

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 6, 2015

TO: CHAIRWOMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL MORITZ, DIRECTOR, PLANNING AND ZONING

SUBJECT: DOCKET ITEM # 10, IMMANUEL LUTHERAN CHURCH & SCHOOL,
DSUP #2014-0041,

The Immanuel Lutheran Church private school predates zoning regulations and has been operating as a private school since before the 1950's. Zoning regulations now require approval of a special use permit for private schools in the R-5 zone. Because of the sizable school addition, a development site plan was also required. Hence, the application for a development special use permit (DSUP). Many of the standard conditions contained within the DSUP cover conditions normally associated with a special use permit. However, based on recent conversations, staff felt it was best to add some conditions specific to special use permits to be consistent with special use permit applications. The applicant has agreed to the following special use permit conditions, which are added to the end of the Recommendation Section of the staff report:

U. SPECIAL USE PERMIT:

77. The total number of students enrolled shall be limited to 180, in grades pre-kindergarten through eight, as requested by the applicant. (P&Z)
78. The school shall regularly operate between 8:00 A.M. to 3:00 P.M., Monday through Friday. (P&Z)
79. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all Special Use Permit provisions and requirements. The applicant shall also inform parents on an ongoing basis, including as part of any parent orientation, of all applicable Special Use Permit provisions and requirements. (P&Z)
80. The applicant shall encourage its employees to use public transit or non-single occupancy vehicle trips to travel to and from work. Within 60 days of SUP approval, the business shall contact the Transportation Planning Division at 703-

746-4686 for assistance and information to set up a program for employee transportation benefits. (T&ES)

81. On street parking for employees shall not be permitted on Russell Road. (T&ES)
82. The use must comply with the city's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line. (T&ES)
83. The Director of Planning and Zoning shall review the Special Use Permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the Director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the Director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)

HART, CALLEY, GIBBS & KARP, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

307 NORTH WASHINGTON STREET
ALEXANDRIA, VIRGINIA 22314-2557

TELEPHONE (703) 836-5757
FAX (703) 548-5443
hcgk.law@verizon.net

HARRY P. HART
MARY CATHERINE H. GIBBS
HERBERT L. KARP

OF COUNSEL
CONSTANCE H. PIERCE

RETIRED
CYRIL D. CALLEY, 2005

LURAY OFFICE:

170 KIBLER DRIVE
LURAY, VA 22835

TELEPHONE: 540-743-2922
FAX: 540-743-2422

October 2, 2015

Ms. Mary Lyman, Chair
and Members of the Alexandria Planning Commission
c/o Mr. Karl Moritz, Director
Department of Planning & Zoning
City Hall, Room 2100
Alexandria, VA 22314

Re: Docket Item 10: DSUP 2014-0041, SUP 2014-0041
Immanuel Lutheran Church and School Additions

Dear Madame Chair and Members of the Planning Commission:

We've worked hard with the City's Staff to reach your docket on October 6, 2015 with a positive Staff Recommendation for approval of the above referenced project at the Immanuel Lutheran Church and School. We are in agreement with all but one of the conditions. We are requesting one change to Condition No. 13 on the Green Building Policy. The Trustees of the Church and School are asking that they not be required to obtain Certification of LEED Silver. The Design Team has used the LEED Scorecard in establishing the sustainable measures that this project will take to achieve LEED Silver¹, but the Certification process alone is cost prohibitive for a project of this size. They have estimates from the Church's contractor that were obtained from subcontractors who would coordinate the certification that it will cost the Church around \$100,000 just for the Certification. This is a \$5 million project. That's a huge amount to add to a project of this size.

Further, the City's Green Building Policy, a copy of which is enclosed for your review, provides for flexibility for projects such as this and states that:

The above standards are applicable to all development subject to a site plan or DSUP. The types and scale of developments within each category vary greatly, however, and certain building types (for example, medical, hotel, industry, affordable housing, historic buildings, churches, redevelopment of small retail or restaurant establishments, and

¹ A copy of the list of sustainable measures the church is committed to implement is enclosed.

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and Members of the Planning Commission
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renovations or small additions to existing buildings) may require a more flexible approach. (Emphasis added.)

We request that you allow the church and school that “more flexible approach”. This is a small project, especially in the scale of the other projects Staff has referred to for why they wouldn’t recommend a change to this condition. This is an addition to a school, a five classroom addition, adding approximately 7,450 gross square feet to a small school. There are a number of smaller school projects and other smaller projects that have received this level of flexibility including²:

1. The addition of modular classrooms and a cafeteria expansion at Charles Barrett Elementary School.
2. The addition of modular classrooms at Patrick Henry Elementary School.
3. The Virginia Theological Seminary’s addition to their maintenance building and other site improvements.
4. The addition to the Church of God at 630 S. Patrick Street.
5. The addition at 923 King St. for a two story restaurant and two residential units.
6. The addition to Marino’s restaurant on Route One.

