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September 24, 2014

**BY ELECTRONIC MAIL**

Mr. Lloyd J. Jordan, Esq.  
Chairperson  
Board of Zoning Adjustment  
441 4<sup>th</sup> Street N.W Suite 210  
Washington, D C 20001

**Re. Pre Hearing Statement**  
BZA Application No. 18708  
4509 Foxhall Crescents Drive, N W.  
(Lot 960, Square 1397) ("Property")

Dear Mr. Chairman and BZA Commissioners

I am Amir Motlagh, owner of the above property, and Mr Edwin F. Jacobsen is the Contract Purchaser of the Property. In addition to our September 15 2014, letter to the Board of Zoning Adjustment (BZA), which contained additional background information, this Pre-Hearing Statement is being provided in support of BZA Application No. 18708.

The BZA previously approved construction of a home on this lot on January 5, 1994 pursuant to BZA No. 15882. A change in BZA regulations made these three variances necessary for theoretical lots with no road frontage. Therefore, we have added these to our Special Exception filing and request relief on these three variance requests. The justification for relief on these variances is set forth below.

**VARIANCE RELIEF REQUESTS AND APPLICATION OF THE THREE-FACTOR VARIANCE TEST**

**2516.6(b) Width of Ingress and Egress 25' width required; 16' width requested**

**Existing conditions:**

The neighborhood private street dead ending at the lot is 16' wide, which is according to the original plans for the neighborhood.

**Justification:**

The 25' Ingress and Egress width requirement would present an undue hardship because it would require expanding the existing road leading to the lot. Expanding the existing private street to 25' would entail demolishing the sidewalks and existing features of the 16' wide current private street in front of two homes on either side of the road where it dead ends. This would involve removal of curb and gutter, sidewalks, driveways and entrances, and relocating the existing storm drain inlet for a distance of over 50 LF. Replacing all of this area with a 25' wide roadway just to extend to one home would unduly burden the owner of 4509 and the contractor, as well as the homeowners' association, who would have to bear the cost of the road expansion in front of the other homes. It would also create an inconsistency in appearance within a neighborhood where consistency is one of its hallmarks.

Many of the roads in the neighborhood narrow to 16' or less, and the neighborhood has been operating efficiently for over 30 years. The resulting traffic, dust, exposure of disturbed ground is unnecessary and impractical, and it would impose an undue burden on multiple parties.

The extension of the road to 4509 is shown on the 1979 Approved Development Plan as 16'. Within the development, private streets are 25' wide, narrowing in areas serving one to three houses to 12- 16' in width. Alternatively, the Ingress/Egress Width could be made 25' but only 16' would be paved, which is allowed per 2516.6(b). However, for aesthetic purposes and for all the reasons stated above, it is preferable that the road width be allowed to be 16' in width, as originally planned.

This variance relief would have no impact on the public good or the intent of the Zoning regulations because the proposed 16' wide driveway is the same width and location as shown on the 1979 Approved Development Plan.

**2516.5(b) Front Yard 25' width required; 0' width requested**

**Existing Conditions:**

Since the lot has no road frontage, the front yard requirement as currently stands would be 25'. The subject property here is extremely unique because it is the lone remaining undeveloped lot within a previously approved subdivision of 26 homes. The lot does not have frontage on Foxhall or any other street, and it cannot gain that access for various reasons. The lot is subject to the "street" easement, subject to HOA covenants, and subject to being compatible in design with the 24 developed properties.

**Justification**

The 25' front yard width requirement would be an undue hardship and present inconsistencies because it is not in keeping with adherence to the 1979 Approved Development Plan, which shows 0 – 10' on all houses in Foxhall Crescents. In fact, other houses on roads less than 25' in width have no road frontage at all – see 1979 Approved Development Plan - attached Exhibit A.

As a result of all the unique conditions above, it is virtually impossible, let along practically difficult, to comply with the front yard provisions of 2516

No substantial detriment to the public good or to the integrity of the Zoning Regulations. The front yard relief allows the builder to comply with the HOA covenant, and to make the design more compatible with the existing neighborhood, and has no detriment to the neighboring properties or the community at large. Likewise, because this is such a unique situation, and has been approved before, there is no detriment to the integrity of the Zoning Regulations. This variance relief would have no impact on the public good or the intent of the Zoning regulations because the proposed home siting is where exactly where the original plans intended it to be.

