GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: November 2, 2000

SUBJECT: Waiver of Rules for Late Submittal of the Report on BZA Application 16637 requesting to create a "theoretical" subdivision on two adjacent record parcels generally located at 4427 Potomac Avenue, N.W.

The attached report concerning a request from Mr. Alex Boyar, to be allowed to create a "theoretical" subdivision of five tax lots on two adjacent record parcels generally located at 4427 Potomac Avenue, N.W. in accordance with Sections 2516 and 3104 of Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, is being submitted less than 7 days prior to the Foreign Missions Board of Zoning Adjustment's Public Hearing. The Office of Planning respectfully requests that the Board waive its rule and accept the report into the record.

BZA
Case No. 16637
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO.16637
EXHIBIT NO.26

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE: November 8, 2000

SUBJECT: BZA Application 16637

APPLICATION
Mr. Alex Boyar is requesting to be allowed to create a "theoretical" subdivision of five tax lots on two adjacent record parcels generally located at 4427 Potomac Avenue, N.W. in accordance with Sections 2516 and 3104 of Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

SUMMARY RECOMMENDATION
The Office of Planning recommends conditional approval only. Final approval should be subject to the following conditions:

- That the applicant submit final landscaping and grading plans as required under Section 2516.3 (b) of Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning;
- That the subdivision conform to the requirements of 2516.5 (d) of the DCMR;
- That the applicant submit a revised preliminary subdivision plat prepared by a licensed engineer showing all easements, the shared access driveway and identifying building envelope (building setback lines) on each dwelling parcel; and
- Approval by the Department of Health of a storm water management plan for the subdivision.

SITE AND AREA DESCRIPTION
The subject properties are located immediately west and south of Lingan Road, N.W. (shown as Lingram Lane, N.W., on the Sanborn Maps), an alley street twelve-feet wide that extends southwest from 4400 block of MacArthur Boulevard, N.W. The properties are also immediately north of an unopened section of Potomac Avenue, N.W. right-of-way. and other land owned by the District of Columbia.

The northern property at the end of Lingan Road, N.W. (formerly lot 874, now lot 21) is undeveloped. There is an existing drainage easement and catch basin on this property at the end of the road. The adjacent property at 4427 Potomac Avenue, N.W. (formerly lot 873 and now lot 22) is developed with a two-story wood-frame dwelling (circa 1898) in dilapidated condition and a wooden barn (now collapsed). Both lots have irregular terrain, a number of trees and a total area of 36,816 square feet. The only access to these properties is from MacArthur Boulevard via Lingan Road, N.W. Both properties are zoned R-1-B.

Immediately northeast, along the same side of Lingan Road, N.W., is the Foxhall Square townhouse development at 4410-4434 Lingan Road, N.W. (zoned R-5-A). There is a wooden stockade fence six-feet tall along the shared boundary. Further east, at the intersection with MacArthur Boulevard, N.W., is a neighborhood shopping node (zoned C-1). On the opposite side and south of the unopened Potomac Avenue, N.W., right-of-way and District of Columbia property are property owned by the U.S. National Park Service and Canal Road, N.W. Northwest of these two properties are parking areas for the Psychiatric Institute of Washington and the Foxhall Mews condominium development, both fronting on MacArthur Boulevard, N.W. (these properties are zoned R-1-B and R-5-A along MacArthur Boulevard, N.W.). Further west (along the continuation of Potomac Avenue, N.W.) is the Canal View subdivision. Northwest is a single-family subdivision on both sides of Laverock Place, N.W. also zoned R-1-B.

APPLICANT'S PROPOSAL

Mr. Alex Boyar (the applicant), et al, acquired the subject property in early 2000. He would like to subdivide the subject two lots for future residential development. In a Statement of the Applicant attached to a cover letter dated August 22, 2000 and subsequent conversations, the applicant indicated that:

- Lot 21 has approximately 94 feet of frontage along Potomac Avenue, N.W, however this is an unopened right-of-way that cannot serve as vehicular access to the property.
- Lot 22 only has twelve feet of frontage along Lingan Road, N.W., an improved public right-of-way.
- Both lots have irregular shapes. The applicant noted that the southwest corner of lot 873 actually belongs to the U.S. National Parks Service. This corner is "excepted" on the surveyor's plat of the subject properties.

Because of the lack of frontage along an improved right-of-way and these other inconsistencies, the applicant is requesting a theoretical subdivision to create five tax lots. The applicant indicated that lots would be developed with single-family dwellings and one tax lot would the retained in common ownership by the homeowners association (HOA) to provide shared vehicular access from Lingan Road, N.W.

