BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

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Re: **Application of [AB] Urban Development, LLC**

BZA Application No.
Public Hearing:
ANC 2E

Statement of the Applicant

I.

Nature of Relief Sought

This is an application pursuant to Section 3108.1 of the Zoning Regulations for special exception relief under Section 2516 to permit the theoretical lot subdivision of 4 lots for the construction of single family detached dwellings in the R-1-B zone at premises known as 4427 through 4433 Potomac Avenue, N.W. (the Subject Property) through a driveway to be established at the end of Lingan Road, N.W. (Square 1356, Lots 21 & 22). No variance relief is requested.

II.

Jurisdiction

The board has jurisdiction to grant the relief requested pursuant to Section 3104.1 of the Zoning Regulations.

III.

Background

A. Project History and Basis for Request.

The applicant proposes a theoretical subdivision to divide the Subject Property into four (4) building lots. Each of the building lots has been designed to comply with the area requirements for development in the R-1-B District, as indicated on the plans. Because of the size of the Subject Property relative to its street frontage and the presence of a highway plan street (Potomac Avenue), the Subject Property must be developed under the theoretical building site provisions.

The site plan approval and eventual construction of four (4) single-family detached dwellings on the Subject Property will not adversely impact the present character and future development of the neighborhood. The proposed project is an in-

Board of Zoning Adjustment
District of Columbia
CASE NO.16637
EXHIBIT NO.9

BZA
Case No. 16637
Exhibit No. 9

fill development of a medium site for single-family housing in a residential area presently home to a vacant single family house.

B. Description of Subject Property.

The Subject Property is located on the South side of MacArthur Boulevard, NW, approximately 500 feet west of its intersection with Foxhall Road, NW. The property presently has a vacant, dilapidated house on the site. It was formerly occupied, but vacated many years ago.

The Subject Property's southern boundary abuts the former DC Transit Trolley right-of-way to Glen Echo. That property is now owned by the District of Columbia government. Further south is property owned by the National Park Service and Canal Road, NW. To the west, the Subject Property abuts Laverock Place, NW, an in-fill community of twenty-two (22) homes. East of the site are thirteen (13) town houses comprising Foxhall Square, 4410-4434 Lingan Road, NW. To the north, the site abuts a parking lot at the rear of Foxhall Mews, 4436-4450 MacArthur Boulevard, N.W.

Access to the site is through a proposed driveway entrance at Potomac Avenue, N.W. which will begin at the end of Lingan Road, N.W. The site topography slopes gradually east to west. The site consists of 36,721 square feet of land area.

In spite of its size (approximately .8 acres), the site has only 12 feet of frontage on a public street--Lingan Road, N.W. The site is undeveloped, except for a vacant, dilapidated house. The Subject Property is zoned R-1-B.

C. Description of Surrounding Area.

The subject Property is located in the Palisades neighborhood area, a few blocks east of the Georgetown Reservoir. West of the site is Laverock Place, NW, in the R-1-B zone. To the northeast are townhouses at 4410-4434 Lingan Road, NW. North of the Subject Property is the three story Psychiatric Institute of Washington building at 4460 MacArthur Boulevard, NW. Along the southern boundary of the Subject Property is the former D.C. Transit Trolley line right-of-way property, and further south adjacent to Canal Road, is park land owned by the U.S. National Park Service. Canal Road, the C&O Canal and the Potomac River are further south.

D. Current Use of the Site.

The site is undeveloped, except for a vacant, dilapidated structure abandoned many years ago. The remainder of the site is unimproved with grass and some trees, particularly along the southern property line.

E. Description of the Proposal.

The Applicant proposes a theoretical subdivision to divide the subject Property into four (4) building lots. The proposed development will feature a private driveway off of Lingan Road, NW, forming a turn-around at the end of the driveway. The subdivision will be extensively landscaped with new plantings (in both the common areas and for each individual lot), in combination with the existing trees to be retained along the perimeter of the property. The 4 building sites will range in size

from approximately 6,687 to 12,495 square feet in land area, all exceeding the 5,000 square foot minimum required for the R-1-B zone.

