

November 18, 2004

BY HAND DELIVERY

Rose G. Krasnow, Chief
Catherine Conlon
Maryland-National Capital Park & Planning Commission
Development Review Division
8787 Georgia Avenue
Silver Spring, Maryland 20910

**Re: Forest Glen Venture, LLC/Preliminary Plan of
Subdivision Application for The National Park
Seminary Property**

Dear Ms. Krasnow and Ms. Conlon:

Our firm represents Forest Glen Venture, LLC (an LLC comprised of The Alexander Company, Inc. and Eakin/Youngentob Associates, Inc.), collectively, the Applicant for a Preliminary Plan of Subdivision for development on The National Park Seminary property (of which the Applicant now owns). Enclosed for filing are the plans and materials required for a complete Preliminary Plan application as well as the appropriate filing fee. We also are submitting the adjoining and confronting property owners list for purposes of fulfilling all notice requirements.

The Applicant is extremely excited about this proposed development and all that it has to offer the County and the surrounding community. The National Park Seminary is architecturally one of the most whimsical places in the County with a unique collection of architecture, deep forested rolling hills and a steep glen. The eclectic collection of buildings is complemented by an assortment of classical statuary and natural and planned landscape. The application furthers the County's housing policy, more specifically, in providing a significant amount of affordable housing. The National Park Seminary, once a County treasure, has that very same potential now as reflected in the Preliminary Plan application. The public interest is

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substantially served by the preservation and adaptive reuse of this National Park Seminary historic treasure (a goal that has been in place for years but never has been able to be achieved until now, thus leaving the historic structures on the Property subject to massive deterioration and destruction). The public will benefit enormously from this adaptive reuse, historic preservation effort.

As part of this application, the Applicant is requesting certain waivers from Section 59-C-7.15(b) of the Montgomery County Zoning Ordinance. This provision of the Zoning Ordinance dealing with Planned Development ("PD") zones requires that no building, other than a one-family detached residence, can be constructed within 100 feet of land that adjoins a PD development and is recommended in the Master Plan as a one family detached zone. The Zoning Ordinance also states that no building can be constructed to a height greater than its distance from such adjoining land. Portions of the Seminary property technically fall within this requirement, even though the adjoining land is owned and used by the federal government for the Walter Reed complex and M-NCPPC as parkland.

Section 59-C-7.15(d)(2) of the Zoning Ordinance does provide the Planning Board with the ability to waive the setback and height requirement if:

"The site is within or in close proximity to a historic district and the Planning Board finds that reduced setbacks or increased building height will facilitate the preservation, reuse, or redevelopment of a designated historic district and the immediately adjoining property will not be adversely affected by the waiver."¹

The National Park Seminary PD development satisfies this waiver requirement for setbacks and height. The waiver is essential in order to develop new units on the parcel south of Linden Lane that adjoins both M-NCPPC parkland and federal government property as well as the parcel north of Linden

¹ Section 59-A-6.23 also gives the Planning Board the discretion to reduce setback requirements for property located within a historic district designated on the Master Plan for Historic Preservation. The waiver provision found in Section 59-C-7.15(d)(2) provides the Planning Board to waive setback and height requirements for property either within or in close proximity to a historic district.

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Lane along Smith Road (shown as Parcel K on the preliminary plan) that adjoins federal government property. The waiver also is necessary to redevelop certain units within the historic structures on the parcel north of Linden Lane. The new development is absolutely essential to the redevelopment and adaptive reuse of the historic structures within the historic district (that is located on the north side of Linden Lane). The proceeds from the new development will be used to subsidize the historic preservation and adaptive reuse of the historic Seminary property. Without the funding provided from the new development, redevelopment of the historic structures is not economically feasible. The new development will unquestionably "facilitate the preservation, reuse or redevelopment of a designated historic district" by providing the necessary funding.

The redevelopment on this historic site would be significantly affected if the waiver is not granted (a total of approximately 49 units could be lost without the waiver). We have attached an exhibit that shows the potential 100-foot setback and the units that require the waiver. The end result would be a situation whereby it would be impossible to fund the redevelopment and rehabilitation of the buildings within the historic district. All of the units subject to the waiver would comply with the maximum building height that, under the waiver provisions (Section 59-C-7.15(d)(3)), is set at 50 feet.