This project simply isn’t comparable to the larger school projects to which Staff has indicated we should be compared.

Finally, the policy is supposed to be voluntary and provides flexibility for this very type of case. Again, the Church isn’t asking to be completely excluded from the policy. They will implement sustainability measures to the level that would achieve LEED Silver. They simply do not want to be required to achieve certification. We request that you change condition no. 13 to read:

13. Per the flexibility provision of the City’s Green Building Policy adopted April 18, 2009, implement sustainable measures that would achieve a green building certification level of LEED Silver (or equivalent) to the satisfaction of the Directors of P&Z, and/or RP&CA and T&ES. Diligent pursuance of these measures ~~and achievement of this certification~~ shall be monitored through the following:

- a. Provide evidence of the project’s implementation measures that would achieve LEED silver ~~registration with LEED~~ (or equivalent) with the submission of the first final site plan and provide a draft checklist showing the measures ~~how the project plans to achieve the certification.~~*
- b. ~~Provide evidence of submission of materials for Design Phase credits to the U.S. Green Building Council (USGBC) (or equivalent) prior to issuance of a certificate of occupancy. ***~~

² A copy of the City’s “List of Development Approvals Subject to the Green Building Policy”, last updated in 2011, is enclosed for your information.

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and Members of the Planning Commission
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- e. ~~Provide evidence of submission of materials for Construction Phase credits to USGBC (or equivalent) within six months of obtaining a final certificate of occupancy.~~
- d. ~~Provide documentation of LEED Silver Certification from USGBC (or equivalent) within two years of obtaining a final certificate of occupancy. Failure to achieve LEED Silver (or equivalent) for the project will be evaluated by City staff, and if staff determines that a good faith, reasonable, and documented effort was not made to achieve these certification levels, then any City wide Green Building policies existing at the time of staffs' release of Final Site Plan will apply.~~

Thank you in advance for your consideration and we look forward to moving forward with this project with your recommendation of approval at the October 6th meeting with the one change to Condition No. 13.

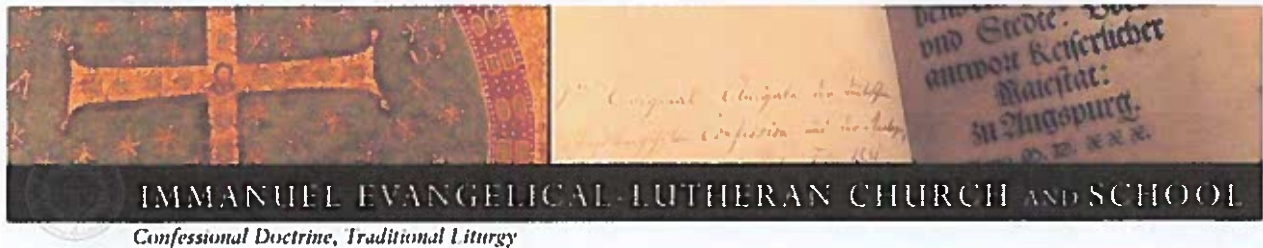
Very truly yours,

A handwritten signature in black ink, appearing to read "Mary Catherine Gibbs". The signature is fluid and cursive, with the first name "Mary" being the most prominent.

Mary Catherine Gibbs

Enclosures

cc: Mr. Kevin Wolf, Immanuel Lutheran Church and School



Green / Sustainable Measures

DSUP 2014-0041

The design team will use LEED 2009 for Schools New Construction and Major Renovation as a guideline to achieve the equivalent points required for LEED Silver certification. A LEED scorecard is attached. The design team will consider the following:

