buildings and availability of resident, guest and service parking

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- D. Height measured from finished grade at middle of front of building
 - E. Proposed development shall comply with substantive provisions and not likely have an adverse effect on present character and future development of the neighborhood
 - F. Referral required to Office of Planning for review of:
 - 1. Overall planning considerations;
 - 2. Site planning;
 - 3. Traffic and parking; and
 - 4. Impact on neighboring properties
 - G. Board may impose conditions regarding size and location of driveways; net density; height, design, screening and location of structures; and any other matter required to protect overall purpose and intent of Regulations
- VII. Compliance with the special exception standards for theoretical building sites
- A. Proposed site plan - new construction in two basic unit types:
 - 1. Type A – 3 story house (with optional loft) with parking accessed from the rear
 - a) Garage inside the unit
 - b) Outdoor area in the rear yard
 - c) Four units facing Southern Avenue would have no parking on the theoretical site but would have access to spaces elsewhere on the record lot
 - 2. Type B – 3 story house (with optional loft) with garage accessed from the front on the lowest level
 - B. None of buildings have street frontage; once Southern Avenue is constructed as a dedicated public street, 19 units will front on that street
 - C. For all units, front is side on which principal entrance is located

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- D. Net density – private street (covenanted means of egress) is excluded from area of individual lots
- E. Width of private roadways
 - 1. Private street connecting to Southern Avenue: varies in width from 25 to 30 feet
 - 2. Private alley serving rear parking of units fronting on Southern Avenue and the new private street: 20 feet
- F. Height measured from middle of front of each building and is less than 40 feet from finished grade to ceiling of top story
- G. Project will meet all other requirements of District codes and regulations
- H. Project will not likely have an adverse effect on present character and future development of the neighborhood
 - 1. Surrounding development is more intensive apartment development to the west and south
 - 2. Number of units is less than permitted by density standards of the R-1-B District
 - 3. Houses are clustered on southern edge of property, closest to the Metrorail station
 - 4. No direct access to or from the single family area to the north
 - 5. Substantial tree covered open undeveloped area will separate houses from existing single family neighborhood to the north
 - 6. Nearest existing detached single family dwellings are more than 200 feet away from the closest proposed houses
 - 7. Tops of houses will be below level of closest houses on Gainesville Street
- I. Referral has been made to the Office of Planning
 - 1. Future Land Use Map designates site for low density residential, which is what is proposed

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2. Office of Planning, by report dated November 12, 2008, has recommended favorably on the application with three conditions
- J. Board can impose conditions limiting:
 1. Size and location of driveways;
 2. Net density
 3. Height, design, screening and location of structures
 4. Any other matters which arise during the process and need attention
- VIII. Standards for a variance (§ 3103.2)
 - A. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,
 - B. The strict application of any regulation adopted under D.C. Code §§ 5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;
 - C. Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.
- IX. Compliance with the variance standards
 - A. Exceptional or extraordinary situation or condition
 1. Unusual and irregular shape of the site
 2. Insignificant amount of street frontage for area of site (less than 2% of total perimeter fronts on Branch Avenue)
 3. Extreme change in topography (more than 120 foot difference from high point to low point)
 4. Location of existing surface parking lot serving adjacent apartment house

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5. Wooded nature of site
6. "Missing link" of Southern Avenue

B. Practical difficulty

1. Site conditions identified above require clustering of units on the southern portion of the site
2. Applicant should not be required to meet the ordinary area and bulk requirements on the buildable portion of the lot, which would essentially penalize an "environmentally friendly" development plan
3. Reducing the number of houses would raise the development costs per unit
4. Substantial investment in infrastructure (including dedication of land for Southern Avenue and partial construction of the roadway) required for any development
5. Private street is excluded from individual lot area calculations

C. No detriment to the public good

1. Number of units is less than the density allowed based on minimum lot area
 - a) Based on net land area (after subtracting Southern Avenue right-of-way), assuming 5,000 square feet per lot, 83 lots would fit on the site
 - b) Site plan with 66 conforming lots utilizes all of the net site
2. Housing proposed is all detached single family dwellings
3. Average lot size on entire net lot area is more than 7,700 square feet
4. More than 50% of the net site will be retained in permanent open space with trees preserved

X. Conclusions

- A. Proposed development is consistent with the type of development called for under the Comprehensive Plan in proximity to the Metrorail station

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- B. Combination of factors (especially topography, shape and lack of street frontage) create the exceptional and extraordinary situation
- C. Proposed development is less than the density otherwise permitted on the site
- D. Inability to meet the zoning standards creates the practical difficulty to achieve a development which respects site constraints and covers infrastructure costs
- E. Cluster site plan is most appropriate form of development for this site
- F. The application should be granted

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