

City of Alexandria, Virginia

MEMORANDUM

DATE: JANUARY 21, 2015

TO: JACKIE HENDERSON, CITY CLERK

FROM: ALEX DAMBACH, DIVISION CHIEF, LAND USE

SUBJECT: LLOYD'S LN. SUBDIVISION APPEAL (SUB2014-0013) LETTER

A letter dated December 2, 2014 from Duncan W. Blair, Esq. regarding the above referenced subdivision was inadvertently left out of the packet of materials related to an appeal of the Planning Commission's decision regarding a subdivision application for the property at 200 & 212 Lloyd's Lane (Subdivision #2014-0013). I am submitting this letter as an attachment and request that it be provided to Council members for the upcoming hearing.



Land, Carroll & Blair PC
ATTORNEYS AT LAW, EST. 1978

H. CARTER LAND, III
F. ANDREW CARROLL, III
RICHARD S. MENDELSON
DUNCAN WARDMAN BLAIR
MARTIN J.A. YEAGER (VA, DC, & MD)
BRENT J. SCHULTHEIS

524 KING STREET
ALEXANDRIA, VA 22314-3104
703-836-1000
FAX 703-549-3335
WWW.LANDCARROLL.COM

December 2, 2014

BY ELECTRONIC MAIL AND HAND DELIVERY

Eric Wagner, Chairman and
Commissioners, Alexandria Planning Commission
301 King Street, Room 2100
Alexandria, VA 22314

***Re: Docket Item 3, December 2, 2014 Planning Commission Public Hearing
Subdivision #2014-0013, David & Nancy Phillips
200 & 212 Lloyds Lane***

Dear Chairman Wagner and Commissioners:

I am writing on behalf of our clients, David and Nancy Phillips, to submit additional justification for approving the plat of subdivision for the property.

There is little guidance in how Section 11-1710 (B) is to be applied to be consistent with the City's Charter, Subdivision Ordinance and Virginia case law. *Seymour v. City of Alexandria et al.*, 273 Va. 661 (2007) ("**Seymour**") addresses Section 11-1710 (B) and provides some guidance as to the appropriate determination of what the meaning and intent is of the two critical phrases used in Section 11-1710(B): "substantially the same character" of "similarly situated lots within the adjoining portions of the original subdivision" (Note: *Seymour* was decided before the City added text as part of the Infill Regulations that attempted to set forth criteria to define "substantially the same character").

In *Seymour*, the discussion was that corner lots should be evaluated with other corner lots as to suitability for residential use and improvements, areas, street frontage, alignment as to streets and restrictions as other land within the subdivision. This discussion in *Seymour* on the issue of Section 11-1710 (B) is relevant to the *Lloyd's Lane* matter based on the Court's determination on the issue of whether a corner lot could be compared with and deemed "similarly situated" with an interior lot under Section 11-1710 (B). The Court held that by definition a corner lot and an interior lot are mutually exclusive and cannot be "similarly situated". The *Seymour* guidance is that the attributes of the proposed lots as to the Section 11-

1710 (B) suitability of residential use and improvements should be “substantially of the same character of similarly situated lots.” The term “situated” is synonymous with the words sited, positioned or located. The Section 11-1710 (B) analysis, if applicable in the Lloyd’s Lane application as there is no “original subdivision”, must be controlled by Seymour. As such, it is only those lots that are “similarly situated” that are relevant. The only lots similarly situated, sited, positioned or located are those fronting on Lloyd’s Lane. Based on the information provided, the “similarly situated” Lloyd’s Lane lots are substantially of the same character as to suitability for residential use and structures, lot areas, orientation, street frontage, alignment to streets, and restrictions of other land within the subdivision, satisfying the criteria of Section 11-1710 (B).

This determination is consistent with the Zoning Ordinance’s definition of Blockface, used as the standard to evaluate consistency with a neighborhood character for the purposes of applying the infill regulations and determining whether a special use permit should be granted to develop substandard lots.

After the Seymour decision, as part of the adoption of the Infill Regulations, Section 11-1710 (B) was amended to add text that was to assist the Planning Commission in “determining whether a proposed lot is substantially of the same character” and mandates that the Planning Commission “shall consider the established neighborhood created by the original subdivision” and sets forth two provisions from which the Planning Commission may inquire, to find evidence of substantially the same character of the lots. In this instance, there is no original subdivision from which subsequent resubdivisions can be used as evidence or as the development has occurred within the subdivision. The second area of evidence is “Land in the same general location and zone as the original subdivision with the same features so as to be essentially similar to the original subdivision area.

The purpose of the areas of evidence is to assist the Planning Commission in determining if the proposed lots are “substantially of the same character of similarly situated lots”. The adjoining Lloyd’s Lane lots are clearly the lots that share the “same features so as are as to be essentially similar to the original subdivision area” as the existing two lots fronting on Lloyd’s Lane for which the approval of a plat of subdivision is sought. The Phillips’ property is of the character of Lloyd’s Lane not Russell Road. There is no rational or legal basis to hold otherwise.

If you have any questions concerning this matter, please do not hesitate to contact me.

Best Regards,
LAND, CARROLL & BLAIR, PC

A handwritten signature in black ink, appearing to read "Duncan W. Blair". The signature is stylized with large, sweeping loops and is positioned above the printed name.

Duncan W. Blair, Esq.

cc: Nathan Randall
Alex Dambach
David & Nancy Phillips