- providing secure bike racks/storage (SSc4.2)
- providing preferred parking for low-emitting & fuel-efficient vehicles (SSc4.3)
- providing maximized, vegetated open space (SSc5.1-5.2)
- reducing impervious cover and capturing and treating the stormwater runoff (SSc6.1-6.2)
- shading site hardscape or using materials with reduced solar reflectance index (SSc7.1)
- providing light colored, high-albedo roof material (SSc7.2)
- providing lighting controls (SSc8)
- developing a site master plan (SSc9)
- limiting or eliminating the use of potable water (or other natural surface or subsurface water resources available on or near the project site) for landscape irrigation (WEc1)
- providing water-conserving fixtures or using non-potable water for building sewage conveyance and/or treating wastewater on site (WEc2)
- reducing water use (WEc3)
- providing water-conserving appliances and equipment (WEc4)
- providing whole-building energy simulation to achieve increased energy performance (EAc1)
- designating a commissioning agent (CxA) to lead, review and oversee the completion of commissioning activities (EAc3)
- developing a measurement and verification plan (EAc5)
- purchasing electricity from renewable sources (EAc6)
- maintaining existing walls, floor, & roof structure and envelope skin and framing (MRc1.1-1.2)
- recycling or salvaging nonhazardous construction demolition waste (MRc2)
- providing materials with postconsumer recycled content (MRc4)
- providing materials that have been extracted, harvested or recovered, and manufactured within 500 miles of the project site (MRc5)
- providing wood-based materials and products that are FSC certified (MRc7)
- monitoring outdoor air delivery to ensure ventilation systems maintain design minimum requirements (IEQc1)
- increasing breathing zone outdoor air ventilation rates to all occupied mechanically ventilated spaces developing and implementing an IAQ management plan and doing flush-out or air testing for the construction and preoccupancy phases of the building (IEQc2-3.1-3.2)
- providing low VOC-emitting adhesives, sealants, paints, coatings, flooring systems, composite wood and agrifiber products, furniture, furnishings, ceiling and wall systems (IEQc4)
- minimizing and controlling the entry of pollutants into the building (IEQc5)
- providing a high level of control in the lighting system and thermal system (IEQc6.1-6.2)
- designing HVAC systems and building envelope to meet the requirements of the prescribed ASHRAE or ISO standards (IEQc7.1)
- conducting a thermal comfort survey after occupancy and developing a plan for corrective action if survey results indicate discomfort (IEQc7.2)
- providing daylighting and views to regularly occupied spaces (IEQc8.1-8.2)
- designing for enhanced acoustical performance (IEQc9)
- providing HVAC systems and controls designed to limit relative humidity to 60% or less (IEQc10)
- using automated shade control as an innovative design feature (IDPc1.1)
- working with a project participant who is a LEED accredited professional (IDPc2)
- integrating the sustainable features of the facility with the school's educational mission (IDPc3)

10/5/2015

LEED 2009 for Schools New Construction and Major Renovations

Project Checklist

Immanuel Lutheran Church

3.2.15

15 3 6 Sustainable Sites

Possible Points: 24

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City of Alexandria

Green Building Policy



Green Building Benefits

Green buildings bring environmental and economic benefits to present and future generations of the citizens of this City and the region. Even in a developed city with significant historic character, "green" buildings are favored over buildings that are not green.

Policy Statement and Outreach

Approach

The City will continue to lead by example through its own public buildings, establish a policy for new private buildings and will make efforts to educate the public, especially the building and development community, about the benefits of green buildings. The City will also take a leadership role to mandate sustainable design for all public buildings. The City will not be adopting a new code to mandate its Green Building Policy. That approach is not legally authorized. Nor is it necessarily desirable.

Leadership in Energy and Environmental Design (LEED)

The LEED rating system will typically be the green building guide and rating system used as a standard for development in the City because it has become the industry preference, especially for commercial construction.

Development Standard

Public and private development that requires a Development Site Plan (DSP) or Development Special Use Permit (DSUP) should achieve the following green building standard:

- *Non-Residential*: LEED Silver.
- *Residential*: LEED Certified, LEED for Homes, or ANSUICC-700 2008 National Green
- *Mixed use*: Each component should follow the applicable rating standard
- *Coordinated Development Districts*: Approvals for CDD areas yet to be developed will incorporate these standards

In each case, applicable ENERGY STAR systems should be incorporated.

Equivalency Acceptable

The above standards provide a performance goal for development. However, to the extent that equivalent rating systems are available and their standards can be demonstrated to be equivalent to the satisfaction of the Director of Planning and Zoning, they are also acceptable.

Third Party Certification

Certification of compliance with green building standards will be provided by independent and accredited third party professionals retained by the applicant and approved in advance by the Director of Planning and Zoning. The City will require the applicant to achieve the green standard approved in its development application within two years of issuance of a certificate of occupancy.





Flexibility

The above standards are applicable to all development subject to a site plan or DSUP. The types and scale of developments within each category vary greatly, however, and certain building types (for example, medical, hotel, industry, affordable housing, historic buildings, churches, redevelopment of small retail or restaurant establishments, and renovations or small additions to existing buildings) may require a more flexible approach. The Director of Planning and Zoning will consider whether special circumstances in the size, scale, location or use of the building justify an exemption or alternative method of compliance with City policy on a case by case basis and will strive to establish consistent criteria and thresholds for such alternatives based on experience with this policy.

