

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 4, 2024

TO: CHAIR NATHAN MACEK
AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL W. MORITZ, DIRECTOR
DEPARTMENT OF PLANNING & ZONING

SUBJECT: DOCKET ITEM #8 – SUB #2024-00003 – 635 UPLAND PLACE

This memorandum responds to letters received after completion of the staff report. To date, staff has received several letters and a petition from nearby residents related to the subdivision request. The letter writers and petition signers raise several concerns with the proposal. Staff's response follows.

I. Applicable Zoning Ordinance sections:

The existing lot is substandard because it does not meet the R-5 zone's minimum lot frontage requirement. If the applicant were proposing an addition, to replace the existing dwelling, or to redevelop the property in its existing configuration, [section 12-900](#) would apply. However, because the applicant is proposing a subdivision, the only relevant section of the Zoning Ordinance is [11-1700](#). If the variations are approved, the lots would be considered complying and would not be subject to Article XII (noncompliance and nonconformity).

II. Previous submissions, staff comments, and application completeness:

The applicant originally submitted a concept development site plan (DSP) and subdivision (SUB) in 2023. While there is some overlap, the Zoning Ordinance establishes different review criteria for DSPs than it does for SUBs. For this reason, and the fact that the application changed materially, many of the previous comments are no longer relevant to the current request.

The applicant submitted a subsequent request on February 27, 2024 for a SUB and a special use permit (SUP) for a lot without frontage. Staff determined the application and supporting materials to be complete on March 5, 2024. The applicant did not provide a business license because the City Code [section 9-1-71](#) does not require attorneys with offices outside City limits to obtain a City business license.

The February 27, 2024 submission, one of the proposed lots did not have frontage on Upland Place, necessitating the SUP. In response, on April 3, 2024, staff suggested that the applicant consider a request for a subdivision with variations and extending the Upland Place right-of-way (ROW) into the subject property to create two lots with frontage. This proposal was contingent on the applicant dedicating a portion of the subject property to the City. This portion would then have been combined with what staff thought at the time to be a public alley. Taken together, both portions of the public alley and subject property would have provided sufficient width for the street extension.

Subsequently, staff learned of litigation related to the alley's ownership (see staff report page three, second paragraph under "site description"). Because of the litigation, staff determined the current proposal to be the most feasible approach. Further, given the wetland and required buffer area, a street extension would still not allow the applicant to provide lots with complying frontages and widths.

The applicant then resubmitted the current request on May 2, 2024.

III. Stormwater, flooding, and wetland concerns:

Subdivision regulations provide for the orderly division of land for development or transfer of ownership and for an accurate system of recording land division and ownership. As such, no provisions of the subdivision ordinance address stormwater or flooding issues. The proposed lot lines would not affect stormwater runoff. If approved, the subdivision would not allow for any additional impervious surfaces than would otherwise be permitted on the existing lot. Stormwater and flooding concerns as well as wetland preservation requirements will be addressed in subsequent City approvals including the grading plan. These concerns are not relevant to the subdivision application.

The wetland does, however, establish one of the special circumstances required for variation review. The topography of the lot and surrounding area is rugged enough to have formed an isolated wetland on the subject property. This presence establishes one of the special circumstances, "extremely rugged topography," required by [section 11-1713\(A\)\(iii\)](#).

IV. Lot configuration and compatibility analysis

Staff followed [section 11-1710\(B\)](#) to determine which lots should be included in the lot character analysis. This section states "lots covered by a re-subdivision shall be of substantially the same character... as other land within the original subdivision, particularly with respect to similarly situated lots within the adjoining portions of the original subdivision." The original subdivision area is shown in Figures 5 and 6 of the staff report. Figure 6 shows "...amendments to the subdivision over time..." as required by [section 11-1710\(B\)\(1\)](#). The lots within the Glenmore subdivision, 703 through 739 Upland Place are not within the same original subdivision as the subject. These lots are immediately adjacent to the subject property to the south and are also zoned R-5 but do not share the same features as to be "...essentially similar to the original subdivision area" as

required by [section 11-1710\(B\)\(2\)](#). The lots have frontage on Upland Place, like the subject property, but have significantly smaller lot sizes than all the other lots in the original subdivision. If these lots were within the required area of comparison, the proposal would still increase compatibility in terms of lot size because the applicant proposes smaller lots than that of the existing lot.

While each lot would have about 11 feet of street frontage, access to these properties would be shared across the entire frontage of both properties, totaling 22 feet. As stated in the staff report on page 13, the subject property's configuration and insufficient frontage has been part of the established neighborhood since the lot was created. Additionally, staff found that the proposal would generally increase compatibility with other lots in the original subdivision as stated on pages 11 and 12 in the staff report. The proposal mirrors, as closely as is feasible given the constraints of both the subject property and its surrounding, the lots located at the end of Moncure Drive (318 and 314) and Lamond Place (318 and 319).

Given the foregoing, staff does not find that the creation of two lots from the existing lot to be "inconsistent... with the existing development in the immediate area" as required by [section 11-1713\(A\)\(1\)](#).

V. Size and location of new dwellings

No changes to the conceptual proposal showing the proposed size or location of the new dwellings would affect the required approvals. Lot width and frontage are measured at static locations irrespective of building placement or size.

As stated on page 12 of the staff report, the subdivision, if approved, would result in smaller houses than what is currently permitted at the subject property's existing size. In general, because the amount of land is not changing, the total buildable square footage is not changing. If approved, however, the maximum buildable square footage would be split proportionally between the two lots.

VI. Applicant's justification for variations

Staff determined that the applicant has demonstrated a substantial injustice as defined by [section 11-1713\(B\)](#). Staff analysis can be found on pages 12 through 14 under the section entitled "Variations." In general, strict application, requiring lots with complying widths and frontages, precludes any subdivision whatsoever as the subject property could not be re-subdivided to create lots with complying frontage and width. Further, as stated in the staff report, the land use purposes of the lot width and frontage requirements are generally upheld by the proposal.

VII. Impacts to on-street parking along Upland Place "spur"

[Section 11-1710\(A\)](#) states that "all subdivisions shall be planned to... give access to firefighting apparatus..." The existing "spur" of the Upland Place ROW is 32 feet wide and substandard as to City street requirements. The roadway also tapers from where it

branches off of Upland Place to its dead-end at the subject property. Because the roadway narrows, no-parking zones need to be established to ensure adequate access for emergency services. Regardless of subdivision approval, this area should not be used for on-street parking as it could inhibit access to the subject property.

Staff has not identified any neighborhood concerns that could be appropriately addressed through the subdivision regulations. Staff finds no changes that could be made to the application nor conditions imposed by the Planning Commission to address these concerns either. Staff continues to recommend approval of the request.