**2516. 5 (c) and (d) Flexibility for a Turnaround in lieu of 60' radius requirement**

**Existing Conditions**

The lot currently has no road frontage. There is a small turnaround proposed for the end of the proposed 16' wide private street extension

**Justification**

There are no 60' radius cul-de-sacs or turnarounds in Foxhall Crescents. Per the 1979 Approved Development Plan, only single car turnarounds are found in the form of an extended "backup" area, and in the dead end private streets, there are no turnarounds at all. See attached Exhibit A. The current neighborhood layout has existed for over 30 years and has accommodated emergency vehicles, moving vans, trash trucks, etc. over this time

This variance relief would have no impact on the public good or the intent of the Zoning regulations because the proposed turnaround is the same size and type and location as others shown on the Approved Development Plan.

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Flexibility for the above turnaround requirement is asked for as the design for a turnaround has not been finalized. A 16' private street extension that has been extended approximately 8' past the house driveway cut is proposed. This should provide adequate turning radius for most vehicles and occasional delivery vehicles. There is some room for larger turnaround, but this would expand the disturbed area, impact existing trees, require retaining walls, and violate the perimeter.

### **SPECIAL EXCEPTION RELIEF AND EXPLANATION/JUSTIFICATION**

The criteria and justifications for this Special Exception Request are found below.

1. “[B]e in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps” 11 DCMR 3104.1
2. “[Not tend to affect adversely the use of the neighboring property in accordance with the Zoning Regulations and the Zoning Maps”

Pursuant to Section 2516, we respectfully feel the Special Exception relief sought is justified for the following reasons:

1. This proposed new home is sited in the location set forth on the original plans for this lot, with all accompanying means/width of ingress/egress. See Exhibit # 10 and attached Exhibit C
2. All the potential issues regarding Public Safety; the Environment; Parking, Loading, and Traffic, Urban Design, and Height raised by the Foxhall Crescents Homeowners Association (FCHOA) were considered and addressed by DCRA/DDOE in the approval of the 1979 Foxhall Crescents Development Plan. Over the course of more than two years, Applicant has adequately addressed these concerns.

- **Public Safety:** Applicant has submitted a list of Proposed Development Conditions in three prior submittals:
  - To the Architectural Committee of the Foxhall Crescents Homeowners Association (FCHOA)
  - In BZA No. 18708 filings Exhibit # 42
  - In a May 7, 2014, letter to the ANC 3D (copied to the FCHOA)
  - At the September 10, 2014 ANC 3D meeting.

Rather than provide specific points for resolution, the FCHOA has simply deemed proposed development conditions to be “incomplete” or “insufficient.” In Exhibit # 42 and attached Exhibit B.

- **The Environment** Applicant understands and has acknowledged the concern of the neighborhood for any stormwater runoff from this property, both during and post construction. Therefore, Applicant has expended funds, hired experts, reviewed previous environmental studies. Applicant has taken great care to include the most advanced methods available to not only address the issue, but to ensure the construction would *improve* current conditions. The methods proposed are:

**1. Proper Channeling of existing sheet flow of water across the property.**

Currently, the property is in a natural state with no contouring of the land surface, swales, diversion dikes, or structures to contain existing runoff. With installation of the proposed erosion control measures, such as earthen diversion dikes, super silt fence, and inlet protection during construction, any runoff will be channeled into the existing storm drain inlet at the entrance to the property. See **Exhibit #10 Post-construction**, the installation of **curb and gutter along both sides of the proposed private street extension** also will channel any water runoff from impervious surfaces into the existing storm drain.

**2 Limitation of the Disturbed Area to < 5,000 sf.**

By limiting the width of the private street extension to 16' and siting the house footprint in the place where originally intended, optimal advantage of the storm drainage plan from the original Approved Development Plan is achieved. Minimizing the disturbed area, and thus the impervious area, keeps potential runoff at a minimum.

**3 Infiltration Trench**

Post-construction, the installation of an Infiltration Trench (required by DDOE on all new homes in D.C. with disturbed area > 5,000 sf), even though not required in this case, will ensure proper treatment and retention of any downspout water from the house itself. As an additional benefit, the infiltration trench can capture any surface water runoff from uphill properties.