Section V of the attachment explains why the applicant feels this proposal meets the requirements of the Zoning Regulations.

The applicant provided: a Plat of Computation on Lot 22 and Part of Lot 21, Square 1356 (preliminary); a schematic site plan showing a suggested building footprint on each parcel; and typical building floor plans and a typical front facade elevation.

EXISTING ZONING AND RELIEF REQUESTED

Both are zoned R-1-B. Section 201.2 of the Zoning Regulations lists a "one family, detached dwelling" as a use permitted as a matter of right in this zoning district. Therefore, the proposed use would be a conforming use.

The Zoning Regulations also provide the following standards for lots created under this zoning category (listed with the dimensions depicted on the preliminary development plans):

Standard	Min. Requirement	Range Provided in Preliminary Plan	Variance Required
Lot Area	5,000 square feet	6,687-12,500 square feet	None
Lot Width	50 feet	50-192 feet	
Lot Occupancy (max.)	40%	14.1-40%	
Floor Area Ratio	N/A	N/A	
Parking Spaces	1	2 (a 2-car garage is shown on the typical floor plan)	
Loading Berths	N/A	N/A	
Front Yard	25 feet	25-27 feet	
Rear Yard	25 feet	25-35 feet	
Side Yard	8 feet	8-16 feet	
Court, Open	N/A	N/A	
Court, Closed	N/A	N/A	
Height	N/A	N/A	

However, under Section 401.6 of the Zoning Regulations, each new lot created must to be used and occupied by a single-family dwelling shall have frontage along (an improved) street equal to 40% of the required minimum width of the lot or at least fourteen feet. As noted above, only Lot 22 fronts a street and that frontage is only twelve feet wide. According to the Plat of Computation prepared by the District of Columbia Surveyor's Office, portions of both lots have been designated for future highway development. Property so designated cannot be subdivided.

Based on this information, it has been determined that:

- The proposed single-family residential use is permitted as a matter of right.

- The proposed subdivision and development appear to meet the Zoning Regulations. However, relief will be required because the properties will not front a street and portions of the properties have been designated for future highway development.

One option is to retain the record parcels, and to create separate tax lots for development of the proposed individual dwellings and to provide vehicular access. This option provided the basis of the applicant's request.

ANALYSIS
A principal concern is whether this proposal is consistent with the intent of the Zoning Regulations.

The property is zoned R-1-B. The R-1 district is designed to protect quiet residential areas now developed with one-family detached dwellings and adjoining vacant areas likely to be developed for those purposes. It is intended to stabilize the residential areas and to promote a suitable environment for family life. The proposal, in concept, appears to be consistent with that intent.

Compliance with Section 2516
The referenced provisions of the Zoning Regulations allows the Board of Zoning Adjustment (BZA) to approve the erection of two or more principal building or structures on a single record lot, subject to the following:

Section 2516.2 **"The provisions of this section shall apply to construction on a lot ... located within ... twenty-five (25) feet of a residential district ...".** The subject properties are residentially zoned.

Section 2516.3 **"In addition to other filing requirements, the applicant shall submit to the Board ... four (4) site plans, for all new rights-of-way and easements, and existing and preliminary landscaping and grading plans with approximate building footprints; ...".** No plans were submitted showing existing, preliminary or final grading and landscaping.

"... **Provided, that the following requirements are met:** ...

(b) **If the applicant elects to submit the plans referenced in §2516.3 (at) a later date** (final landscaping and grading plans)**, the Board's original approval shall be conditioned, subject to a later public hearing and final approval on the project as a whole."** Based on this provision, subdivision approval can only be conditional until these plans are received, requiring another public hearing at a later date.

Section 2516.4 **"The number of principal buildings permitted by this section shall not be limited; Provided, that the applicant for a permit to build submits satisfactory evidence that all requirements of this chapter (such as use, height, bulk, open spaces around each building, ...) and §§3202.2** (requirements for a site plan or City plat) **and 3202.3** (location of buildings on a separate lot of record) **are met."** The preliminary schematic plans appear to meet all the stated requirements, and each building would be on a separate tax lot. The site plan or plat would normally be provided with the building permit.

Section 2516.5 **"If a principal building has no street frontage, ... the following provisions shall comply:**

(a) **The front of the building shall be the side upon which the principal entrance is located; ..."** No site plan was provided to clearly show this relationship.

