

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Matt Jesick, Case Manager
 Joel Lawson, Associate Director Development Review

DATE: September 23, 2014

SUBJECT: BZA Case 18708 – 4509 Foxhall Crescents Drive

I. RECOMMENDATION

With regard to this proposal to construct one single family house, the Office of Planning (OP):

- **Cannot recommend approval** of the requested special exception pursuant to § 2516, Exceptions to Building Lot Control;
- Has no objections in concept to the requested variance to § 2516.5(b), Front Yard, but the application contains no justification pursuant to the three-part variance test, so the request cannot be evaluated;
- Recommends **approval** of the following flexibility requested pursuant to § 2516.6(d):
 - § 2516.6(b), Width of Ingress/Egress (25 feet required, 16 feet existing and proposed);
 - § 2516.6(c), Turning Area (60 foot diameter required, no turning area proposed).

OP generally supports the construction of a house on the subject property, but has requested additional information in order to fully evaluate the special exception request, and has requested the examination of alternative designs to better protect trees on site and reduce impervious surface.

II. LOCATION AND SITE DESCRIPTION

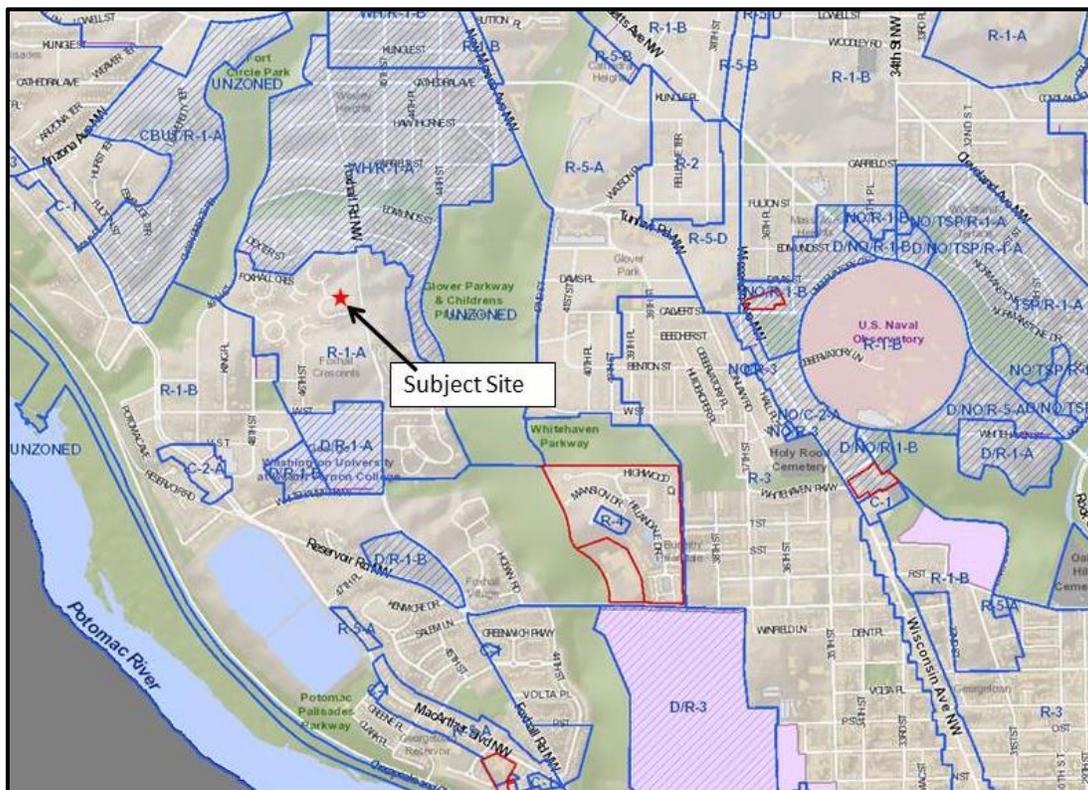
Location	4509 Foxhall Crescents Drive, NW
Legal Description	Square 1397, Lot 960
Ward and ANC	3, 3D
Lot Characteristics	Slightly irregular, roughly square-shaped lot; 13,755 square feet in gross land area; Slopes up steeply from west to east; Lot is vacant and wooded; Access from existing Foxhall Crescents Drive
Zoning	R-1-A – Single family residential
Existing Development	None
Historic District	None

