

City of Alexandria, Virginia

MEMORANDUM

DATE: JANUARY 12, 2018

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK JINKS, CITY MANAGER

SUBJECT: APPEAL OF PLANNING COMMISSION APPROVAL OF DEVELOPMENT
SITE PLAN #2017-0022 FOR **KARIG ESTATES**

I. INTRODUCTION

Six appeals have been filed regarding the November 9, 2017 decision of the Planning Commission to approve Development Site Plan #2017-0022 to construct four single-family dwellings, with a new public street and related improvements, at 3832-3834 Seminary Road, a project also known as Karig Estates.

A. Site Plan Appeal

Section 11-409(C)(1) of the Zoning Ordinance states that an appeal of a Planning Commission decision regarding a site plan request shall be made in writing and filed with the City Clerk within 15 days of the Commission's decision. Appeals may be filed by either: 1) an owner of property within 1,000 feet of the boundaries of the site plan property or 2) a group of 25 residents or property owners of the City. The Ordinance further provides that, once accepted, an appeal shall be scheduled for a public hearing before City Council, who may affirm, reverse or modify the decision of the Commission or vacate and remand the matter to the Commission for further consideration.

One of the six appeals has been brought forward by a group of residents/property owners of the City. The five other appeals have been filed by individual owners of property located within 1,000 feet of the boundaries of the site plan property. All site plan appeals were filed within the appropriate timeframe and have been deemed valid. Appellant names and their written appeal requests are included in Attachment #1 of this memorandum.

B. Attempted Subdivision Appeal

Three of the six previously-mentioned appeals simultaneously requested an appeal of the related subdivision case for the project (SUB#2017-0006). Section 11-1708(D)(1) of the Zoning Ordinance stipulates that a subdivision appeal must be requested by owners of at least 20% of the

area of land within 300 feet of the boundaries of the proposed subdivision. In this case, the three subdivision appeal requests were made by individual owners of 3.1%, 2.9%, and 2.0% of the property within 300 feet of the subdivision boundaries. Even if combined, the three requests would represent only 8% of the land area around the subdivision site rather than the required 20%. (See Attachment #2 for subdivision appeal data.) Therefore none of the three subdivision appeal requests meets threshold requirements and none has been incorporated into this memorandum.

II. PROJECT/SITE SUMMARY

The project applicant, 3834 Seminary LLC, proposes to construct four single-family dwellings on a 3.13-acre site at 3832-3834 Seminary Road. A new public street would also be constructed on an approximately 25,000 square-foot portion of land primarily located on the eastern edge of the site. A turn-around area for vehicles, connected to and part of the public street, would be located between Lots #2 and #3. The four proposed dwellings would measure between 5,633 and 9,015 square feet, up to 35 feet in height, and each would have an attached three-car garage.

The project site is heavily wooded, features topographic variations, and includes an isolated wetland. An L-shaped area located on the western and southern sides of the site, referred to as a swale or a ravine, ranges from between four and six to 25 feet lower in grade than the surrounding area. The swale itself is not a Resource Protection Area (RPA) nor is it otherwise protected by city, state or federal environmental regulations. Within the swale, the isolated wetland exists around a groundwater seep point at the southern end of the site. No buildings may be built within the wetland, which is federally protected, or within a City-required 50-foot buffer around the wetland. A small portion of the dwelling on Lot #1, approximately half of the dwelling on Lots #2 and #3, and approximately two-thirds of the dwelling on Lot #4 would be located on the eastern/northern slope of the swale. No buildings would be located within the wetland or the buffer, although part of the new sanitary storm sewer line would be located within a portion of the required 50-foot buffer around the wetland.

Additional details of the applicant's proposal and the project site can be found in the Planning Commission staff reports in Attachment #5. The amended DSP request, which is the approval currently being appealed, is DSP#2017-0022. It superseded the original site plan approval for the project, (DSP#2016-0025).

III. APPROVAL BACKGROUND

A. Site Plan Review Process

As City Council may recall, the review process for site plan (DSP) projects is similar to that of Development Special Use Permits (DSUPs). The DSP review process is divided into three major components: 1) City departments review multiple submissions that lead to the preliminary site plan submission, 2) the public hearing at the Planning Commission at which the preliminary site plan is considered, and 3) the staff-level final site plan review. However, unlike DSUPs, DSPs are only heard by City Council on appeal.

Once staff approves the final site plan, additional permits are then required, including building permits for new structures. One result of this process is that certain site planning matters that are not finalized at the time of the Planning Commission's preliminary site plan review are subsequently provided by the applicant and reviewed by staff at the time of the final site plan submission. In the case of Karig Estates, only the first two steps of the overall site plan review process have been completed. The applicant would submit the first final site plan in the future, if appeal matters are resolved.