Phased Approach

While it is important to establish this policy and implement its critical elements immediately, there are also elements of the green building program that will take longer and will look to the evolving green building industry, and those elements should be implemented over time. Examples of future work include establishing best practices for retrofitting existing buildings including historic buildings, the development of incentives for applicants who reach the highest levels of environmental achievement; incorporation of a sustainable sites, or holistic, approach; and the calculation of financial benefits to the public from development of green buildings.

Innovation Encouraged

Building owners and developers are encouraged to innovate and achieve higher green building performance than the minimum set in this policy.

City Environmental Priorities

In assessing compliance with the above standards, including as a matter of equivalency and of flexibility, priority elements in the project's design and construction are those which:

- Enhance energy efficiency
- Increase water conservation and reduce stormwater runoff, and
- Reduce overall carbon footprint

Education and Outreach

This key element of the City's approach to green buildings requires a partnership with the community, especially the building and development industry, as it and the City continue their effort to educate themselves and others about the benefits of and best ways to achieve green buildings. Together, they should track successes in City projects, changes in national and regional approaches to green buildings, advances in technology, and economic savings on individual projects as well as for public infrastructure systems. They should also provide web based information, hold forums on green buildings, and generally communicate the added benefits of higher rated green buildings to the community. The City will work collaboratively with environmental organizations and the building industry to recognize, award and publicize green building efforts in the City.

Monitoring Progress

All building projects in the City should be monitored to report the effectiveness of this policy to the Planning Commission and City Council on an annual basis.

10/5/2015

Development Approvals Subject to the Green Building Policy (adopted April 2009)

As of June 20, 2011

Month	Development	Location	Project Summary	Green Building Requirement	Meets Policy	Status
June 2009	Lane Development	2200 and 2250 Mill Road	474,000 sf of residential and 585,000 sf of office	LEED Certified for residential portion and LEED Silver for office	Yes	No activity since Council approval
	Institute for Defense Analysis (IDA)	4880 Mark Center Drive	368,400 sf of office	LEED Silver	Yes	No activity since Council approval
September 2009	Restaurant Depot	4600 Eischenhower Avenue	72,000 sf warehouse	Requested Flexibility -- will achieve LEED Certification instead of LEED Silver	No	Final Site Plan approved -- starting construction soon
October 2009	Church of God	630 N. Patrick Street	2,725 sf addition to the existing church	Requested Flexibility -- will incorporate green building design elements into the project	No	No activity since Council approval
	Polk Elementary School	5000 Polk Avenue	6,875 sf addition to the existing school	Project will seek LEED Silver, but at a minimum will attain LEED Certification	Yes	Under construction
February 2010	Virginia Theological Seminary	3737 Seminary Road	1,660 sf addition to maintenance building and improvements to overall site infrastructure	Requested Flexibility -- will incorporate green building design elements into the project	No	Under construction
April 2010	Hoffman Blocks 11 & 12	2210 Eischenhower Avenue	1.3 million sf of residential and ground floor retail	Green Globes (LEED equivalent)	Yes	Final Site Plan under review -- starting construction soon

10/5/2015

Month	Development	Location	Project Summary	Green Building Requirement	Meets Policy	Status
May 2010	The King Building at 923	923 King	1,492 sf addition for a two story restaurant and two residential units	Requested Flexibility – will incorporate green building design elements into the project	No	Final Site Plan under review
September 2010	The Calvert	3110 Mt. Vernon Avenue	290,340 sf Residential (renovation and new construction)	LEED Certified	Yes	Final Site Plan under review
October 2010	Charles Barrett Elementary School	1115 Martha Custis Drive	Modular classrooms and Expansion to cafeteria	Requested Flexibility – will achieve 50 points on LEED scale but will not obtain certification	No	Final Site Plan Under Review
	Patrick Henry Elementary School	4643 Tanev Avenue	Modular classrooms	Requested Flexibility – will achieve 50 points on LEED scale but will not obtain certification	No	Final Site Plan Under Review
	James K. Polk Elementary School	5000 Polk Avenue	Modular classrooms	LEED Silver	Yes	Final Site Plan Under Review
February 2011	The Madison	800 North Henry Street	360 Unit Residential building with 9,672 sf of retail	LEED Certified	Yes	Final Site Plan Under Review
March 2011	Martino's addition	3100 Jefferson Davis Highway	2,547 sf addition to an existing restaurant	Requested Flexibility – will incorporate green building design elements into the project	No	Final Site Plan to be submitted soon.
June	Yates Corner	515 Mount Vernon Avenue	23,706 sf retail and office	LEED Silver	Yes	Approved by PC June 2011
	Old Town North Harris Teeter	717 N. St. Asaph	52,000 sf grocery store and 175 residential units	LEED Silver for retail and Earthcraft for residential	Yes	Recommended Approval by PC June 2011