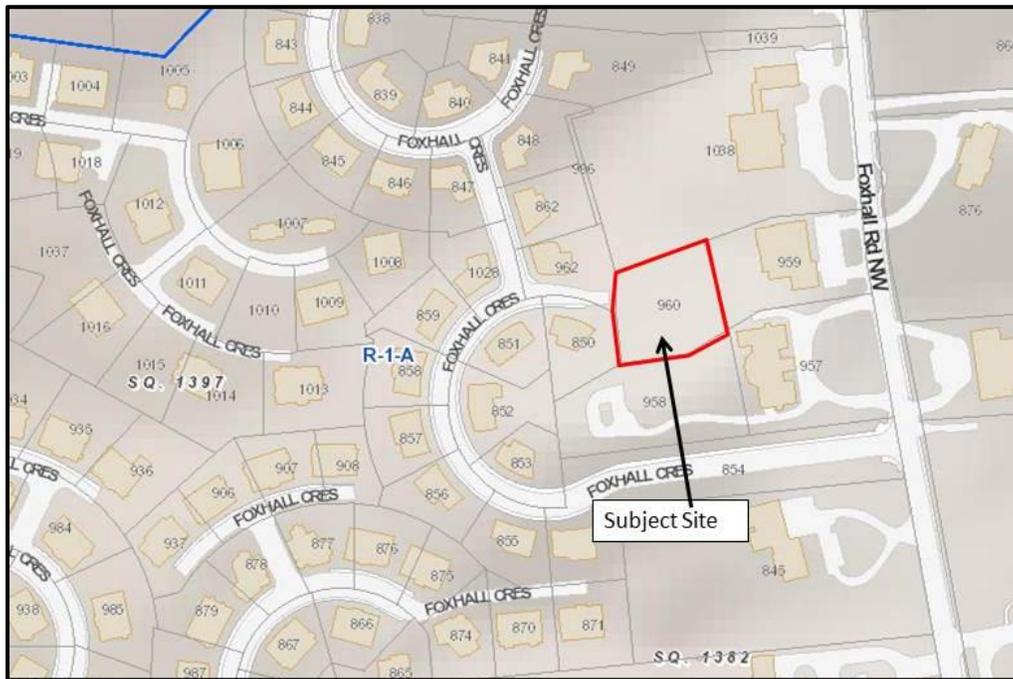


Adjacent Properties	Single family residential to the west; Diplomatic / Residential to the east
Surrounding Neighborhood Character	Neighborhood is characterized by single family residential; Diplomatic properties are also prevalent on Foxhall Road; Also a few institutional uses

III. APPLICATION IN BRIEF

Applicant	Amir Motlagh, property owner
Proposal	Construct a single family detached house
Requested Relief	§ 2516 – Exceptions to building lot control (special exception) § 2516.5(b) – Front yard (variance) § 2516.6(d) – Flexibility for ingress/egress width (§ 2516.6(b)) and turn around dimension (§ 2516.6(c))
Background	The proposed house is located in Foxhall Crescents 1, the first phase of the multi-phase Foxhall Crescents development. The development of Foxhall Crescents 1 began in the early 1980s, prior to the adoption of § 2516 in 1989. At least one subsequent phase of Foxhall Crescents was reviewed under § 2516, as were infill houses not built at the time of initial construction. For example, the Board approved, pursuant to § 2516, construction of a home at 4818 Foxhall Crescents Drive in case number 17697. The subject property, in fact, was reviewed by the Board in 1993 and 1994, in case number 15882. The Board approved the construction of a single family home, but it was never constructed.