"(b) **Open space in front of the entrance shall be required that is equivalent either to the required rear yard in the district in which the building is located or in the distance between the building restriction line recorded on the records of the Surveyor of the District of Columbia for the subdivided lot and the public space upon which the subdivided lot fronts, whichever is greater;**

(c) **A rear yard shall be required; and ..."** Based on the plan showing building footprints, front and rear yards would be provided on all dwelling lots. Both yards would be at least 25'.

(d) **If any part of the boundary of the 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 southwestern boundaries are the rear boundaries of the existing lots. This condition does not appear to be met by the current subdivision proposal.

Section 2516.6 **"In providing for the net density pursuant to §2516.11, the Board shall require at least the following:**

(a) **The area of land that forms a covenanted means of ingress or egress shall not be included in any theoretical lot, or in any yard that is required by this title; ..."** The access roadway would apparently be outside of and separate from the parcels proposed for single-family development based on the building footprints.

"(b) Notwithstanding any other provision of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five (25 ft.) in width, but need not be paved for its entire width;

(c) If there are not a least two (2) 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 feet (60 ft.); and

(d) The requirements of paragraphs (b) and (c) of this subsection may be modified if the Board finds that a lesser width and/or diameter will be compatible with, and will not be like to have an adverse effect on, the present character and future development of the neighborhood; Provided, that the Board shall give specific consideration to the spacing of buildings and the availability of resident, guest and service parking." No site plan was provided showing the specific access road. The maximum turning radius that the lone vehicular access would have would be approximately fifty feet based on the Plat of Computation (please refer to Exhibit 1).

[Section 2516.7 and 2516.8 are not applicable to this application.]

Section 2516.9 **"The substantive provisions of this title shall be complied with, and the proposed development shall not be likely to have an adverse effect on the present character and future development of this neighborhood."** While OP staff thinks this proposal is consistent with the first part of this condition, however is difficult to assess the second part without the benefit of a site plan.

Section 2616.10 **Before taking final action on an application under this section, the Board must refer the application to the District of Columbia Office of Planning for coordination review, and report, which coordination, review, and report shall consider the following:**

(a) Relationship overall of the proposed development to the overall purpose and intent of the Zoning Regulations, and other planning considerations for the area and the District of Columbia as a whole, including the plans, programs, and policies of the other departments and agencies of the District government; Provided, that the planning considerations that are addressed shall include, but not be limited to the following:

(1) Public safety relating to the police and fire concerns; (refer to Agency Comments below)

(2) The environment, relating to water supply, water pollution, soil erosion and solid waste management. OP staff was

concerned about storm water run-off. Lot 22 currently has a storm water catch basin at the end of Lingan Road, N.W. (apparently) positioned to relieve the curb and gutters along this road. The applicant stated that this basin would remain (although reoriented) even though it is now in the center of the only proposed vehicular access to the site.

This proposal would increase the impervious surface on these properties (roofs, access road and driveways). Unless properly engineered, the increased run-off would migrate onto adjacent property to the west. There does not appear to be a way for water to exit this area, raising concerns that it would stagnate and create a breeding ground for insects. A storm water management plan is needed to ensure that this issue is addressed.

"(3) **Public education;**

(4) **Recreation;"** The impact of four dwellings on these two public services is anticipated to be minimal.

"(5) **Parking, loading and traffic;"** (refer to Agency Comments below)

(6) **Urban design; and as appropriate, historic preservation, and visual impacts on adjacent parkland."** These properties are not within an historic district and the existing structure is not an historic landmark. The impact on nearby lands owned by the U.S. Park Service would be the same as other residential property. Most rear yards face the U.S. Park Service property.

"(b) **Considerations of site planning: the size, location, bearing capacity of driveways; deliveries to be made to the site; side and rear yards; density and open space; and the location, design and screening of structures."** The proposed building locations based on the building footprints and typical building design appear adequate. Construction standards for the driveway, other paved areas and structures will be addressed during building permit review. Assessing the screening of structures requires a landscaping plan that was not provided by the applicant.

"(c) **Considerations of traffic to be generated and parking spaces to be provided, and their impacts."** The minimum requirement of one vehicle per dwelling would be provided according to the typical building plan (a two vehicle garage in each dwelling). The traffic impacts of four dwellings would be minimal (refer to Agency Comments below),

however, the degree to which additional parking would be available cannot be determined from the information provided.