110 W. Bellefonte Ave.
Alexandria, VA 22301

October 5, 2015

Mr. Karl Moritz, Director
c/o Gary Wagner, Principal Planner
Department of Planning and Zoning
City Hall, Room 2100
301 King Street
Alexandria, VA 22314

Dear Mr. Moritz and Members of the Planning Commission

To begin, I strongly agree that there is a vital place and a critical need for independent, Christian education in Alexandria, that the Immanuel Lutheran School should have an opportunity to refurbish and expand to serve its students, and that Immanuel Lutheran Church should have a similar opportunity for refurbishment. Immanuel and its officers have been good neighbors for the past 18 years, and I fully expect we will continue to be so. I very much appreciate the efforts that Immanuel has made to inform neighbors of the project and work to understand and minimize neighbors' concerns, including mine. However, as the neighboring property owner (110 W. Bellefonte Ave.) arguably most affected by the proposed expansion, unfortunately, I must request that the Planning Commission add certain conditions to the project to minimize the impact on my property and, equally important, to be able to formalize agreements that will offer protection for me and any successors in interest as the project moves forward.

There is little question in my mind that the project will reduce the value of my property, perhaps significantly. I have not taken the trouble to obtain a formal estimate of this reduction; however, it stands to reason that changes such as the expansion of a parking lot to within a few feet of my living room window and my inability to control landscaping easily visible from the house could easily discourage potential purchasers of the property when it is sold. Other houses on W. Bellefonte have large back yard and other natural barriers that separate their property from the project; mine does not but backs straight into the driveway and proposed parking lot. However, as I believe that Immanuel (hereinafter, Petitioners) has a right and a duty to use its property for its mission, and as noted above, I accept that the overall project should go forward, appropriately conditioned.

It is not my intention in any way to delay, discourage, or add large additional costs to this project; indeed, some of my proposed conditions would *reduce* Petitioners' overall costs both now and over the longer term – an important consideration for a non-profit organization and one to which I hope the City will be sensitive. However, as this appears to be the only point in the process at which interested property owners can raise issues

relating to the project, I feel constrained to offer this filing to protect my own interests and legal rights as well as those of any successors in interest to my property.

My concerns, then, relate to certain areas in which the development would directly or indirectly impinge on my property. An important part of my purpose in filing in this proceeding is to encourage the City to consider the interests of adjacent property owners as it works with Petitioners to develop the project – and those interests may not always align with a predetermined approach to the City's goals but may instead require more subtle analysis of those goals. As many of these issues are interrelated, some of the material here is repeated, but I have tried to organize this filing for the convenience of the Commission and its staff.

Taken together, I believe my proposed conditions represent a very reasonable package that will enable the project to move forward quickly while minimizing the impact on my property, all with only slight impact on City policy goals.

Delineation of Property Line – West Side

Petitioners' Preliminary Site Plan includes the assertion that the large tree in the flowerbed near Russell Road falls on Petitioners' property. I strongly disagree both with the assertion of the property line in this area and what appears to be reliance on a line other than that contained the plat accompanying my deed.

At the time I purchased the house in 1997, Realtors both for myself and for the sellers of the property confirmed that the property line followed an approximation of the logs behind the flowerbed (one log rotted after the hurricane of 2003) straight to the end of the metal fence at the fence between my property and 108 W. Bellefonte – a very different angle than that now proposed. The current metal fence on a portion of the land between my property and Petitioners' has been taken as an informal property line,¹ and both parties have acted on this understanding for years (as for instance, in my construction of a small wood retaining wall to protect my house, marked by an extension of the line of the logs with a small dip towards my house, and Petitioners' reconstruction of its driveway and the two parking spots currently facing my house).

The property line proposed as a part of this project turns that understanding on its head. It could give Petitioners rights over my landscaping, including a large tree that I have maintained at my own expense for many years, trimming as recently as August (the maintenance of which has also helped Petitioners) and, depending on the further delineation of the property line, offer the potential for the destruction of the walkway behind my house to assist in the construction of additional and unnecessary parking.

¹ This fence was almost certainly built by Immanuel or its predecessors in interest, as a fence of a very similar character extends down the property line between Immanuel and 108 W. Bellefonte Ave to the point where it meets my property.

