GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

SUPPLEMENTAL REPORT

TO:	Board of Zoning Adjustment
FROM:	Ellen McCarthy, Interim Director, OP
DATE:	March 28, 2005
SUBJECT:	BZA Case #17276, Special Exception for a theoretical lot subdivision

I. Office Of Planning Recommendation-In-Brief

The Office of Planning recommends approval of this application.

II. Application-In-Brief

Location	2101 Foxhall Road NW Square 1346, Lot 822; ANC 3D
Applicant:	Richard Nettler and Jeannine Rustad, Robins, Kaplan, Miller & Cressi LLP
Zoning:	R-1-A
Proposal:	Subdivision of a lot into 46 lots for development as detached dwellings.
Relief Sought:	Special Exception pursuant to §3104.1, for a theoretical lot subdivision for 33 of the lots, pursuant to §2516.

III. Background

A public hearing to review this application was convened on February 15, 2005, and continued to February 22 and March 8, 2005. On each of these dates, the applicant, various District departments, and parties in opposition to the proposal presented additional information. The BZA set April 5, 2005 as the date for decision and requested a supplemental report from the Office of Planning.

IV. Current Project Description

The most recent plans, included with the March 2, 2005 applicant submission, indicate that the current proposal continues to include a theoretical subdivision for new lots facing a private internal road system, although the configuration has changed from the original proposal and the number of lots has decreased by one to 33 in total. Lot size would vary from just under 8,000 sq.ft. to over 19,000 sq.ft., and all lots would conform to zoning regulation lot area and lot width requirements. Other than special exception relief under §2516 for the theoretical lot subdivision, no zoning regulation relief is requested. The applicant is also proposing 13 conforming lots – 4 facing Foxhall Road and 9 facing W Street NW - for which vehicular access would be provided from the internal road system to limit driveways from existing streets.

The applicant has provided additional information regarding site grading and retaining wall design, architectural design guidelines, storm-water retention and on-site treatment, and tree preservation and protection. Parties in opposition have, in some cases, presented alternative proposals or analysis of the submitted information.

BZA Case No. 17276 Exhibit No. 64

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EXHIBIT NO. 64

V. Traffic

OP defers to the DDOT testimony, and has no additional comments.

VI. Storm Water Management

OP defers to DOH testimony, and has not additional comments.

VII. Tree Protection

As noted in our earlier report, the site is not within a tree or slope protection area. However, tree preservation on this site would not only positively impact the ecology (wildlife, rainwater run-off, etc), but would also screen the development from neighboring property and the NPS parkland, and help the new development to fit in with the overall neighborhood character. As such, OP is supportive of efforts to save on-site trees, particularly groups of trees. The Architectural Review Committed is proposed to include a certified arborist as well as a Civil Engineer or Landscape Architect. The applicant has agreed to retain an ISA certified arborist to oversee installation of properly constructed and anchored protective fencing during grading and construction, items which OP recommends be included as conditions within the Order.

OP would be supportive of efforts to increase the number of trees and the size of the groupings to be preserved, particularly if this did not result in additional site disturbance or the creation of substandard lots. OP does not support an informal proposal to locate some of the private access road way on the existing currently unopened 44th Street road right of way, as this would seem to increase, rather than decrease, impacts on the surrounding parkland.

VIII. Site Grading

OP shares concerns regarding the location and amount of regrading on the site, and would support efforts to reduce the amount, particularly next to the natural wetlands area and directly adjacent to groups of significant trees such as those located adjacent to the Hardy property and the park boundary. The Preliminary Grading Plan (Attachment 1 to the applicant's March 2 2005 submission) shows the location of regrading, major retaining walls, and trees to be preserved. This plan appears to show areas where retaining walls are located within or very close to the drip-lines of trees. The final site and landscaping plans should show all of the trees to be preserved, with no fill or grading within drip lines, and with roads and retaining walls relocated as necessary to ensure that they are not within the drip lines.

OP is supportive of the applicant's initiative to establish a "no structure" covenant along the rear of properties adjacent to NPS parkland. Such a covenant would preclude significant grade alterations within this area that would require retaining wall work. OP believes that this covenant should also restrict driveways, to minimize grading, site disturbance, and the creation of hard surfaces within this area.