"(d) **The impact of the proposed development on neighboring properties."** OP thinks the impact on neighboring properties would be minimal. However, the impacts of storm water are unknown.

"(f) **The findings, considerations, and recommendations of other District government agencies."** (refer to Agency Comments below)

Section 2516.11 also states that the BZA may impose that it determines are required to protect the overall purpose and intent of the Zoning Regulations.

There is an additional concern about site ingress and egress. As noted above, the only access to the development site is Lingan Road, N.W. (please refer to Exhibit 1). The proposed vehicular access lot aligns with a building restriction line on the adjacent property at 4410-4434 Lingan Road, N.W. Currently, a portion of this property, between the building restriction line and Lingan Road, N.W., is paved with curb and gutter. This additional area is now be used for parking. A review of City Surveyor records and Public Space files indicated that an easement covenant eight-feet wide was dedicated along Lingan Road, N.W. "for highway/alley purposes", effectively expanding the roadway to approximately twenty feet.

It is important to clarify how the paved access to this development will intersect this roadway.

In summary, OP staff determined that:

- The applicant did not provide all the materials required under Section 2516.3 including the existing and preliminary landscaping and grading.
- Some of the standards require review of a preliminary site plan showing all structures, landscaping and paving.
- Many of the listed standards cannot be adequately evaluated unless these materials are provided.
- The proposal also does not meet the requirements of Section 2516.5 (d).
- There are concerns about storm water management and vehicular ingress and egress.
- Final approval of this application should be deferred to allow the applicant to provide more complete information.

COMPREHENSIVE PLAN

The Comprehensive Plan Generalized Land Use Map designates the area generally south of Lingan Road, N.W. (extended), including the subject property, for parks, recreation and open space. As noted above, one of the subject parcels has been used for residential purposes since the late 1800's. The Comprehensive Plan, which is the legal basis for zoning in the District,

enunciates, as its first principle, the importance of stability for residential neighborhoods. Under Section 101, Major Themes, the plan states:

> "The successful and creative functioning of neighborhoods is a fundamental concern. Citizen participation in civic improvement starts from the interest that people have in their neighborhood blocks and the day-to-day relationships therein. ...
>
> The District elements of the Plan propose that the residential character of neighborhoods be maintained and improved. ...
>
> Ensuring good quality neighborhoods is of utmost importance to the District."

In Title 11, the Land Use Element, the Plan gets quite specific. Section 1103, Objectives for Residential Neighborhoods, states:

> "The residential neighborhood objectives are to conserve the essentially satisfactory qualities of the District's many stable residential neighborhoods, to enhance other neighborhoods to improve and achieve stability, to redirect public and private initiatives to neighborhoods most in need of improvement and stability, to encourage development of adequate neighborhood shopping and support services in all sections of the District, to protect residential neighborhoods from disruptive uses and to prevent concentrations of non-residential uses in residential neighborhoods."

Policies in support of these objectives include "(1) Promote the conservation, enhancement and revitalization of the residential neighborhoods of the District for housing and neighborhood-related uses; ..."

Ward 2 Objectives for Housing under Section 1304.1 include the following:

"(a) Stimulate the production of new and rehabilitated housing to meet all levels of need and demand and to provide incentives for the types of housing needed at desired locations; ...
(d) Encourage home ownership; ..."

COMMUNITY COMMENTS

Advisory Neighborhood Commission (ANC) 2E considered this application on October 30, 2000 and unanimously voted to approve this special exeption.

Aaron Katz, President of Canal View subdivision HOA wrote a letter in support of this special exception request (please refer to Exhibit 2).

AGENCY COMMENTS

This proposal was referred to the Fire Department and Department of Public Works (DPW) for comment. The Fire Department had no objection to this proposal (please refer to Exhibit 3). The Department of Public Works did not express concern about traffic generated by the four proposed dwellings. However, the DPW required more detailed plans (including a site plan) to adequately evaluate the overall proposal. This request for additional information was forwarded to the applicant. To date, no other comments have been received from DPW.

RECOMMENDATION

The Office of Planning recommends conditional approval only. Final approval would be subject to the following conditions:

- That the applicant submit final landscaping and grading plans as required under Section 2516.3 (b);
- That the subdivision conform to the requirements of 2516.5 (d);
- That the applicant submit a revised preliminary subdivision plat prepared by a licensed engineer showing all easements, the shared access driveway and identifying building envelope (building setback lines) on each dwelling parcel; and
- That the Department of Health approves a storm water management plan for the subdivision.