The civil engineer who prepared the proposed site grading plan is a hydrologist. He states in his letter dated September 10, 2014 (see **Exhibit #40**) that the drainage situation will actually be better when the house is built than it is now. These are the advantages of the proposed civil engineer-designed site grading plan package for the property, which will be ultimately reviewed for compliance by DDOE during the building permit process. The

hydrologic study and calculations that were employed during this plan preparation are standard practice for the professional engineers who do them.

- **Parking, Loading, and Traffic** As noted above, the proposed 16' private street extension with an integral turnaround, as described earlier, is the same size, in the same location as, and consistent with the 1979 Approved Development Plan. This type of road exists throughout the Foxhall Crescents neighborhood, with several examples of 12 – 16' roads that service one or more properties. There have been no parking, loading, or traffic problems in the neighborhood for 30 years. There are no radius turnarounds in the neighborhood. There are single car turnarounds, such as the one proposed on the site grading plan. Moreover, in one area of the neighborhood there is the termination a dead end street with no turning or backup area. See attached **Exhibit A**
- **Urban Design**. The fact that the proposed site grading plan adheres to the original 1979 Approved Development Plan assures that this urban design is sound and defensible. Further, Applicant has expended the funds to enable the preparation of an arborist-prepared Tree Study and Inventory /Tree Save/Landscaping/Replanting Plan per DC Urban Forestry Requirements, as a further testament to a responsible and sustainable program for this property. See Exhibit #38
- **Section 2516.5 Height**. Height restrictions do not apply because this is not an alley but a private road.

**Other items:**

**The following are new Lot Area and Lot Occupancy figures, taking out the Ingress/Egress easement:**

**Lot Area 13,516 sf Lot Area - Easement area 1,744 sf = New lot area 11,772 sf**

**Lot Occupancy**

Original Lot Occupancy (with Ingress/Egress Easement)	New Lot Occupancy (without Ingress/Egress Easement)	Allowable Lot Occupancy
13 %	<b>15%</b>	40%

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**Tree Save Concerns** – This is a heavily wooded lot, with approximately 27 existing trees > 4" caliper that will be saved. There are about 15 trees to be removed in the proposed street extension and the house footprint including a 47" poplar, which D C Urban Forestry asked us to try to save. We have also explored resiting the proposed house elsewhere on the property to accomplish this. However, we have found that positioning the house anywhere else would mean taking out additional trees that were to be saved. Further, this could violate the 30' undisturbed perimeter and affect even more trees. The 1979 Approved Development Plan, and Approved BZA No. 15882 plans, and our proposed plan show the proposed house footprints too close to the tree to be able to save it. Indeed, that appears to be the case with our proposed plan as well. Rather than saving this one tree, it appears better to save 4-7 existing trees that would have to be removed alternatively. See Exhibit D attached.

In conclusion, we respectfully ask that the Board approve our Special Exception and Variance/Flexibility requests.

Further, we ask that the Board include in their ruling the **proffered development conditions** regarding stormwater runoff, Hours/days of construction, Parking/Loading and Traffic, as was done in the last BZA Order No. 15882 in Exhibit #42 and Exhibit C attached. This will ensure that the BZA order is carried out pursuant to the laws of the District of Columbia.

Thank you for your patience and continued participation in this Application.