IX. Architectural Design Guidelines

OP is generally supportive of the design guidelines in concept, as distributed by the applicant at the February 15, 2005 BZA hearing. The guidelines appear to be somewhat non-prescriptive and to allow a large amount of discretion on the part of the 5-person review committee. The guidelines would permit a variety of traditional forms of house design. Restrictions related to such things as material selection, roof slope, and window orientation may limit some forms of more modern or contemporary design.

OP feels that additional clarity would be helpful to the review committee and to designers. For example, terms such as "buildable zoning footprint" ("building envelope?"), "1 ½ stories", and many of the various prohibited design elements are not well defined. The potential impact of a clause that "discourages" assembly of lots is questionable. The supportable restriction requiring garage doors to face side or rear yards could limit ability to prevent driveways within the 25' rear covenant areas, although it would appear that most or all of the relevant lots would have sufficient depth to allow rear access to the garage outside the restriction area.

Of concern is that the submission does not include landscape guidelines – careful attention is required in the crafting of such guidelines to include landscape items such as plant selection and placement; the use of accessory structures; driveway widths, locations, and materials; patio and other hard surface materials; fencing; and rain-garden design. In keeping with the form of development, OP recommends that tall security fences and gates be restricted.

X. Summary And Recommendation

As noted in the original OP report, dated February 8, 2005, the proposal, with the conditions noted below, generally conforms to the conditions of Section 2516 – Exception to Building Lot Controls. The proposal provides for the quantitative requirements of §§2516.1 to 8. The proposal sufficiently meets the intent of the more qualitative conditions of §§2516.9 and 10, especially when compared to a by-right development. As noted above, additional attention to the possible impact on trees that appear to be shared with neighboring properties (the Hardy property and the NPS parkland) is necessary, and should be addressed in the final site plan.

In general, the most recent version of the site plan is consistent with the Comprehensive Plan and Generalized Land Use Map, and would not undermine the integrity of the Zoning Regulations. OP is generally supportive of this plan, but agrees that additional, more detailed and integrated landscape and grading plans are necessary. Zoning regulations require submission of a final site plan of road and lot locations, and preliminary landscaping and grading plans (§2516.3). The applicant may elect to submit final landscape and grading plans at a later date, in which case any BZA approval would be conditional, subject to a later public hearing and final decision on the project as a whole (§2516.3 (b)).

As such, the Office of Planning continues to recommends approval subject to:

- receipt of the required final site and landscape plan, being generally consistent with the site plan submitted March 2, 2005 with minor adjustments mainly related to tree preservation; and
- incorporation of the following conditions (most of which were first outlined in the OP report dated February 08, 2005) into the final order:

  (a) Private internal streets shall not be gated in any form and shall remain open and accessible to the public, and that no other deterrent to street accessibility shall be permitted in perpetuity.

  (b) Development on each of the conforming lots will provide pedestrian access from the existing street (Foxhall Road or W Street NW).

  (c) Adequate soil erosion control measures shall be provided to protect the natural drainage channel and the NPS parkland from damage during the construction of roads and houses.

(d) Properly installed fencing outside the drip-lines of trees and groupings of trees to be preserved shall be placed prior to any construction, to prevent accidental damage or the placement of material or equipment during construction,

(e) A certified arborist shall be retained to oversee the construction process.

(f) A covenant over the rear of each lot which backs onto NPS parkland shall be provided, prohibiting any structure, swimming pool, driveway, hard-surface landscaping, or invasive form of planting. Width of the covenant area shall be the greater of 25 feet minimum.

(g) All utilities along W Street and within the site shall be buried underground by the applicant.

(h) The homeowners' agreement shall ensure adequate maintenance of public green space, roads, and the storm water management system in perpetuity.

(i) In response to concerns regarding opportunities for consolidating lots and the potential for out-of-scale development on very large lots, the BZA may, if it is within its jurisdiction to do so, require that either:

- information be placed on title that neither lot consolidation nor subdivision would be considered by the BZA for the theoretical lots; or

- more stringent than otherwise required restriction be established for consolidated lots, including occupancy, house size, and/or yard widths.

(j) If the BZA feels it is within its jurisdiction to require the following:

i. The applicant shall relinquish and transfer to the NPS any rights to the unopened 44th Street road allowance, should this be closed.

ii. The applicant shall provide a sidewalk with minimal impact on the landscape berm in front of the Hardy property, to the specifications of the District Department of Transportation.

iii. The applicant shall install an on-demand light at the new Foxhall Road entrance, to the specifications of the District Department of Transportation.

EM/jl