Considering for this purpose only the land from the border with Russell Road to the point eastwards at which the metal fence begins, it seems clear that I have a strong right of adverse possession over this property.² My use of this property has been actual; visible and “notorious” in the legal definition of the term as I have cared for the property, planted azaleas, tulips, and other landscaping and cleaned the landscaping after storms; exclusive (at no point have Petitioners claimed the property, asked me to change the landscaping there, or sought to care for the landscaping); the possession has been “hostile” in the legal sense by virtue of the placement of the logs behind the flowerbed by my predecessors in interest, clearly dating back to a time *before* the tree in the flowerbed grew to so large; I have asserted a claim of right/claim of ownership³ over the property both by my use of it and in this proceeding; and I have used this property continuously for a period of 18 years, more than the 15 required by Virginia law. My immediate predecessors in interest also used it for five additional years during their ownership from 1992-1997; I have no direct knowledge of the use of the property before that, but as noted above, the log behind the flowerbed was clearly placed before the tree became large, so I assume that their predecessors in interest have occupied this land for years, perhaps decades, before that.

The issue is important for the project because delineation of the property line at Petitioners’ proposed line would essentially cut off access to the back side of my house. As it is at best unclear where precisely the proposed new parking spaces and vegetation would be located relative to the property line, it could cut off even more access and reduce the distance between the proposed parking spaces and my living room window even further. But I would not find out where the parking would be put until it is placed, long after the approval of the project.

I do not seek to use this proceeding to resolve the question of where the property line actually falls in this area. I cannot, however, agree without further proceedings to the use of a property line that in my judgment does not match with that recorded in my deed and that has at a minimum not been followed by either party for at least a quarter of a century.

In the interest of permitting Petitioners to proceed with the bulk of their project as quickly as possible and in deference to the situation as it has been for several decades, I propose that Preliminary Site Plan simply be amended to note that a property dispute exists for the area between the end of the metal fence westward to Russell Road. I seek to resolve this with Petitioners expeditiously, and it should not delay the project in any way, especially as the bulk of the project lies far away from the area in dispute.

Delineation of Property Line – East Side

An odd curved triangle of land occupying a portion of the lot of 1809 Russell Road characterizes the eastern end of the border between my property and that of Petitioners.

² See generally *Helms v. Manspile*, 671 SE2d 127 (Va. 2009).

³ The Virginia Supreme Court held in *Grappo v. Blanks*, 400 SE2d 168, 170-71 that claim of right and claim of ownership are synonymous. See also *Helms v. Manspile*, *op. cit.*

It is overgrown with weeds, English ivy, poison ivy, uncontrolled wisteria, weed trees, and random, unplanned trees, some growing at an angle, that do little except sharply reduce the sunlight on my own property, significantly limiting my opportunity for enjoyment of the back portion of my property.⁴ The river stones in one portion of that section – designed for water to flow to my property – far predate both my ownership.⁵

This portion of the property also represents a hazard, as it is used as a shortcut by people walking from W. Bellefonte to or across the church property; this is most evident with footprints in snow in winter but is also clear from the occasional litter in the area, some of which was very likely dropped by children (for instance, children's stickers, candy wrappers, etc.).⁶ It poses a danger, particularly in the unstable footing of the river stones and generally undeveloped landscaping of this triangle of land.

Having lived in my home since 1997, I can attest that Petitioners have done virtually nothing to care for that section of property. I am not blaming or criticizing them for this – far from it; from their perspective, that section of the property is essentially useless – but merely stating a fact. Developing it would do little to add to their enjoyment of the property, maintaining it to a high standard is time-consuming and costly, and yet the current situation and the proposed situation after the project affect my property negatively.

I believe that I also have a claim to this piece of property under adverse possession, for similar reasons as those described above. I have cleaned the property frequently, paid for the removal of one large tree clearly on Petitioners' property at the time Petitioners were engaged in a tree updating project, trimmed trees, worked to remove weeds and ivy that have impinged on my property, removed litter, and even rearranged the river stones to their places after storms and ice have moved them despite the adverse effect on my property (but in concern for the safety of those who use the area as a shortcut when I am not present at my home). Again, I do not seek to use this proceeding to determine a property line – the property line in this area, represented by a line between the two portions of the fence, seems far clearer than on the west side and the understanding of the parties here has reflected that line – but I do believe that there is a better solution than the landscaping required by the City's current proposal.

⁴ As noted above, a metal fence extends both along the back of the property and down a line with 108 W. Bellefonte Ave. to the point where my property begins. In this section of the property, a section of the fence is missing and has been since I purchased the property in 1997. My best guess is that the missing portion of the fence was removed when a large and unstable tulip poplar near the property line was hit by lightning in 1996, crashing on to the roof of my house. Another tulip poplar on my property that I had removed had also been seriously damaged by carpenter ants, showing both the effects of water and unstable land in this area and the sometimes unstable nature of large tulip poplars.