The development resulting from the waiver will be compatible with the immediately adjoining property and the surrounding neighborhood. The property that is adjacent to the area that involves the waiver request is either federally owned land or parkland. As a result, the waiver can be granted without adversely affecting the immediately adjoining property and without compromising the compatibility of the development with the surrounding neighborhood. We respectfully request that Staff support our request that this waiver be granted.

The Applicant also has requested a waiver from the Montgomery County Department of Public Works and Transportation to reduce the right-of-way requirement on Linden Lane to 52 feet. This right-of-way, as proposed, will be able to accommodate 28 feet of paving, sidewalks and planting strips as required by all of the agencies. The reduced paving and right-of-way for Linden Lane is absolutely essential to maintain the historic nature and feel of the

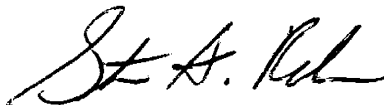
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immediate area, to protect and preserve certain specimen trees and other natural features and to advance desired urban design features including constructing new units in close proximity to Linden Lane. We have been working with Technical Staff at M-NCPPC, MCDPS and MCDPWT on this issue and feel confident that the issue will be resolved in short order.

The Preliminary Plan also reflects a right-of-way for "Highland Avenue" that was created in 1887 and is located within the environmentally sensitive Glen area. We are proposing that this right-of-way be abandoned by the Planning Board as part of this Preliminary Plan proceeding pursuant to Sections 49-67A of the Montgomery County Code and Section 50-15(a)(2) of the Montgomery County Subdivision Regulations. This right-of-way has not been in public use and thus, the Planning Board is authorized to abandon the right-of-way (by Resolution) as part of this approval process.

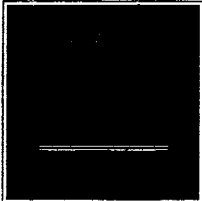
Thank you for your consideration on this matter. We very much appreciate the attention that Staff and the Commission have given to this National Park Seminary development. We look forward to filing the Site Plan in short order and to presenting this most exciting development to the Planning Board.

Sincerely,



Steven A. Robins

Cc: Natalie Bock
David Vos
Matthew Birenbaum
Brian Jackson
Development Team
Joel Gallihue (and M-NCPPC Technical Staff)
Lisa Rother