The major difference between Development Site Plan (DSP) and Development Special Use Permit (DSUP) requests are the legal standards that may be used to evaluate specific projects. In the case of DSUPs, which represent the majority of development cases heard by City Council, three major categories of standards may be applied: those contained in Section 11-410 of the Zoning Ordinance (which include consistency with the Alexandria Master Plan), other Ordinance provisions such as requirements of a specific zoning district, and the additional discretion provided in Zoning Ordinance Sections 11-504 and 11-505 for DSUP and SUP requests. As a result, these types of cases are often considered "discretionary approvals." However, in the case of DSPs, only the standards contained in Section 11-410 and other Zoning Ordinance provisions may be considered for review. The additional discretion afforded to City Council for DSUPs does not apply to DSPs and therefore DSPs cases are often considered "administrative approvals." Therefore, administrative approvals should be approved if the particular request meets the required standards of review.

In the case of Karig Estates, staff found that both preliminary site plans (the original and amended) met all applicable standards of review listed in Section 11-410 and other Zoning Ordinance provisions. It recommended approval of both requests in the staff reports (see Attachment #5) which were forwarded to the Planning Commission.

B. Planning Commission Approval History

The Planning Commission considered the Karig Estates project at two public hearings. It approved the original request, Development Site Plan #2016-0025, on October 3, 2017, on a vote of 5-2, with Commissioners Brown and McMahon voting against. At the hearing, it was determined that a separate subdivision request was necessary to subdivide the land but such a request had not been brought forward to the Commission. In addition, the applicant agreed after the October public hearing to move the dwelling on Lot #4 to the north, toward Seminary Road, by approximately 12.5 feet. Several changes stemming from the dwelling relocation were also proposed, including shifting the dwelling footprint, reducing the length and height of certain retaining walls, and changing the driveway location on Lot #4.

The applicant's amended site plan request (DSP#2017-0022), the new subdivision case (SUB#2017-0006) and the street name case (SNC#2017-0001) were subsequently docketed for Planning Commission consideration at its November public hearing. The Planning Commission approved the amended site plan on November 9, 2017, on a vote of 4-0-2. Commissioners Brown and McMahon abstained, given their prior votes against the original request, and Commissioner Lyle was absent. The street name and subdivision cases were approved at the same hearing on votes of 6-0.

IV. APPEAL GROUNDS

Section 11-409(C)(4) of the Zoning Ordinance states that in site plan appeal cases, City Council may only consider the grounds of appeal identified in the appeal papers filed with the City Clerk. As previously noted in this memorandum, the DSP review standards in the Zoning Ordinance provide less discretion to City Council compared to DSUP or SUP cases. Thus, City Council only has the ability to review those grounds stated in the written letters of appeal that also relate to the standards of approval in Section 11-400 or other Ordinance provisions. Appeal grounds outside of these standards or not stated in the written appeal requests, including any new grounds that might be raised before or during the Council's public hearing, should not be considered.

In the case of Karig Estates, several grounds for appeal have been identified within the six written requests, including some duplication. Staff has consolidated and summarized the grounds in the list below. The full appeal letters, and a document that attributes each of the grounds in the list below to each appellant, can be found in Attachment #1.

- A. An incorrect blockface was used for determining the Seminary Road setback requirement for the proposed dwelling on Lot #1.
- B. The Planning Commission blocked an alternative plan for the project that would have shifted all of the proposed dwellings closer to Seminary Road. The dwellings, and particularly the one planned for Lot #4, should be located as far back from the ravine as possible to prevent slope erosion and stormwater drainage onto adjacent properties.
- C. The determination that the on-site seep point/spring is not a Resource Protection Area (RPA) is incorrect and development has been permitted that contradicts Article XIII of the Zoning Ordinance.
- D. Problems from stormwater runoff need to be further addressed, including the risks associated with the occurrence and forecast levels and quantities of stormwater.
- E. The dangers of slope failure and building failure, as well as the presence of marine clay at the site, have not been properly addressed.
- F. The proposed development would cause irreparable damage to one of the few natural habitats/areas left in the City.
- G. No tree inventory was provided in the site plan submission.
- H. A restrictive covenant should be added to the project to prevent the removal of trees and any disturbance to the wetland in the future.
- I. The opinions of a specific City staff member regarding certain environmental matters were not adequately addressed nor was the specific staff person called to testify before the Planning Commission.
- J. An alternative sanitary sewer location should be considered that does not impact the required 50-foot wetland buffer.
- K. Impacts from the proposed development on the adjacent preschool were not addressed.
- L. The project would diminish the value of adjacent property.
- M. Additional information, such as 3-D models and diagrams of pre-development and post-development site conditions, should be provided.
- N. Additional geotechnical questions, in the form of newly-created rebuttals from the appellants' engineer, should be answered.

