GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: TP for Harriet Tregoning, **Director**

DATE: June 26, 2007

SUBJECT: BZA Application **17276-B**
Modification Request – 2101 Foxhall Road (Square 1346, Lot 822)

I. APPLICATION

Pursuant to 11 DCMR § 3129.2, the applicant, Richard Netter on behalf of the owners of the property at 2101 Foxhall Road, requests a modification to the plans approved under BZA Application No. 17276, dated July 26, 2005. The requested modification would amend a condition related to the placement and location of pools on lots not adjacent to the parkland or the road.

II. SUMMARY RECOMMENDATION

The Office of Planning has no significant concerns with this proposal recommends **approval** of this modification.

III. SITE AND AREA DESCRIPTION

The 16 acre site, formerly developed as the "Dunmarlin" estate for the Phillips family, is located in Square 1346 at the intersection of Foxhall Road NW and W Street NW. Directly to the east is an unopened section of 44th Street NW, currently containing a walking path that connects the end of W Street to Glover Archbold Park, National Park Service Land. To the south of the property is additional NPS land (Whitehurst Parkway) and beyond that, currently undeveloped property owned by St. Patrick's Episcopal Church.

IV. BACKGROUND

The original proposal was approved by the BZA at its April 5, 2005 meeting, following public hearings on February 15 & 22, 2005, and March 8 2005. The approved plan was for the subdivision of this large site into 46 single family dwelling lots, including 13 conforming lots with frontage on Foxhall Road or W Street NW, and 33 lots with frontage onto a new internal private road. Lot size would vary from 8,000 sq.ft. to over 19,000 sq.ft., so 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 was requested.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17276-B
EXHIBIT NO. 82

Board of Zoning Adjustment
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CASE NO. 17276
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During the hearing for this case, there was some discussion about pool placement. Generally in the District in the residential zones, at-grade swimming pools would be allowed to be constructed anywhere on a lot as they are not considered "structures" so not subject to the setback requirements for structures.

It appears to OP that the intent of the applicant was to place the swimming pool restriction on the lots that border the park only. The applicant's proposal is described in the order adopted by the Commission on July 26, 2005 as including:

> ***16. Setbacks/Buffers/Tree Preservation*** *Each lot will have a minimum side yard of eight feet and a minimum front yard of twenty-five feet. The maximum lot occupancy will be forty percent. The proposed design will go beyond the twenty-five feet rear yard setbacks that are required in the zone. For those lots that abut parkland and/or 44th Street, the applicant has proposed thirty to forty feet non-disturbance buffer areas within which there can be no construction (See, Exhibit 50, Tabs 1, 5 and 13)...* (Page 6)

OP analysis at the time reflected this position. The OP report dated February 8, 2005 notes that:

> *...(OP) would encourage the applicant to restrict structures, retaining walls, and swimming pools and tennis courts within their proposed 25 foot covenant area along the NPS lands to minimize potential disruption to the park space."*

Further, the OP report of March 28, 2005 recommended approval of the application, subject to a number of conditions including:

> *(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 ... 25 feet minimum.*

However, the order also describes the ANC position as including a requirement which would limit swimming pool placement to within the building envelope on all lots:

> *(3) that the applicant will require that all swimming pools are constructed within the allowable footprint...* (page 14)

The order adopted by the Commission on July 26, 2005 included a number of conditions related to the nature and design of the subdivision and the design of development on individual lots, including Condition #4 which describes the placement of swimming pools:

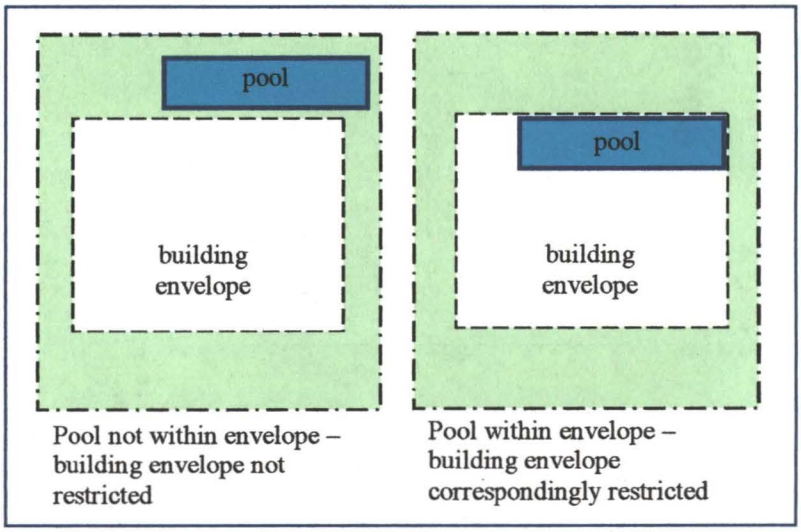
> *4. The proposed dwellings shall be constructed behind the building setback lines shown on the Preliminary Grading Plan contained in Exhibit 50, Tab 1 of the record. Pools shall be constructed within building setback lines. With the exception of lots abutting parkland or the 44 Street right-of-way (lots A-10, A1 1, A29, A30, A12, A13, A34 and A35), patios at grade and decks at or below the main floor shall ye permitted between the building setback line and the individual lot lined.*

As drafted pools would only be allowed within the building setback lines on any lot within the development. From the submissions and testimony, this would not seem to have been the applicant's

intent, but does seem to have been the intent of both the ANC and the BZA. The applicant has now requested that the order be modified to allow swimming pool construction outside the building envelope for those lots which do not abut the parkland or the undeveloped 44th Street right of way, to the east and south of the subject property.

V. OP ANALYSIS

All of these large lots have correspondingly large building envelopes, so the construction of a pool within the building envelope would not appear to present a significant restriction on the ability to construct a reasonable dwelling. However, the zoning regulations do not normally restrict the placement of at-grate swimming pools. Such a restriction in this case could, by limiting available building footprint, encourage higher or "boxier" buildings, since it is likely that, given the location and the cost of the lots, most will be developed to the maximum FAR possible. In other words, if owners of a lot wished to have a pool and it was required to be within the building envelope, it is unlikely that they would forgo square footage, but instead would reallocate that square footage, resulting in larger upper floors or a less organic design, a direct result of a slightly more restricted available footprint.



VI. Conclusion and Recommendation

The proposal would allow greater flexibility in the placement of pools within this new detached dwelling subdivision, and OP finds that this is not inconsistent with normal Zoning Regulation requirements or the intent of at least some of the discussion at the time of approval. Although, as worded, the proposal could provide for more open space within these large lots, it could also result in additional building footprint restrictions, potentially resulting in taller, bulkier, or boxier houses. OP further notes that the placement of pools outside the building envelope should not result in an impact on any existing surrounding residences, and would only potentially impact other new houses within the development. Subject to the restriction on the placement of pools remaining for lots which abut the park to the south and east of the site, and the undeveloped potion of 44th Street NW to the east of the subject property, OP has no significant concerns with this proposal.

HT/jl