IV. ZONING REQUIREMENTS AND REQUESTED RELIEF

R-1-A	Regulation	Proposed	Relief / Flexibility
Height (ft.) § 400	40', 3 stories	35', 3 stories	Conforming
Lot Area (sf) § 401	7,500 sf	13,755 gross sf*	Conforming
Lot Width (ft.) § 401	75' min.	119' **	Conforming
Lot Occupancy § 403	40% max.	13%*	Conforming
Rear Yard § 404	25' min.	30'	Conforming
Front Yard § 2516.5(b)	Only required if lot does not front on a public street; Then equal to required rear yard = 25'	0'	Required
Side Yard (ft.) § 405	8'	8' West, 59' East	Conforming
Ingress / Egress Width (ft.) § 2516.6(b)	25'	16'	Required
Turn Around Dimension § 2516.6(c)	60' diameter	No turn around	Required

* Section 2516.6(a) states that easements cannot be counted toward lot area or towards a required yard. There is currently an easement, in front of the proposed house location, which extends east from the existing private street. The applicant should provide an updated net Lot Area figure and an updated Lot Occupancy calculation, in consideration of the easement.

** Measured at the proposed building line, pursuant to the definition of "Lot, width of".

V. ANALYSIS

Section 2516 of the Zoning Regulations allows the Board to approve, as a special exception, the construction of a building on a lot with no public street frontage. The Office of Planning reviewed the application in accordance with the criteria of § 2516, and based on the plans submitted to date. The applicant has stated that revised plans would be forthcoming, but as of this writing they have not been submitted. Where necessary this report will note updates that should be made to the plans.

2516.2 This section applies to construction on a lot that is located in, or within twenty-five feet (25 ft.) of a Residence District.

The subject property is within the R-1-A district.

2516.3 In addition to other filing requirements, the applicant shall submit to the Board, with the new application, four (4) site plans for all new rights-of-way and easements, and existing and preliminary landscaping and grading plans with approximate building footprints provided:

- (a) The applicant shall also submit, either with the original application or at a later time, final landscaping and grading plans and two (2) sets of typical floor plans and elevations; and**
- (b) If the applicant elects to submit the plans referenced in § 2516.3(a) at a later date, the Board's original approval shall be conditional, subject to a later public hearing and final decision on the project as a whole.**

The applicant has provided a site plan showing the location of the house on the lot, as well as elevations and floor plans for the house. The proposed house would be accessed from the existing private street, Foxhall Crescents Drive, so no new right-of-way would be created. The applicant has submitted a site and grading plan and an erosion control plan as part of Exhibit #24. The applicant should submit an updated electronic copy as the copy available on the Office of Zoning website is not fully legible. OP has also received a landscaping plan which should be submitted to the record. For ease of review by the Board and staff, a single, complete package of all plans should be submitted. The plan set should include not only architectural plans, but also details for all erosion control devices and stormwater infiltration constructs.

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 the requirements of this chapter (such as use, height, bulk, open spaces around each building, and limitations on structures on alley lots pursuant to § 2507), and §§ 3202.2 and 3202.3 are met.

The proposal meets most requirements of the Zoning Regulations, including height, side yard and rear yard. Relief has been requested for front yard, private street width and turn around dimensions.

2516.5 If a principal building has no street frontage, as determined by dividing the subdivided lot into theoretical building sites for each principal building, the following provisions shall apply:

- (a) **The front of the building shall be the side upon which the principal entrance is located;**
- (b) **Open space in front of the entrance shall be required that is equivalent either to the required rear yard in the zone district in which the building is located or to 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**
- (d) **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 property does not have direct access to a public street. The proposed house would meet the side and rear setbacks. The front yard setback is required to be 25' and, according to § 2516.6(a), cannot be measured across the access easement. The applicant has requested a variance from § 2516.5(b) to allow a zero-foot front yard, but as of this writing has not addressed the three-part variance test. OP cannot make a recommendation on front yard relief at this time, but notes that a very short front yard would be characteristic of development throughout the Foxhall Crescents.

2516.6 In providing for 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 the area of any theoretical lot, or in any yard that is required by this title;**

Foxhall Crescents Drive is an easement owned by each property owner. The easement continues across the entire east-west width of the subject property and would abut the front of the proposed house, a condition not unlike the other houses in Foxhall Crescents. Because of the location of the easement and a resulting zero-foot front yard, the applicant has requested relief from the front

yard requirement of § 2516.5(b). The applicant should also recalculate the lot area and lot occupancy as directed by this section.