⁵ Given the near-identical character of these stones with the stones that form a boundary between my property and 108 W. Bellefonte, I assume that the stones in this area may date from the construction of the houses along the street; in any event, they were almost certainly placed no later than the building of the church and the original driveway associated with the church.

⁶ I accept and appreciate Petitioners' oral statement to me that they have cautioned the children of the school against using this shortcut on either side of the property line.

In the project, the City has apparently proposed landscaping for a portion – though not the entirety – of this section of property. The City also apparently proposes keeping existing unplanned tree cover in the area despite the impact on my property. A better and fairer solution would be to let Petitioners and I agree a proposal for the vegetation and landscaping to be put in this area, including, where appropriate, the removal of current vegetation, rather than simply seeking to cover the border of the project area with landscaping while doing little about the remainder of the property. In conjunction with my proposed condition on water flow (see below), this would make the section of the property both more attractive for both property owners and assist with water flow. As noted below under Parking, my proposed alternative condition on parking would retain better landscaping for the property while also permitting the removal of unattractive landscaping and unplanned trees that could eventually affect the stability of the driveway as well as reduce sunlight.

Water Flow

Water and waterflow, particularly in times of severe storms, has been a concern for both me and Petitioners as well as other property owners in the neighborhood. The storms this past June caused with significant flooding in my basement and damage to my landscaping. In addition, the river stones at the section of the property described under “Delineation of Property Line – East Side” above simply push water from Petitioners’ property onto my property. Clear lines of water runoff from that area are visible, making it difficult to use the area for landscaping improvements. A line of vegetation that I planted at the property line where the missing fence once stood has all died, the victim of soggy roots. I have lost other flowers and plants as well.

This summer’s storms caused a foundation shift at my property, as I expect it did in other properties. Given the generally poor marine clay soil in the area, one may therefore expect that addition of a large and very heavy project to the area may, over time, lead to similar foundation shifts not only at the project site but possibly on adjoining properties.

So water is a challenging problem for both landowners, and yet, in its current form, the proposal will almost certainly worsen the impact of the water flow on to my property.

First, starting on the side towards Russell Road, during storms water flows from Russell down the entrance to the driveway with some careening on to my property – this is the (or at least a) likely source of the water that flowed to my basement.⁷ Petitioners and I agree that there is nothing that can be done about this; it is merely a hazard of the area.

However, the proposal also includes a proposal for 3.5 additional parking spaces, to begin *towards* Russell Road. By definition, therefore, the new driveway will have to be graded

⁷ There is a slight upgrade towards my house in the grassy area in front of the flowerbed on what, for this filing, I will term the disputed property. This makes it unlikely that the bulk of the water is flowing from that side down the walkway and then into the basement.

to permit drivers to drive down the hill to the new spaces – thus also pushing more water down that same hill and over the property line.

Second, as discussed above, the river stones push a considerable amount of water on to my property. This problem has become worse since the new driveway was built, which raised the level of the driveway nearly six inches in parts (easily attested by the old parking curbs still visible on the property). It is unclear how much higher the proposed new driveway would be, raising the potential that the problem could become worse.⁸

Third, West Bellefonte contains no storm drains,⁹ while Bellaire has storm drains and other fixtures which I understand will be upgraded as part of the project. The bulk of the water should be directed towards those drains.

Currently, the site plan does not contain any visible grading of the drive away from my property and towards Bellaire, which is necessary to get excess storm water to the drains designed to receive it. I therefore propose a condition to the project requiring Petitioners to grade the driveway in such a way as to push water down the driveway towards Bellaire rather than in a neutral fashion, which pushes it on to my property and eventually to W. Bellefonte. As noted below, acceptance of my proposed condition on parking would also both preserve tree cover and landscaping and reduce the potential for increased water flows to my property.

I fully accept Petitioners' oral statements to me that they wish to avoid increasing water runoff to my property. However, putting this into practice will almost certainly involve some changes to the project; otherwise, the City would be in a position to veto any later changes designed to mitigate the impact on my property, or I could be left with no recourse if the driveway is simply regraded in its current form – or regraded in part in a way that would direct more water to my property.

Parking

The proposed project (Staff Report Section IV.E) includes nearly tripling a current two-car parking lot to a lot comprising 5½ spaces, including the buffer for the new disabled

⁸ It seems unlikely that the new driveway would be built lower, and I am not even sure that building it lower would provide a favorable outcome for my property. The driveway and associated work, including the curb on the side closest to the church, was built to meet the doors to the lower portions of the church building. Building the driveway lower, therefore, might force a grading *towards* my house – not a favorable outcome and one that would not also meet the City's goals of using the upgraded storm drains and storm mitigation system included in the project.