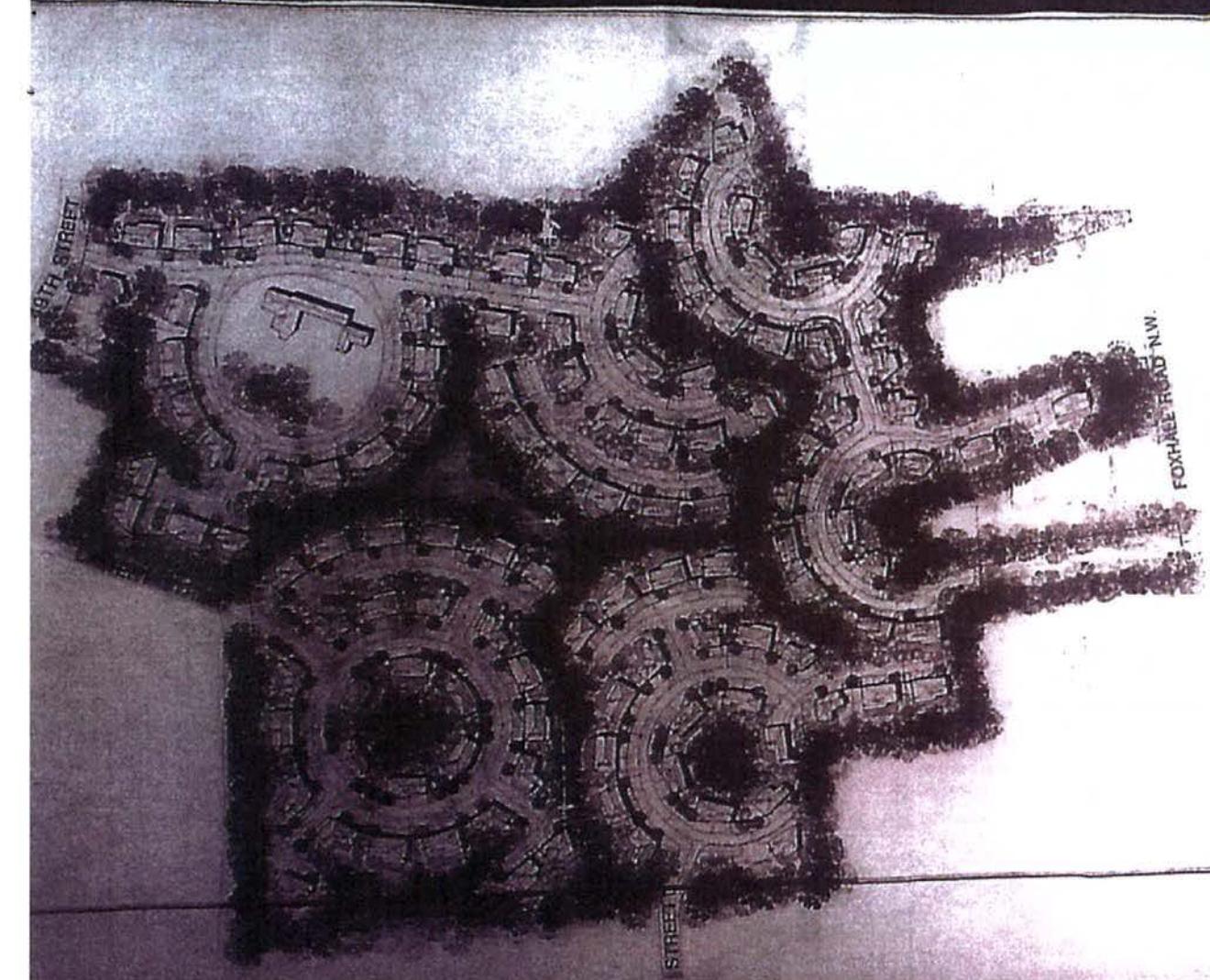
Very truly yours,

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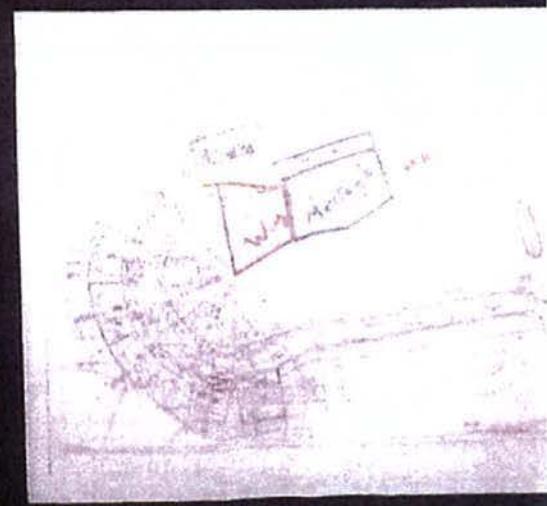
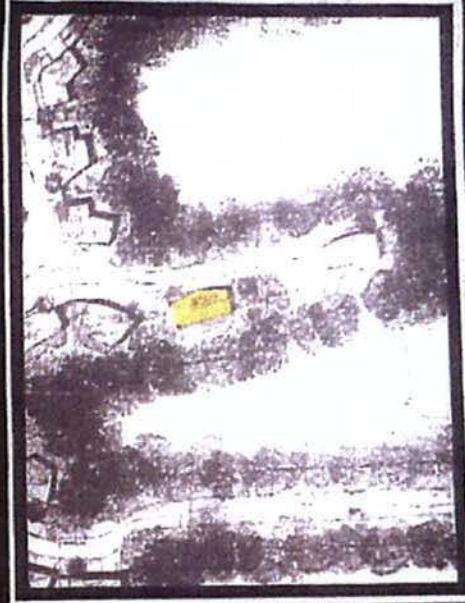
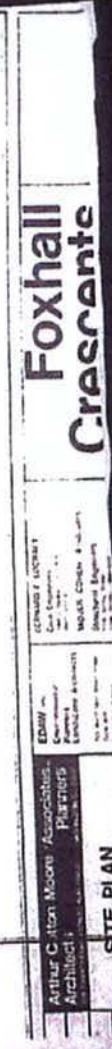
Amir Motlagh