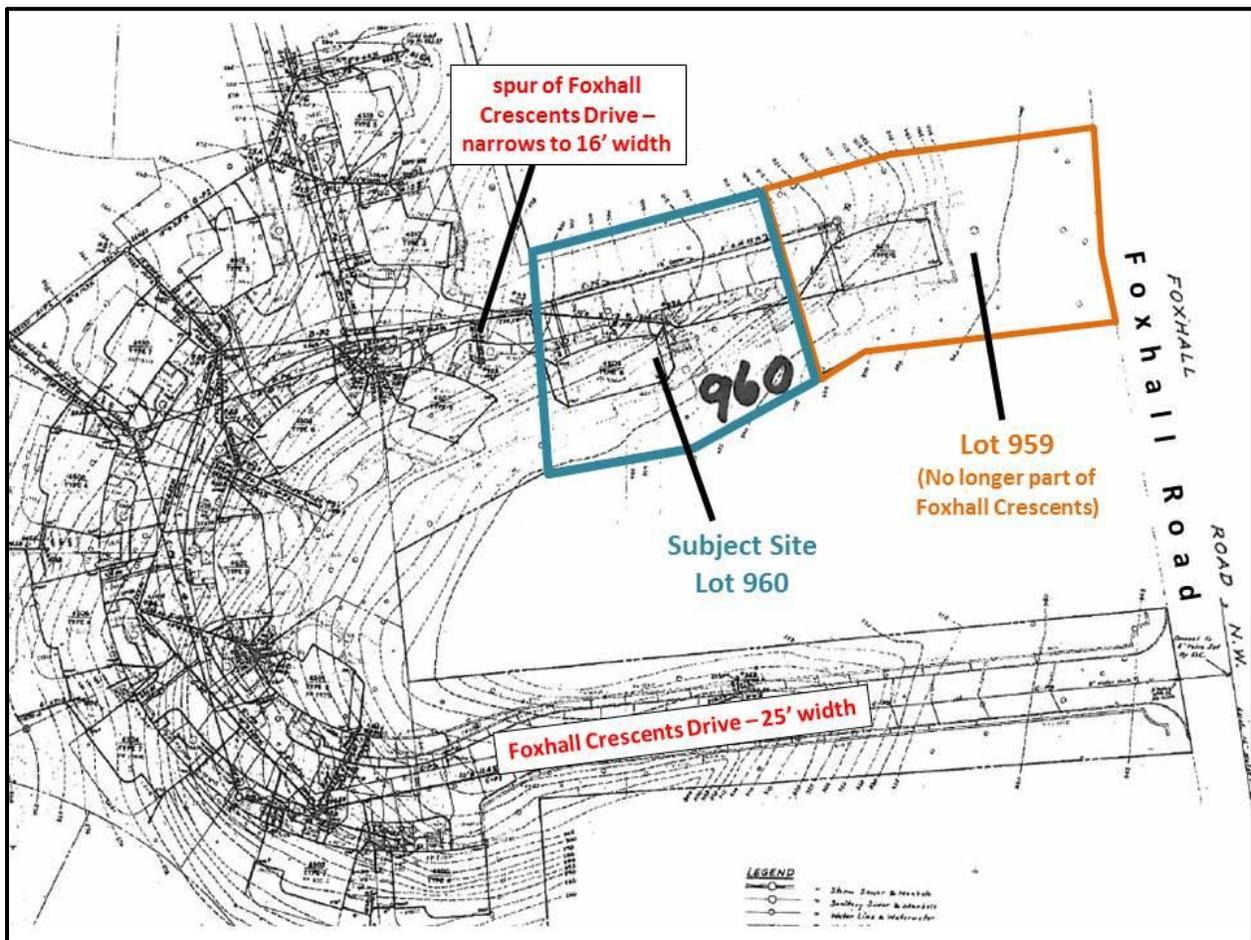
- (b) Notwithstanding any other provision of this title, each means of vehicular ingress or egress to any principal building shall be twenty-five feet (25 ft.) in width, but need not be paved for its entire width;**
- (c) If there are not at least two (2) entrances or exits from the means of ingress 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 or diameter will be compatible with, and will not be likely 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.**