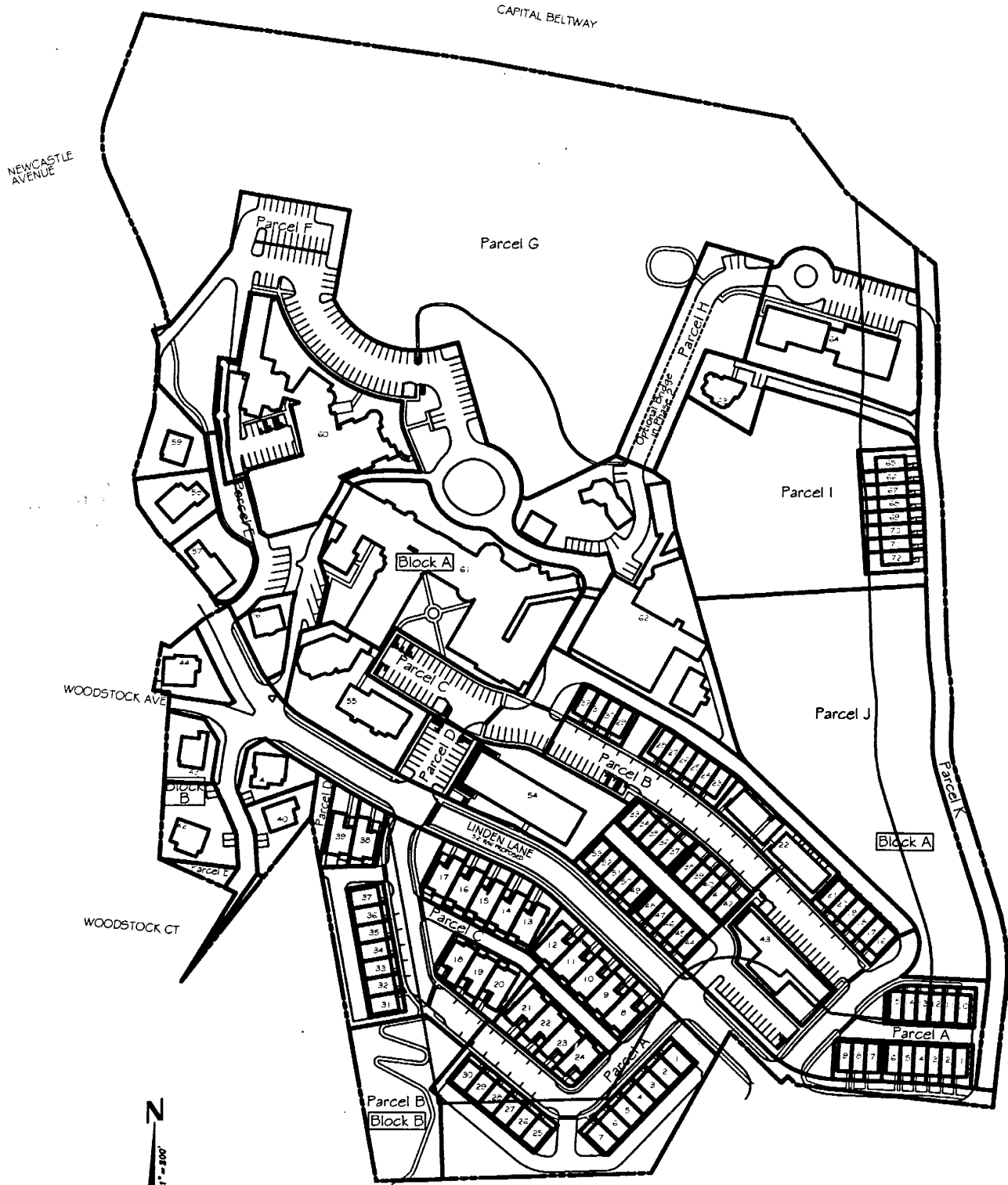
ATTORNEYS

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Forest Glen Park Citizens Association (c/o Kathryn Conant)
Linden Historic District (c/o Thomas Kristie)
Linden Civic Association (c/o Phillip Olivetti)
North Woodside-Montgomery Hills Association (c/o Ricky Albores)
Save Our Seminary (c/o Fred Gervasi)
Capitol View Park (c/o Michele Forzley)

Enclosures

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UNIT IMPACT DIAGRAM
NATIONAL PARK SEMINARY





ATTORNEYS

STEVEN A. ROBINS
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March 24, 2005

BY HAND DELIVERY

The Honorable Derick Berlage, Chairman
and Members of the Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

Re: Preliminary Plan of Subdivision Application for the National Park Seminary
Property/Waiver Request Pursuant to Section 50-38 of the Montgomery
County Subdivision Regulations

Dear Mr. Berlage and Members of the Planning Board:

On behalf of Forest Glen Venture, LLC (the **Applicant**), we submitted a Preliminary Plan of Subdivision Application for the development of the National Park Seminary Property located off of Linden Lane in Silver Spring, Maryland (the **Property**). Our hearing before the Montgomery County Planning Board is scheduled for April 7, 2005.

Our team has been focusing on financing, marketing, architectural and construction activities related to the development of the Property. As a result, we also have been reviewing the location of the lot lines that will be placed on the Property, particularly on the portion of Property north of Linden Lane (the historic portion of the Property). The placement of lot lines is essential to the Applicant's ability to develop the Property and fund the adaptive reuse of the many deteriorating historic structures on the Property. For example, we know that separate entities will need to own different portions of the main building based on the tax credits that we are securing for the rental portion of the Property. Moreover, the Applicant's financing arrangements may require separately identifiable collateral.