The applicant will be the developer. The applicant is seeking approval of the proposal at this time in order to be able to build and sell the houses to homeowners, thereby increasing the city's tax base.

IV.

Points in Support of Application

The applicant offers the following exhibits in support of the requested relief:

Exhibit A:	Baist Atlas map and Sanborn Atlas map showing the Subject Property outlined in color.
Exhibit B:	Licensed Surveyor's Plat of Survey
Exhibit C:	D.C. Office of the Surveyor's Plat of Computation for the Subject Property.
Exhibit D:	Self Certification form for Direct Filing
Exhibit E:	Assessment and taxation plat, square 1356, lot 900.
Exhibit F:	Photographs of the subject property (originals filed with Form 2 application).
Exhibit G:	Plat of Computation with building restriction area, landscaping plans and typical house plans.
Exhibit H:	Specific Lot Landscaping Parameters.

V.

The Applicant Complies with the provisions Of 11 DCMR Section 2516, and Other Applicable Provisions of the Zoning Regulations

A special exception is a use that is predeemed compatible with other uses in the same zoning district. The Board's discretion in reviewing an application for a special

exception is limited to a determination of whether the Applicant has complied with the enumerated requirements for special exception relief. If the Applicant meets its burden, the Board ordinarily must grant the application. Washington Ethical Society v. D.C. Board of Zoning Adjustment, 421 A.2d 14 (D.C. 1980); Stewart v. D.C. Board of Zoning Adjustment, 305 A.2d 516, 518 (D.C. 1973). As the evidence in this case will show, the Applicant is entitled to special exception relief in order to permit the theoretical subdivision of land for 4 single-family detached houses.

Sections 2516.1 and 2516.2 permit two or more principal buildings or structures to be erected on a single subdivided lot in a residence district (or within 25 feet of a residence district) subject to Board of Zoning Adjustment approval as set forth in the following conditions:

A. **Section 2526.4 -- The Application complies with all requirements of the Zoning Regulations.**

As detailed below, the application meets all of the requirements of the Zoning Regulations for the R-1-B zone. All of the lots proposed for the single-family dwelling units are located in the R-1-B zone. Sheet C-2 of the plans (Exhibit G) "Legend and Notes" specifies the development parameters, which each lot must meet to comply with the R-1-B zone. Incorporation of the development parameters ensures that the requirements of the Zoning Regulations are complied with.

The development parameters are as follows:

LEGEND AND NOTES (FROM PLAT OF COMPUTATION OF EXHIBIT G)

1. An arrow shows front entrance. A minimum front yard setback of 25 feet is provided. (As required pursuant to section 2516.5 (a)).

2. The shaded area provided on each lot denotes area which is not buildable (building setbacks).

3. The remaining unshaded area of the lot denotes the buildable area. All dwellings located within this area are subject to the following requirements:

    a. Each dwelling shall not occupy more than 40 percent of the total lot area (as required by the R-1-B zoning district);

    b. Each dwelling shall meet the minimum 8 foot side yard setback requirements (as required by the R-1-B zoning district);

    c. Each dwelling shall meet the minimum 25 foot front yard setback requirements (as required by the Zoning district);

    d. Each dwelling shall meet the minimum 25 foot rear yard setback requirements (as required by the zoning district);

e. Each dwelling shall meet the 40 foot building height limitation (building height to be measured from the finished grade level at the middle of the front of the building to the ceiling of the top story) (as required by the R-1-B zoning district);

f. Each dwelling shall be limited to 3 stories (as required by the R-1-B zoning district);

g. One parking space shall be provided for each dwelling in a garage or carport or other permitted location on-site (pursuant to Section 2101.1); and

h. Each driveway shall have a maximum grade of not more than 12 percent (Section 2117.8 (a)).

The Application proposes to locate the houses anywhere within the space indicated as buildable area, since such a location meets all of the Zoning Regulations. All four houses are well within the limits of the buildable area thereby complying with the Zoning Regulations.