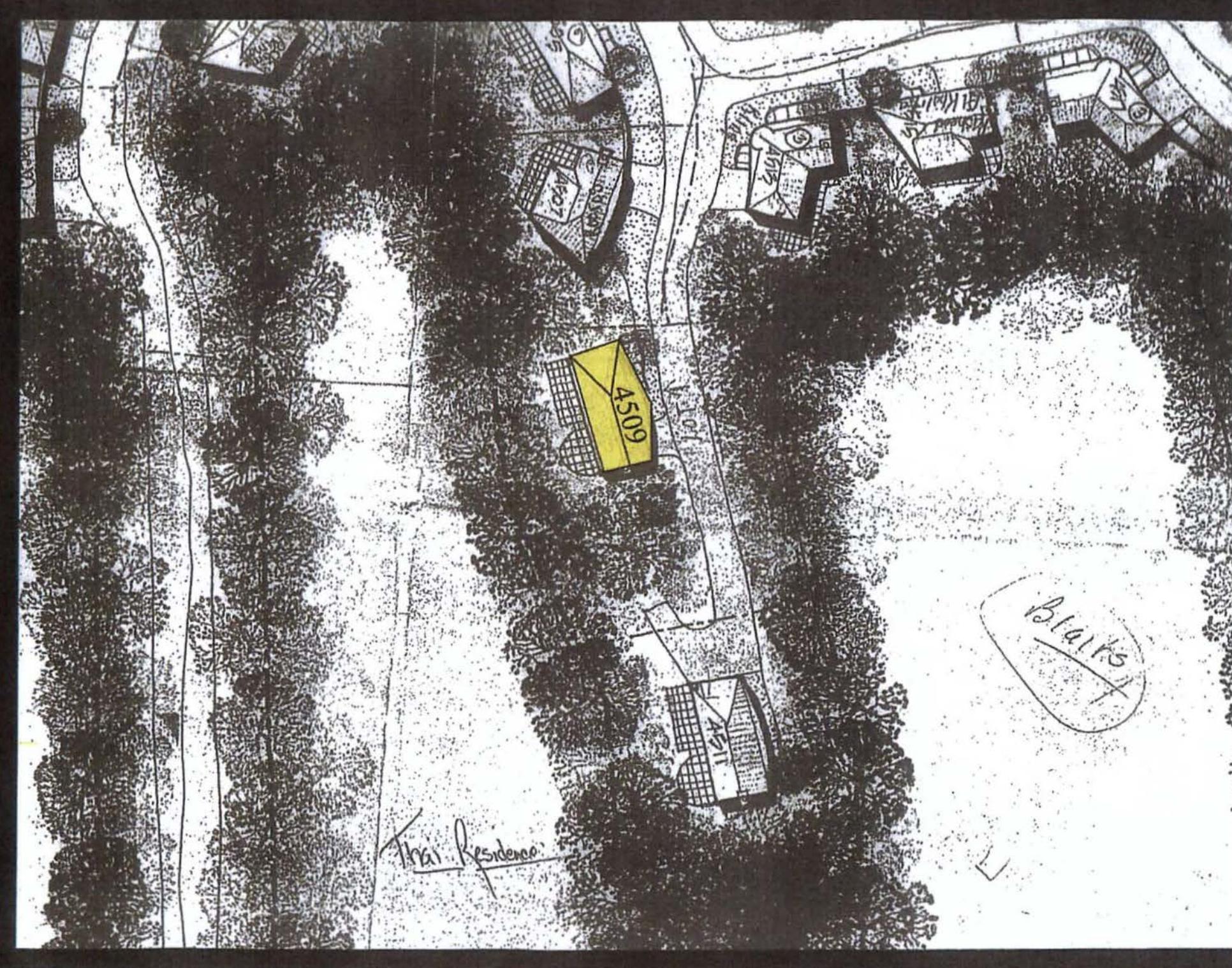
Enclosures: Exhibits A, B, C, and D

# **EXHIBIT A**

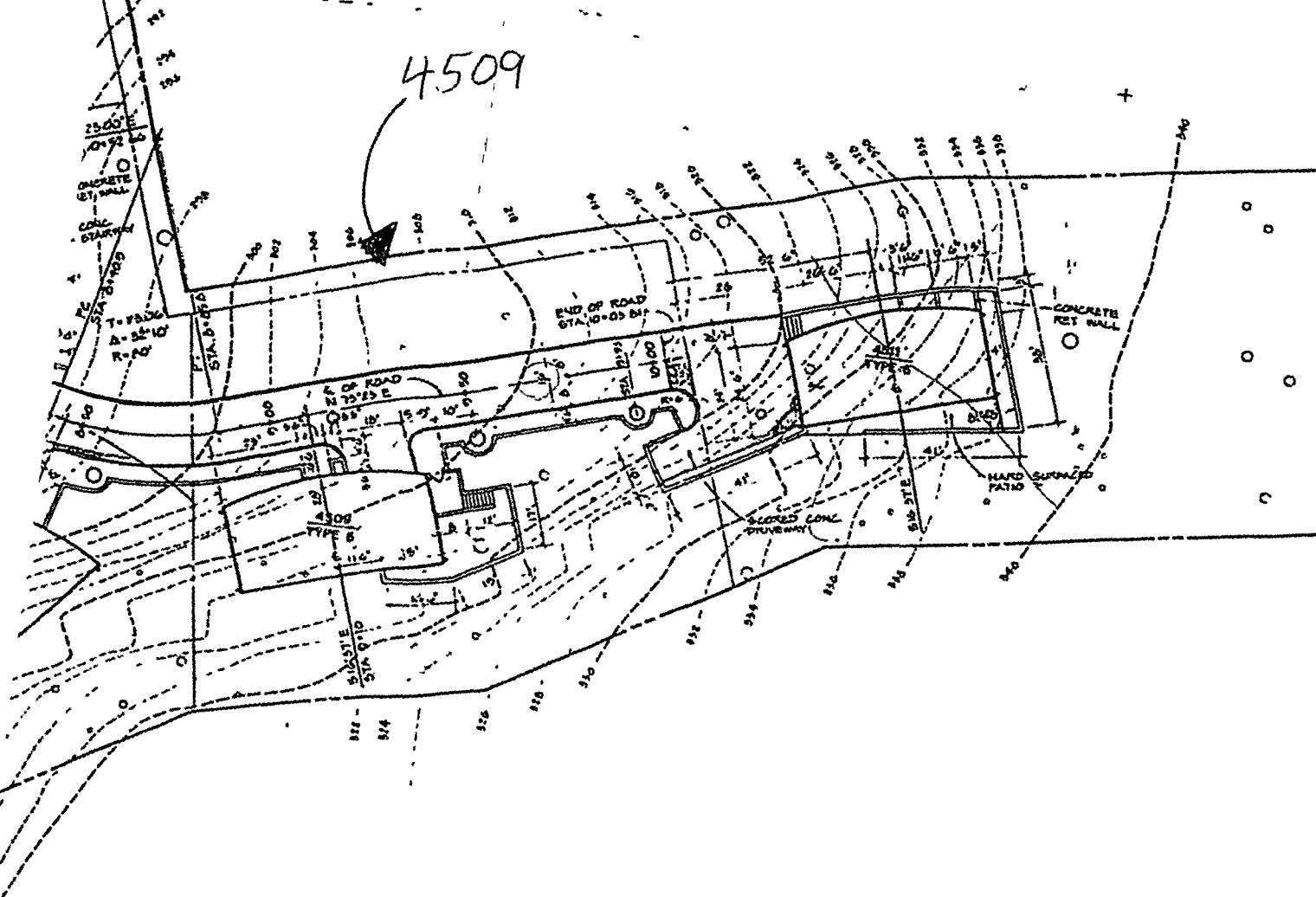


Original Foxhall  
Crescents  
Development Plan

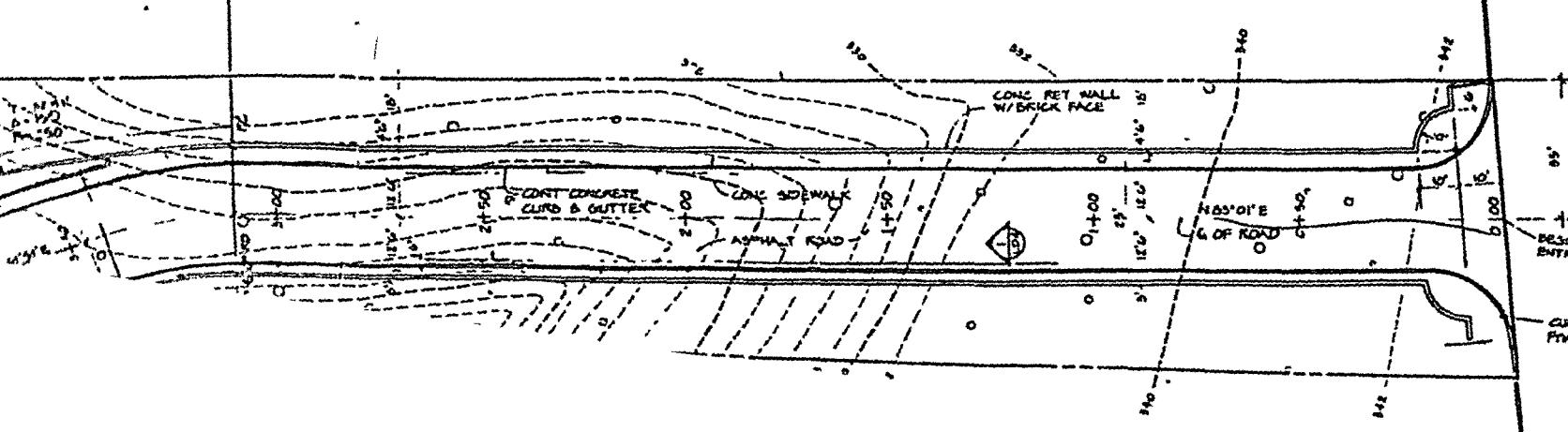




# **EXHIBIT B**



ORIGINATOR  
APPROVED  
DEVELOPMENT  
PLAN 9/79

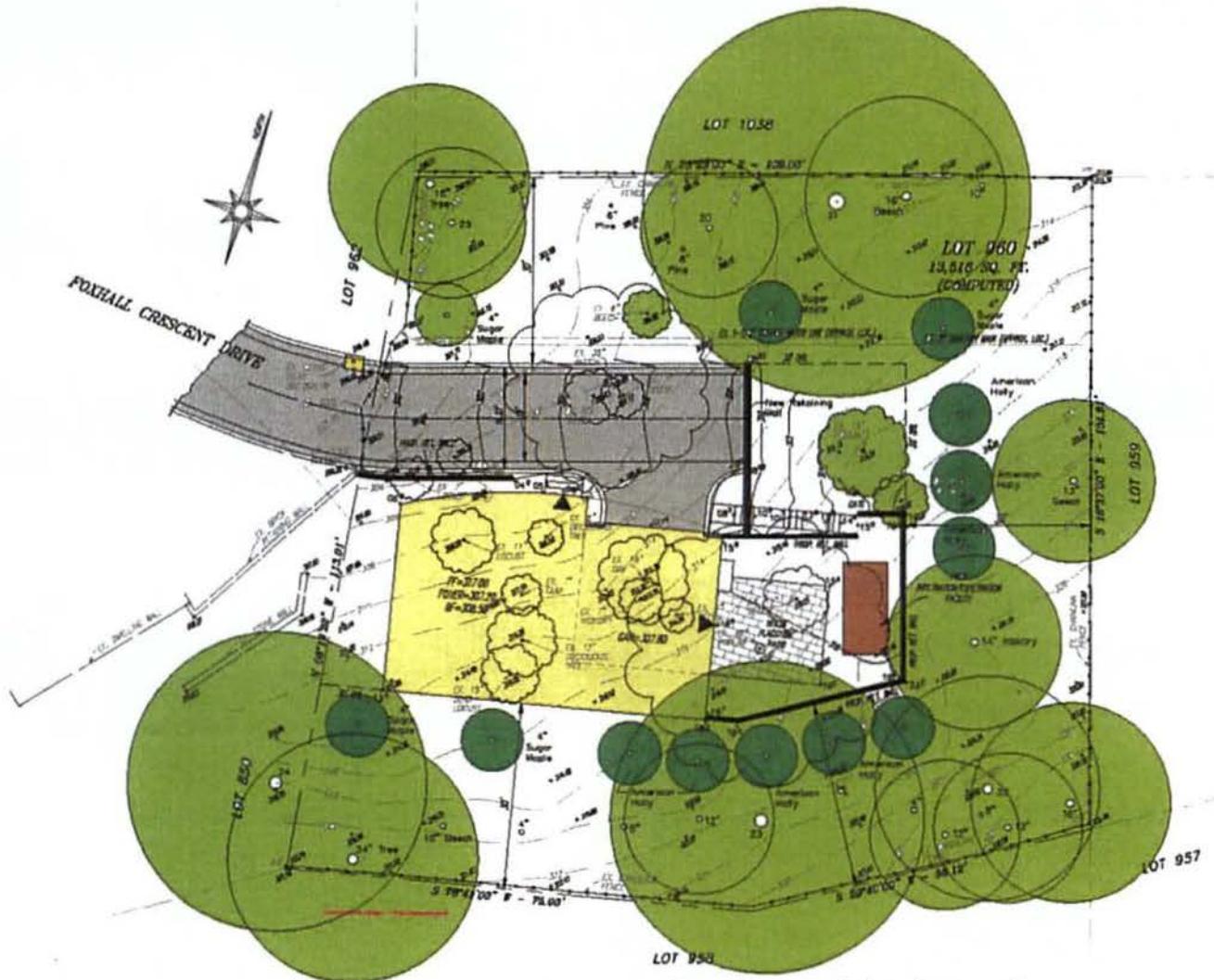


# **EXHIBIT C**

....., following the proposed development conditions are in keeping with the previous BZA approval, questions raised by FCHOA, within the proper jurisdiction of the Commission and BZA and reasonable to the current circumstances. These conditions are offered as preliminary and subject to further discussion between the parties.

1. **Communication:** There will be an established point of contact for construction who be responsible for providing an updated schedule and