As our planning has progressed, it has become apparent that it will not be possible to create the required number of lots on the Property without calling into question Section 50-20(b) of the Montgomery County Subdivision Regulations (the "Regulations"). As a result of this effort, and after meeting with M-NCPPC's Technical Staff, we all concluded that it would be prudent to request a waiver, pursuant to Section 50-38 of the Regulations, from Section 50-20 (b) of the Regulations.

Section 50-20 (b) states that, "A building permit may not be approved for the construction of a dwelling or other structure, except those strictly for agricultural use, which is located on more than one (1) lot, which crosses a lot line, which is located on the

The Honorable Derick Berlage and
Members of the Planning Board
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unplatted remainder of a resubdivided lot, or which is located on an outlot, except as follows . . ." This provision of the Subdivision Regulations is most notably called into question when we attempt to subdivide the property where the main structure is located. The building will be renovated into rental and condominium type units. Again, separate lots need to be created for financing and other reasons. The proposed parking structure adjacent to the main building also will cross a lot line in order to connect to the various residential units in which it serves.

Section 50-38(a)(1) of the Regulations permits the Board to grant a waiver from the requirements of Chapter 50, "upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is " 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest." The practical difficulties or unusual circumstances associated with dividing the Property into a number of lots, without having a building or structure cross a lot line, is apparent. The Property is located in an historic setting that is envisioned to contain a significant residential historic preservation/adaptive reuse development. The Master Plan recommends this type of development on the Property. The Master Plan also encourages retaining as many of the historical elements on the Property as possible. This waiver furthers that goal. Additionally, this type of development utilizes various sources of financing, each of which requires separately identifiable security. As a result of this unique situation, it would not be possible to comply with the requirement that building(s) or structure(s) not be permitted to cross lot lines. The waiver, if granted, would be the minimum necessary to accommodate the Applicant's ability to create separate lots for financing, ownership, design and historic preservation arrangements.

Finally, the granting of this waiver will serve the public interest. Notwithstanding the use of internal lot lines, the Property will be operated under a regime imposing common rules and regulations on the entire development and making each lot fully subject to the conditions of approval set forth by the Planning Board. The waiver would not, in any way, be inconsistent with the purposes and objectives of the General Plan. In fact, the waiver, if granted, would further the purposes and objectives of the General Plan and the Master Plan by accommodating ownership structure and governance issues that ultimately would assist in the Applicant's ability to obtain financing, construct the development, and most importantly, provide as much historic preservation and adaptive reuse as is physically possible. As a result, the waiver would be in the public interest.

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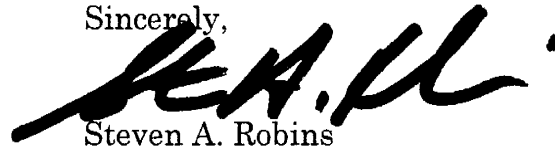
We would suggest that the waiver, if approved by the Board, be integrated into a condition of approval that indicates that buildings and structures located on the Property north of Linden Lane shall be permitted to cross lot lines and be located on more than one lot. These lot(s) shall be reflected on the final plat(s) to be recorded among the land records. It is our understanding, pursuant to the Regulations, that the Board would issue a Resolution reflecting the approval of the waiver if it is granted.

We would like to point out that, should the Board grant this requested waiver, the Applicant still would be required to meet building code, health laws and other ordinances and regulations of the County.

We very much appreciate the Board's consideration regarding this matter. We believe that this request is technical in nature and will not, in any way, violate other provisions of law, the General Plan or Master Plan or be contrary to the public interest. We certainly will be available at the hearing to address any questions or comments the Board may have regarding the waiver request.