Pursuant to paragraph (d) the applicant has requested flexibility from paragraphs (b) and (c) in order to provide a 16 foot wide access easement and no turn around area. The main portion of Foxhall Crescents Drive has a curb-to-curb dimension of approximately 25 feet. On this spur, which serves just a few houses, the road narrows to about 16 feet curb-to-curb. This pattern seems consistent with other later phases of Foxhall Crescents which were approved under Section 2516 and granted relief from right-of-way width requirements. Those phases were also granted relief from the turn-around provision. The original layout of this portion of the street was also designed with no turn-around. The original site plan does show an extension of this spur, but given the odd angle of its alignment it is unclear what purpose it served. Based on the orientation the most likely scenario is that it was intended for vehicles backing out of a garage in the house on Lot 959. That lot is no longer part of Foxhall Crescents. Please refer to the site plans below.

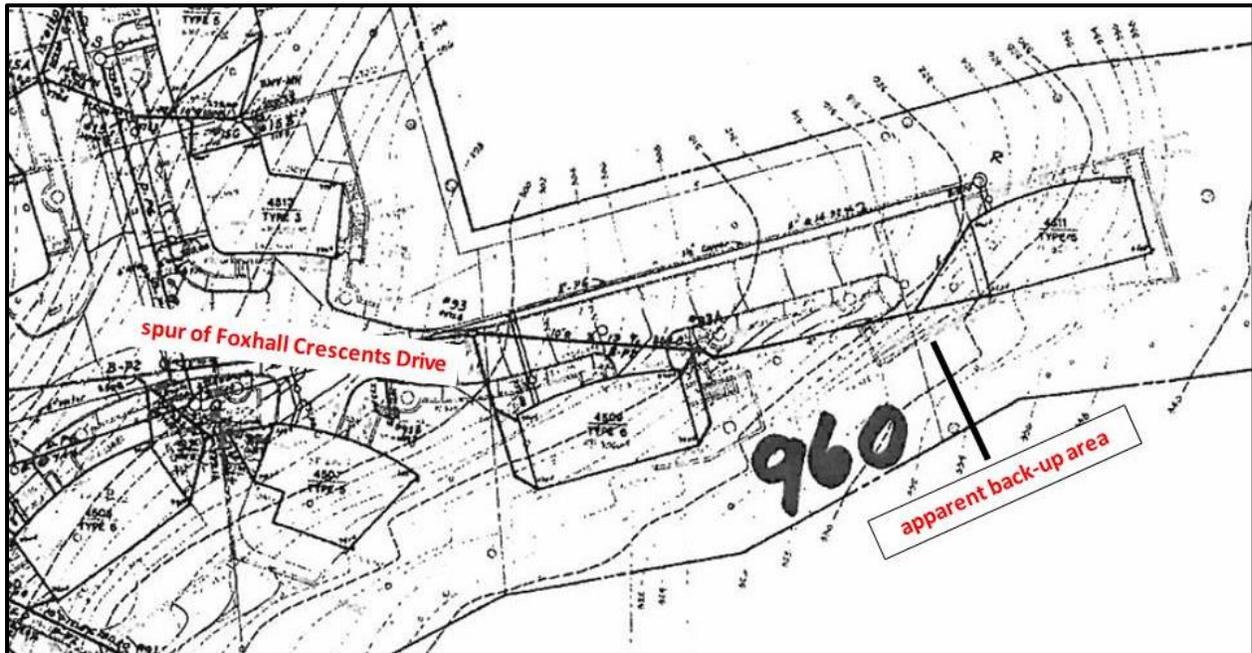
OP discussed the application with the District Department of Transportation (DDOT), who had no concerns about traffic flow or parking given that what is proposed is only a single residence. OP also notes that each house has a two-car garage, including the house proposed for construction, so there should be adequate off-street parking in almost all circumstances. OP requested comments from the Fire and Emergency Medical Services Department (FEMS) who stated in an email that “After reviewing this documentation [the application materials], DCFEMS Office of the Fire Marshal has no objections. I can’t recognize any potential fire department access issues.” MPD responded to an OP request for comments with the following statement: “Beyond typical issues surrounding construction sites (e.g., traffic, work-site safety), the Metropolitan Police Department (MPD) has no unusual public safety concerns relating to this project. Thank you for providing the Department with the opportunity to comment.” Based on the information available to date, OP has no objection to the 16’ roadway width and lack of turn-around. The roadway would function more like a private driveway rather than a street, and

because it would be built in conformance with the original plan for Foxhall Crescents it would not have an adverse effect on the character of the neighborhood. OP therefore recommends approval of the requested flexibility pursuant to § 2516.6(d).