AA/afj

Attachments:

Exhibit 1 Plat of Computation on Lot 22 and Part of Lot 21, Square 1356 Showing Five Theoretical Site (final) signed and dated June 16, 2000

Exhibit 2 Letter to the Board of Zoning Adjustment from Aaron Katz, President of the Canal View Homeowners Association dated October 13, 2000

Exhibit 3 Letter to Andrew Altman, Director, Office of Planning from James N. Short, Jr., Battalion Fire Chief dated October 26, 2000

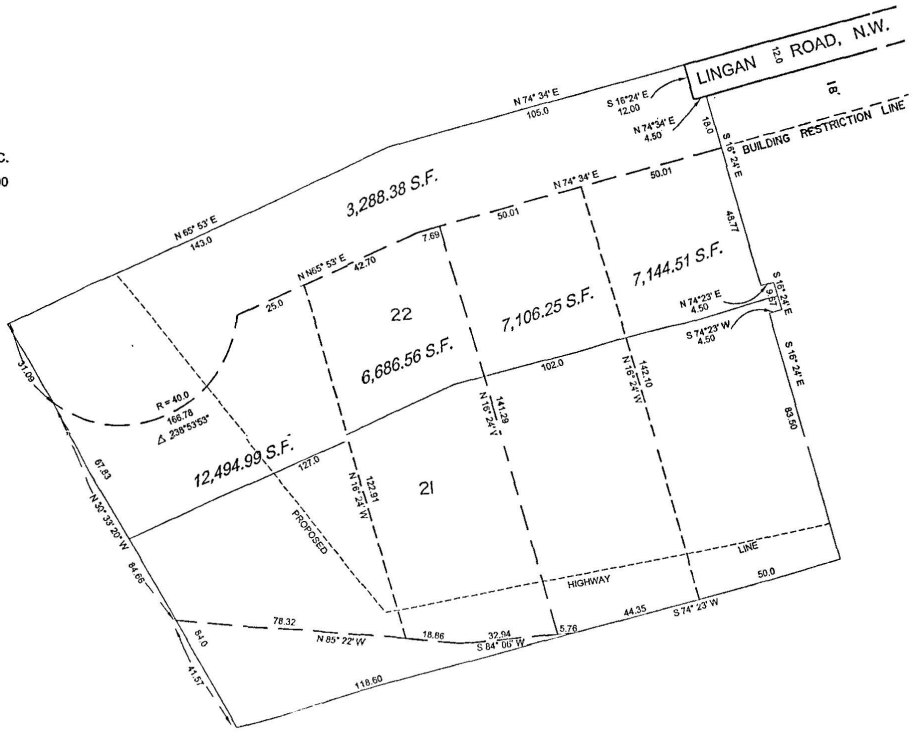
PLAT OF COMPUTATION
ON LOT 22 AND PART OF LOT 21, SQUARE 1356
SHOWING FIVE THEORETICAL SITES

OFFICE OF THE SURVEYOR, D.C.

June 16, 2000

I CERTIFY THAT THIS PLAT IS CORRECT AND IS RECORDED.

SURVEYOR, D.C.



SURVEYOR'S OFFICE, D.C.	
Made for: AB URBAN DEVELOPMENT	
Drawn by: L.E.S.	Checked by: F.S
Record and computations by: F. SLEEM	FS
Recorded at:	
Recorded in Book 204	Page 57

Exhibit 1

AARON KATZ
Senior Managing Director

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October 13, 2000

VIA FAX 202 232 4432

Government of the District of Columbia
Board of Zoning Adjustments

Re: BZA Application #16637

Dear Sirs:

I am the President of the homeowner's association of Canal View, a private community of nineteen (19) homes adjacent to the subject property. Alex Boyar has shared his development plans for the property with us. We are delighted to recommend that you grant the adjustment for the property so that he may move forward with the planned development. It will surely benefit the entire neighborhood.

Thank you,

A Katz

Aaron Katz

Exhibit 3

GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D.C. 20001



MEMORANDUM

TO: Andrew Altman
Director
Office of Planning

FROM: James N. Short, Jr.
Battalion Fire Chief

DATE: October 26, 2000

SUBJECT: BZA Application No. 16637 - Application by Alex R. Boyar for a Theoretical lot Subdivision of two lots Located at the end of Lingan Road, N.W.

The D.C. Fire and EMS Department has no objection to BZA Application No. 16637.

If you have any questions, I may be reached at 727-3659.