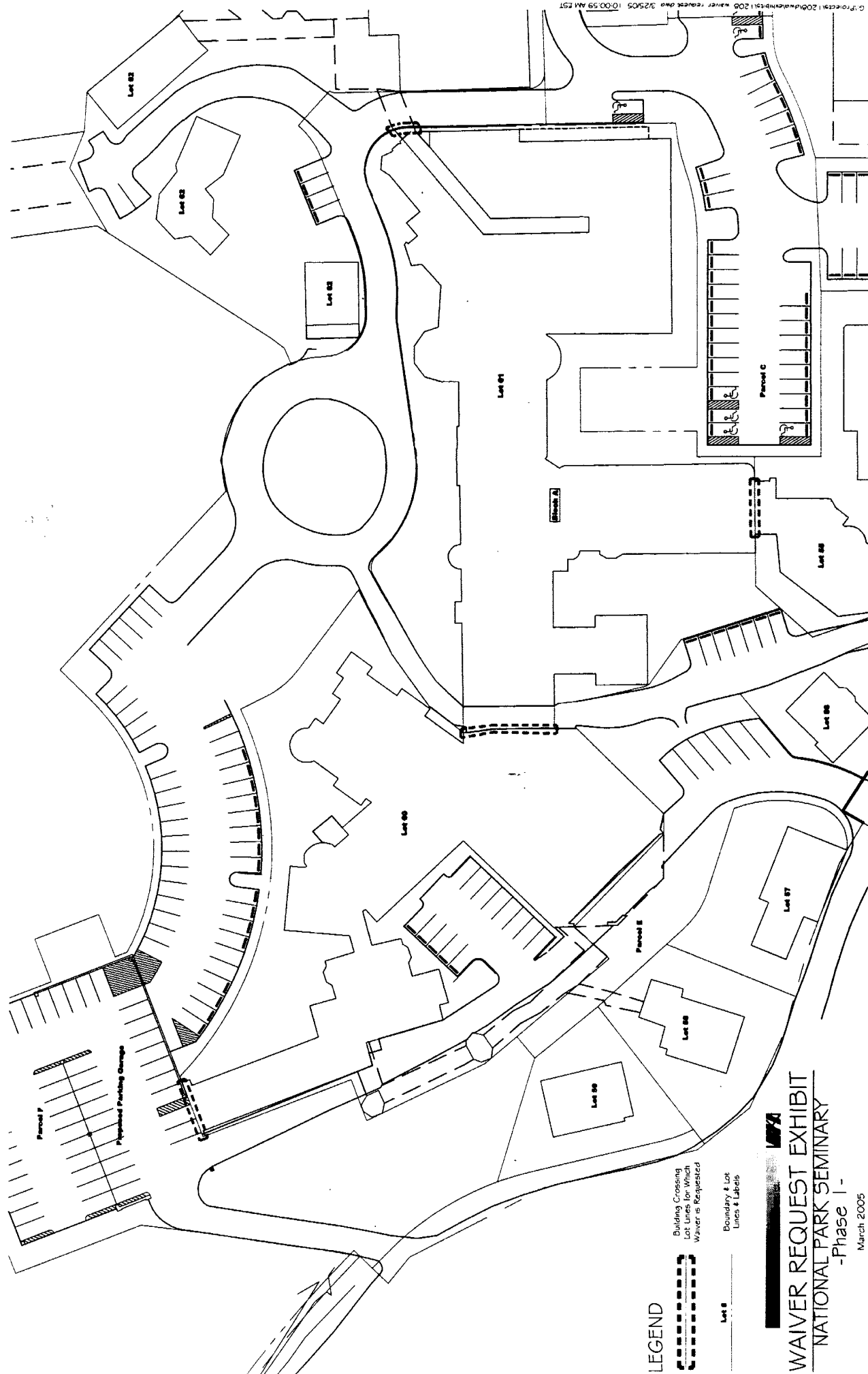
Best regards.

Sincerely,



Steven A. Robins

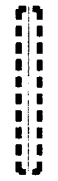
cc: Natalie Bock
David Vos
Matt Birenbaum
Brian Jackson
Catherine Conlon
Michele Rosenfeld, Esquire
Robert Kronenberg
Development Team



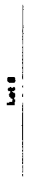
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LEGEND

Building Crossing
Lot Lines for Which
Waiver is Requested



Boundary & Lot
Lines & Labels



WAIVER REQUEST EXHIBIT
NATIONAL PARK SEMINARY
 -Phase 1-

March 2005