In addition to the above, however, the roadway is an easement owned by all the homeowners, and the applicant should work with the HOA and commit to appropriate maintenance of that section of the easement. The applicant has also proposed a list of conditions (Exhibit #42, beginning on page 4) that address concerns regarding maintenance of all of Foxhall Crescents Drive during construction, construction hours, sediment and erosion control and site cleanliness, among other items. OP endorses that list of conditions.



Original 1979 Site Plan with 2014 OP Annotations



Original 1979 Site Plan with 2014 OP Annotations

2516.7 Where not in conflict with the Act to Regulate the Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, as amended; D.C. Official Code §§ 6-601.01 to 6-601.09 (2001) (formerly codified at D.C. Code §§ 5-401 to 5-409 (1994 Repl. & 1999 Supp.))), the height of a building governed by the provisions of this section, in all zone districts, shall be measured from the finished grade at the middle of the front of the building.

The height limit in this zone is 40 feet and 3 stories. The proposed house would have a height of 35 feet and 3 stories.

2516.9 The proposed development shall comply with the substantive provisions of this title and shall not likely have an adverse effect on the present character and future development of the neighborhood.

The proposed development would comply with most of the provisions of this title and would generally be consistent with the overall character and appearance of the Foxhall Crescents development. In order to ensure compatibility with the neighborhood, however, the Office of Planning asked the applicant for more information as described below.

Tree Preservation

OP has asked the applicant to examine ways to save the 47-inch diameter tulip poplar on the site. (Please refer to the tree survey at Exhibit #38.) Preservation of as many trees as possible, especially such a large tree, would benefit the subject property and neighbors' properties by absorbing rainfall, absorbing overland runoff, creating shade and minimizing heat gain, and

stabilizing soil. The Urban Forestry Administration (UFA), a division within DDOT, recommends that the best way to preserve the tulip poplar is to avoid any construction activities within its critical root zone (CRZ). Please refer to the attached email from UFA. If that is impossible, then the absolute minimum distance from the trunk to any construction activity should be 18 feet. OP has asked the applicant to examine other design solutions that would remove the house from the CRZ or maintain a significant distance from the trunk to the house footprint. One solution would be for the applicant and the HOA to work together to realign the house so that it is perpendicular to Foxhall Crescents Drive and faces down the hill. That location would remove the house footprint from most if not all of the CRZ and have the added benefit of reducing the amount of impervious surface on the site. In any scenario where the tulip poplar remains, the UFA recommends a preservation plan that would detail pre-construction, during-construction and post-construction measures to protect the tree.

Erosion Control, Stormwater Management and Groundwater

The applicant has provided an erosion control plan as part of Exhibit 24. The electronic copy provided to OP is more legible than the electronic copy on the DCOZ website. The applicant should resubmit a clear PDF to the record as the details found in the notes of the plan, illegible on the DCOZ copy, are critical to the success of the erosion control measures and to the full understanding of the plan by anyone reading it. DDOE has stated that it would review the erosion control measures at the time of building permit to ensure they meet District requirements.

Stormwater from upland sources and, according to the applicant, from the roof of the house, would be collected in an infiltration trench where water would gradually be absorbed into the ground. The trench is an extra measure proposed by the applicant since District law does not require stormwater detention for projects disturbing less than 5,000 square feet of land. Revised plans should be submitted that show roof runoff being directed to the infiltration trench, as well as a design for the infiltration trench showing its length, breadth and depth, as well as its internal composition and construction. The plans should demonstrate that the trench is adequate to serve the anticipated runoff volumes. Should the Board approve the application, OP recommends a condition of approval that, prior to issuance of the building permit, the applicant obtain written DDOE approval of the infiltration trench design. DDOE would not normally review the design because, as alluded to above, the site disturbance is less than 5,000 square feet.