EXHIBIT G also contains an "Area Tabulation" schedule which lists the lot number and square footage of each of the 4 lots. For the R-1-B zone, the Zoning Regulations specify a minimum lot area of 5,000 square feet. The lots range in size from 6,687 to 12,495 square feet. As noted below, these lot sizes exclude the areas provided for common driveway access and utilities.

In addition, plans for typical houses are included (See Exhibit G). The plans indicate a typical housing type and design which could be constructed on-site. Flexibility to vary the house layout is requested to meet site conditions, as long as the house is sited within the buildable area as already noted. A proposed condition of the Order to approve this limited flexibility is requested.

B. <u>Section 2516.5--Front and Rear Yard Requirements, where a principal building has no street frontage.</u>

1. Front Yard:

Under Section 2516.5(a), the front of the building shall be the side upon which the principal entrance is located. The Application complies. The Plans (Exhibit G) indicate the front (principal) entrance for each lot.

Under Section 2516.5(b), open space in front of the entrance shall be provided that is equivalent to the required rear yard in the district in which the building is located. The Application complies. Area yard of 25 feet is required for the R-1-B zone (section 404.1). As shown on the plans attached as Exhibit G; a minimum of 25 feet is provided from the front property line for every lot.

2. Rear Yard:

Under Sections 2516.5 (c) and (d), a rear yard shall be required, and 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 complies. As shown in Exhibit G, the average rear yard is 25 feet for each lot as required for the R-1-B zone.

C. Section 2516.6--Net Density.

The most significant indicator of net density is the number of houses proposed for the site. For the R-1-B zone, a minimum lot size of 5,000 square feet is required. As previously described, each of the 4 lots proposed exceeds the minimum lot size. In terms of gross numbers, with a site area of 36,720.69, the average lot size for 4 lots is 8,358 square feet. (More lots could be developed on the site in terms of the site's square footage).

Deducting the area of the roadway (3,288 square feet), as required by the Zoning Regulations, yields a net land area of 33,432 square feet. For 4 lots, the average net lot area is 8,358 square feet which exceeds the standards for the R-1-B District.

As provided below, the 4 lots proposed for the Subject Property meet the conditions of Section 2516.6:

1. 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 yard that required this title.

   The applicant's plans comply with this provision. The lot area of each of the 4 lots as calculated independent of the abutting roadway.

2. Each means of vehicular ingress or egress to any principal building shall be twenty-five (25) feet in width.

   The Applicant's plans comply with this provision. The new, private access street (Potomac Avenue, N.W.) to the building lots is 30 feet in width.

3. If there are not at least two entrances and / or exits from the means of ingress or egress, a turning area shall be provided with a diameter of not less than sixty (60) feet.

   Applicant requires relief from requirements of this section because of difficulty of topography and since property is land-locked by a theoretical lot subdivision (Laverock Road, N.W.) See above photo of retaining wall (Exhibit F).

D. **Section 2516.7 -- Building Height.**

Section 2526.7 requires that the height of a building in all districts shall be measured from the finished grade at the middle of the front of the building. In addition, the heights of the dwellings are less than the 40 foot maximum height.

The Applicant complies. The height limit for the R-1-B district is 40 feet and 3 stories.

E. **Section 2516.9 requires that the proposed development shall not be likely to have an adverse affect on the present character and future development of the neighborhood.**

The Applicant proposes to subdivide the subject Property into 4 individual building lots to accept the construction of single family detached dwellings. The site plan approval and eventual construction of 4 single-family detached dwellings on the Subject Property will not adversely impact the present character and future development of the neighborhood.

Each dwelling unit will provide off-street parking for at least two cars. The required parking spaces will be located in a garage. In addition, the lots will provide additional parking in the driveway. Based on the level of parking available on-site, there will be no additional demand for on-site parking created in the surrounding neighborhood.

No significant additional demand for City services will be created by the project. The access roadway will be maintained by the homeowner's association for the Subject Property. The District presently requires the Applicant to provide typical municipal services, snow removal and roadway maintenance, at it's own expense. The City will, however, obtain significant new tax revenue from both property and income taxes from the proposed development.