⁹ The cement cover of what appears to be a storm drain on my property facing W. Bellefonte is sealed and has been for as long as I have owned the property. Storm water comes in and leaves, continuing its path down the street. I clean this false drain regularly, particularly in Fall and Winter.

parking space. Two of the spaces are extremely long, joining to the driveway, a third seems from the design to be longer than standard for the same reason.

This portion of the project has a direct and negative impact on my enjoyment of my property. It would put cars on an alignment with my living room, removing privacy. As noted above, it would make water flow on to my property worse. It would require removal of two well-kept trees, including an attractive and unusual tree that affords a welcome privacy to Petitioners' driveway. And it would replace current, higher vegetation with City-mandated vegetation no higher than 36 inches, roughly the height of the air conditioner unit behind my living room, which would remove all privacy both from me and from occupants of the cars unless I were to close my living room curtains, blocking sunlight on the southern exposure.

I agree with Petitioners that a reduction in the current number of parking spaces is justified. I further suggest that there is no need to expand the number of parking spaces from the two currently facing my house. As Staff concurs, there is no need to plan for parking use by both church and school at the same time. In my experience, during church use, the current parking arrangements work fine, even on days of high use such as Christmas Eve or Easter. During the school year, days of high use such as the first day of school or graduation have also worked well. Traffic moves on both Russell and W. Bellefonte with little or no delay.

In a project in which the City has been careful to preserve trees, it makes no sense to remove trees and larger vegetation¹⁰ simply to add parking spaces in a currently well-landscaped area to meet a suggested ratio which Staff has already agreed to waive in any event. Cutting out these spaces would have little impact on the project or on Petitioners' enjoyment of their property or ability to use the property. In the alternative, the new spaces – or preferably only one – can be moved eastwards to mitigate impact on my property.¹¹

I therefore propose that the project be amended to include no additional parking spaces on the section of the property facing my house. In the alternative, I would propose that only one parking space (whether disabled or regular) be added, eastwards of the current two spaces and that no parking be added westwards of the current spaces to preserve the trees in that area and avoid negative water flow impact. In the second alternative, should the City insist on adding a greater number of spaces, I propose that they run *eastwards* from the current spaces, so that they will point towards the patio and unused portion of

¹⁰ The larger vegetation on both sides of the walkway, but particularly on Petitioners' side, has been home to many pairs of nesting birds, including our state bird the cardinal, jays, and in past years mockingbirds. Obviously the City's proposed vegetation barrier as reflected in the Preliminary Site Plan would make this area impossible for use by nesting birds, who prefer the isolation and seclusion of taller and thicker vegetation rather than nesting near the ground. I have cared for this larger vegetation, as I have for the other areas along the property line, for the entirety of my residence in my home. This includes vegetation that has grown into the current parking spaces, which I have on occasion cleared.

¹¹ For clarity, I accept that the current two spaces should remain in their current places.

Petitioners' property rather than towards the inhabited portion of my house. This would also assist in directly the water flow appropriately and provide a partial solution to the current unattractive vegetation in this section of the property.

With respect to proposed vegetation cover, should the Commission insist on the expansion of the lot, I propose revising the project to provide that Petitioners and I will reach timely agreement on vegetation separating the properties and its placement at the time the lot is built. The City-mandated height of 36 inches would not guarantee privacy for either Petitioners or me, and the current plan would likely force the placement of these new parking spaces even further towards my property. There are better alternatives, including alternatives that offer more and better vegetation for the area, and we should be free to explore them.

Conditioning during Construction – Electricity Supply

I am self-employed operating under a City of Alexandria Business License. I expect that construction of the project will have some impact on the conduct of my business; construction noise, for instance, could at times render it difficult or impossible to conduct business on the telephone (an important part of my work) at home, forcing me to seek other locations to work.¹² I accept that this is a necessary issue with this or any other construction project and do not seek further conditioning in this area.

Reliable electricity is also indispensable to my business. Currently, I have occasional brief unexplained blackouts which, while annoying, do not generally harm my business other than to show the relatively weak electrical connections in this area.

It is unclear to me from reading the Staff Report what, if anything, will be done to ensure that the additional electrical load from construction will not lead to blackouts both to the project itself and in the immediate vicinity. I therefore propose that Section IV. I – Construction Management be further conditioned to require assurance of a sufficient reliable electricity supply throughout the construction period for both the project and neighboring properties. As any blackouts caused by overloads during construction would very likely affect both the project and the School as well, I hope that Petitioners will regard this as a supportive suggestion.

Thank you for your consideration of these proposals. I am happy to discuss them or the project further at your convenience.

Sincerely yours,

/s/

John S. Gardner

¹² My business license precludes my receiving clients in my home.