At the time of the 1993/94 BZA approval, the applicant in that case commissioned a geotechnical study that concluded that construction would not impact the groundwater levels in the area (Exhibit #24). The applicant in the present case has stated that a new soil boring would be conducted in the near future, the results of which could be used to confirm or update the results of the previous study. Once the data from the new boring is known, DDOE can weigh in on the results. At Exhibit #40 the applicant's engineer concludes that a complete new study would not be necessary.

2516.10 Before taking final action on an application under this section, the Board shall refer the application to the D.C. Office of Planning for coordination, review, and report, including:

- (a) **The relationship 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 other departments and agencies of the District government; provided, that the planning considerations that are addressed shall include, but not be limited to:**
- (1) Public safety relating to police and fire concerns;**
 - (2) The environment, relating to water supply, water pollution, soil erosion, and solid waste management;**
 - (3) Public education;**
 - (4) Recreation;**
 - (5) Parking, loading, and traffic;**
 - (6) Urban design; and**
 - (7) As appropriate, historic preservation and visual impacts on adjacent parkland;**

Construction of the house would not have a negative impact on the overall intent of the Zoning Regulations to provide adequate light and air, prevent undue concentration of population, and provide for an orderly use of the land (Zoning Regulations, § 101.1). The proposed house would be compatible in design and scale with the existing homes in the area. The property is not within an historic district or adjacent to parklands.

MPD responded to an OP request for comments and stated that they have no particular concerns with this project. FEMS also has no concerns about access to the site. DDOT expressed no concern about traffic or parking related to the project. The house would have a two-car garage and should not generate any burdensome traffic to and from the site. The applicant has proposed a set of conditions that address, among other items, construction-related issues such as hours of construction, street cleaning and road repairs. OP has also discussed trash pick-up with the applicant, who should provide to the record a description of how trash would be removed from the site, whether trash trucks would need to drive up the street onto the subject property, or whether bins would be wheeled down the hill.

As noted above, the applicant should provide more information about tree preservation – especially the 47-inch diameter tulip poplar, erosion control, stormwater management and groundwater.

- (b) **Considerations of site planning; the size, location, and 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 house would be consistent with residences allowed in the R-1-A zone, meets the requirements for side and rear yards, and has requested variance relief for a front yard to be consistent with the existing built environment of Foxhall Crescents. The design respects the 30' building restriction line established for the entire perimeter of the Foxhall Crescents development. The proposed location of the house is similar to that shown on the original site plan for the neighborhood, but as noted above, OP has asked the applicant to explore design solutions to save the large existing tree on the site.

(c) Considerations of traffic to be generated and parking spaces to be provided, and their impacts;

The development of the property with a single house would not generate any more traffic than a normal residential house in the area, and DDOT expressed to OP no concerns about traffic. The house would have a garage with two parking spaces. The applicant has proposed a set of conditions which address construction traffic.

(d) The impact of the proposed development on neighboring properties; and

As discussed above, the applicant should provide more information about tree preservation, erosion control, stormwater management and groundwater.

(e) The findings, considerations, and recommendations of other District government agencies.

As of this writing, District agencies have provided to OP no findings that would impact development of the project.

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 determines to be required to protect the overall purpose and intent of the Zoning Regulations.

OP does not recommend any additional conditions at this time, but may do so depending on additional information received from the applicant.

VI. HISTORIC PRESERVATION

The subject site is not located in an historic district.

VII. COMMENTS OF OTHER DISTRICT AGENCIES

OP consulted with other government agencies in order to obtain their input on the project. As noted in this report, MPD, FEMS and DDOT had no objections to the project. UFA

recommends avoidance of the CRZ for the best chance of survival of the tulip poplar, but notes that construction could be closer to the trunk of the tree if proper steps are taken to maintain its health. DDOE will review the erosion control measures at the time of building permit.

VIII. COMMUNITY COMMENTS

As of this writing the Office of Planning has received no comments from the ANC. OP met with representatives of the HOA who expressed their concerns with the proposal and the amount of information provided at the time of the meeting. There has been ongoing dialogue between the property owner and the HOA, and OP encourages the applicant and neighbors to try and address the concerns of all parties.