F. **Section 2516.10--Referral to the Office of Planning.**

Section 2516.10 requires that the application be referred to the Office of Planning. It is the Applicant's understanding that the required referral has been made. The applicant has met with the Office of Planning to discuss the project.

G. **Section 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 May Determine to be Required to Protect the Overall Purpose and Intent of the Zoning Regulations.**

The Applicant believes that it has adequately addressed all issues relating to theoretical lot approval for the site.

As noted in Exhibit H, the borders of the Subject Property will be extensively landscaped to effectively screen the proposal from neighboring properties. Such

landscaping will include foundation planting around the house, ornamental/flowering trees and shade trees as shown on the specifications.

The density, height and location of proposed dwellings has been carefully designed to comply with the requirements of the R-1-B zone district; no variations in the R-1-B zoning are requested.

Further, as indicated in Exhibit G, all of the proposed lots are substantially setback from Lingan Road. The site is buffered by an institutional use to the north -- Psychiatric Institute of Washington and a substantial retaining wall west of the property. The closest dwelling unit to any of the proposed lots (No. 1)--Foxhall Square--is approximately 41 feet away. Finally, development of the Subject Property should not be visible from the park land due to the slope and the trees along the perimeter of the property.

H. **Subsection 3104.1 Application is in Harmony With the Zoning Regulations.**

In accordance with the intent of the Zoning Regulations generally, granting the requested relief will allow the construction of two or more principal buildings on a single subdivided lot, without adversely impacting the surrounding neighborhood. The proposed project will create in-fill development for single-family housing that is compatible with the surrounding neighborhood. The Applicant's thoughtful site and land use planning, and landscaping will assure an exceptional residential project that contributes positively to the character of the neighborhood.

The proposal is permitted as a special exception, provided that the appropriate requirements are met. The proposal is also consistent with the intent and purpose of the Zoning Regulations that property is utilized productively. In conclusion, the proposal will not adversely affect the present character and future development of the neighborhood, and will be in harmony with the Zoning Regulations and Map.

In terms of the time limits on the board's action, the Applicant is the developer and intends to use the Board's approval to be able to begin construction on the Subject Property. Therefore, the Applicant is seeking approval of the theoretical lot subdivision, with development to proceed immediately. The Applicant has proposed as a condition of its order, that a plat of computation for the four lots approved by the Board be recorded in the office of the Surveyor within one (1) month of the effective date of the order to vest the project under the Board's Order.

I. Community Issues.

The Applicant believes that, through its proposed conditions and direct conversations, it has reasonably addressed the concerns of the community. The plans meet the requirements of the Zoning Regulations and, importantly, include a density (4 lots) much less than the maximum permitted.

VI.

Conclusion

For the above reasons, the Applicant respectfully requests that the special exception relief be granted. As part of its approval, the Applicant requests the following conditions be included in the Order:

1. The Subject Property shall be subdivided in accordance with the Plat of Computation filed as Exhibit C of the record.

2. Flexibility is hereby granted to vary the siting of houses situated on the 4 lots, as long as the houses meet the zoning parameters noted in Exhibit G of the record, and are thereby in compliance with the Zoning Regulations.

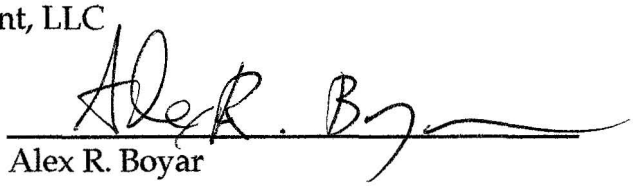
3. Lot landscaping shall be as shown on Exhibit H of the record.

4. Within one (1) month of the effective date of the Order, the Applicant shall record in the District of Columbia Surveyor's Office a plat of computation for the four (4) lots approved by the Board. A copy of that plat of computation shall be filed in the record of this case.

5. A turning area shall be allowed with a radius of not less than forty (40) feet because of difficulty of topography and since property is land-locked by an adjoining theoretical lot subdivision (Laverock Road, N.W.)

Respectfully submitted,

AB/Urban Development, LLC

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