timetable for the project, weekly updates and notice of any significant events. The contact will be available by cell phone and electronic mail and will respond promptly to any inquiries and complaints.
2. **Storm Water Management:** DDOE approved system, including non-required infiltration trench; utilization of existing SWM system; coordination with 4507 Foxhall Crescents' storm water discharge pipe onto Property.
3. **Landscaping Plan:** Implement approved Landscaping Plan, including tree removal and new plantings.
4. **Erosion and Sediment Control:** During construction, implement DDOE required erosion and sediment control methods.
5. **Staged/Escorted Heavy Construction Traffic:** Excavation and large/heavy construction vehicles and deliveries will be staged and escorted to the Property to avoid blocking the roadway.
6. **Limits on Construction Vehicles:** Monday – Friday, 8–5 p.m.
7. **Hours of Construction:** Excavation, Site Work and Shell to Under Roof: Monday – Friday, 8–5 p.m. Interior Build Out: Monday – Friday 7a.m.–7 p.m.
8. **Construction Vehicles:** Maintained on Property; No Standing or Parking on private streets, except during actual operation, delivery.
9. **Construction Equipment and Vehicles:** All construction equipment and vehicles will be stored and maintained on the Property.
10. **No Dumpster:** No Dumpster will be located or maintained on the private streets.
11. **No Construction Parking:** Construction workers, suppliers or other construction related personnel and vehicles shall be prohibited from parking, standing, waiting or idling in the private streets . All parking will be on the Property or off-site.
12. **Road Repairs:** Responsible for the prompt repair and replacement of any cuts or damage to the private roadway surfaces as a result of construction activities (exclusive of normal wear and tear and general public use of the streets).
13. **Cleanliness:** Required to maintain a clean work-site and surrounding private streets, including removal of trash, dirt and mud and other debris from construction at the end of each work day. No construction related trash or materials will be deposited in the private trash cans belonging to adjoining properties.
14. **Additional Insureds:** The FCHOA and the owners of 4507 and 4513 Foxhall Crescents will be named as additional insureds on all liability and construction insurance policies for the Property and project.

# EXHIBIT D



Tree Survey & Landscape Plan  
Scale: 1' = 10'