IX. SUMMARY OF COMMENTS FROM THE REPORT

OP generally supports the construction of a house on the subject property, but has requested additional information as noted in this report. The following table summarizes the outstanding items.

	OP Comment	Planning and / or Zoning Rationale
1	Provide an updated net Lot Area figure and an updated Lot Occupancy calculation, in consideration of the easement.	Section 2516.6(a) prohibits the land within an easement from counting in the area of a theoretical lot.
2	Provide a single, complete and updated package of all plans to the record.	Board and staff analysis of the application can be completed after all plans have been updated and collated into one complete set.
3	Provide a legible electronic copy of the site plan and erosion control plan.	The notes section of the plans are important to the complete understanding by the Board, staff and the public of the erosion control methods.
4	The applicant should address the three-part variance test for the requested front yard variance.	Relief cannot be granted unless the applicant demonstrates that the property qualifies for the granting of a variance.
5	The applicant and HOA should work together to establish maintenance procedures for the portion of the easement on the subject property.	The Zoning Regulations seek to establish adequate vehicular access to each property.
6	OP recommends adoption of the conditions proposed by the applicant.	The conditions address topics raised by § 2516, including construction traffic and sediment and erosion control, among other items.
7	The applicant should examine ways to save the 47-inch diameter tulip poplar on the site.	Preservation of as many trees as possible, especially such a large tree, would benefit the subject property and neighbors' properties by absorbing rainfall, absorbing overland runoff, creating shade and minimizing heat gain, and stabilizing soil.

	OP Comment	Planning and / or Zoning Rationale
8	In any scenario where the tulip poplar remains, the UFA recommends a tree preservation plan.	A preservation plan that would detail pre-construction, during-construction and post-construction measures to protect the tree will help it survive.
9	As part of the complete, single set of revised plans, a new plan should show roof runoff being directed to the infiltration trench, as well as a design for the infiltration trench.	Complete and up to date plans would help the Board, staff and the public completely understand the proposal.
10	OP recommends a condition of approval that, prior to issuance of the building permit, the applicant obtain written DDOE approval of the infiltration trench design.	DDOE review of the trench design would help ensure that it is adequate to serve the anticipated runoff volumes.
11	The applicant should complete a new soil boring and provide those results to the record.	A new soil boring could help determine the impacts, if any, of construction on the groundwater levels.
12	The applicant should provide to the record a description of how trash would be removed from the site.	Solid waste management is an item to be reviewed under § 2516.10(a)(2)

Jesick, Matthew (OP)

From: Dendy, Sharon (DDOT)
Sent: Friday, September 12, 2014 5:12 PM
To: Jesick, Matthew (OP)
Cc: Maehr, Erin (DDOT); Ertem, Munewver (DDOT)
Subject: FW: BZA #18708 - 4509 Foxhall Crescent

Hi Matt

Erin Maehr, Ward 3 Arborist was able to visit the property yesterday and she spoke with Keith Pitchford about the mature Tuliptree. They calculated the CRZ for the Tuliptree to be approx. 58 ft. so in order to preserve this tree the building should be no closer than 18 ft. from the trunk instead of 10 ft. as shown on the plan. And even at the 18 ft. distance an air spade investigation is highly recommended since there will still be lots of surrounding roots mixed in with the excavation. Air spading will remove sufficient soil so that the contractor can see the extent/size of tree roots that will be within the zone of excavation and once this is complete, a final decision should be made about preservation or removal.

Ideally the safest way to preserve the Tuliptree is to work outside the CRZ, but that would mean a different footprint for the house. However, whether it's 18 ft. or outside the CRZ if the tree is to remain then a preservation plan must be developed to ensure that the crown, trunk, and roots are well-protected and no construction activities encroach within the prescribed distance. And this plan should include pre-construction, during construction and post construction measures that address on-site access, staging and sequencing as well as arboricultural practices such as root pruning and root aeration that can be used to protect and treat this tree as necessary.

I have included Erin and Vera on this email in case they have any more to add.

Thanks
Sharon

Sharon H. Dendy | Landscape Architect | Urban Forestry Administration | District Department of Transportation | Desk 202/671-2253 | Cell 202/345-6032 | www.ddot.dc.gov