V. STAFF ANALYSIS

Staff has reviewed the grounds for appeal in the six appeal letters and has prepared responses specific to each of the 14 matters as they have been consolidated into the previously-mentioned list. Many of the items were also discussed in the staff reports for the original request (DSP#2016-0025), the amendment (DSP#2017-0022), or both.

A. Blockface Determination

Appeal Ground

The first ground for appeal is that the wrong blockface was used in order to determine the Seminary Road front setback requirement for the proposed dwelling on Lot #1. Appellants believe that the Director of Planning and Zoning's discretion in determining the setback "was arbitrary and abused" and have stated that the blockface that was used would span two blockfaces instead of one given that the Karig Estates project would introduce a new street along this portion of Seminary Road. They have also stated that the site plan standards of Section 11-400 should influence any discretionary decision on the part of the Director regarding the blockface determination.

Staff Response

In most cases throughout the City, the front yard setback for single-family dwellings, according to Section 7-2503(A) of the Zoning Ordinance, is the average of the front setbacks of other dwellings located along the blockface on which the property in question exists. Staff determined in this case that the blockface to be used to calculate the Seminary Road setback for the proposed dwelling on Lot #1 should be the five properties located between St. Stephen's Road and Fort Williams Parkway, excluding the subject property.

The decision is well-reasoned and within the authority of the Director of Planning and Zoning. It is consistent with Section 7-2503(A) which stipulates that the standard blockface be those properties between the two closest intersecting streets (in this case, St. Stephen's Road and Fort Williams Parkway). It is consistent with staff practice that would not terminate a blockface at a street intersection that does not yet exist. In addition, Section 7-2503 does not include language that would allow site plan standards to be considered in making a front setback determination.

B. Potential Dwelling Shift

Appeal Ground

According to the appellants, the Planning Commission blocked a plan (allegedly agreed to by staff and the applicant) to shift all four dwellings closer to Seminary Road. The appellants believe that such a shift, particularly for the dwelling proposed on Lot #4, would mitigate perceived impacts on adjacent neighbors regarding slope failure and stormwater runoff.

Staff Response

Although the concept of shifting all four dwellings closer to Seminary Road was discussed among staff, the applicant, and neighbors prior to the October 2017 public hearing, no site plan depicting such a shift was submitted by the applicant for staff's review.

Any significant shift of the dwellings closer to Seminary Road would have required the use of an alternative blockface for determining the Seminary Road front yard setback for the proposed dwelling on Lot #1. Staff was willing to consider whether an alternative blockface, equally appropriate compared to the one already used in the site plan (and discussed previously in this memorandum), was possible in this location. However, City staff could only consider such a possibility if the applicant provided a new site plan submission, showing a potential alternative blockface and subsequent changes to the dwellings and the site, for its review. Since no new submission was provided, City staff could not recommend shifting the dwellings closer to Seminary Road. Staff also advised the Planning Commission that such changes were too significant to be added as condition language and later reconciled through the final site plan review process.

The appellants seek for the dwellings to be shifted closer to Seminary Road in order to prevent perceived increases in slope erosion and stormwater runoff from affecting their properties. However, as discussed in the staff reports and reiterated in this memorandum, the project as approved by Planning Commission already meets, or will be required in the future to meet, all soil erosion and stormwater requirements.

C. Potential RPA

Appeal Ground

Appellants have stated that the seep point and associated wetland on the southern portion of the project site meet the definition of a Resource Protection Area (RPA) because they are connected to Strawberry Run and are the headwaters of said stream.

For City Council's information, if the isolated wetland were considered to be an RPA, two consequences to the project would be: 1) that a 100-foot buffer would be imposed in which the scope and type of development are restricted and any vegetation removed would have to be replaced per the Virginia Riparian Buffer Modification and Mitigation Manual and 2) that a Water Quality Impact Assessment would be required.

Staff Response

The Chesapeake Bay Preservation Act (CBPA), incorporated in Section XIII of the Zoning Ordinance, considers the following to be within the RPA: tidal wetlands, non-tidal wetlands connected by surface flow and contiguous to tidal wetlands or contiguous to a water body with perennial flow, perennial water bodies, or tidal shores. City staff visited the Karig Estates project site on several occasions in 2017 and determined that no feature at the project site meets this definition. The onsite wetland, delineated in consultation with the United States Army Corps of Engineers (USACE), is considered an isolated wetland since it is not tidal nor is it contiguous to Strawberry Run or any other perennial stream. Therefore, by definition, there is no RPA designation on the subject property and no 100-foot RPA buffer is required.

The City grants additional protections to intermittent streams and non-tidal wetlands (beyond the protections in the CBPA), even though they are not designated in the CBPA as RPAs. These features are protected through the Zoning Ordinance by a 50-foot vegetated buffer, which carries most of the same protections found in the application of an RPA. Staff has performed multiple

onsite inspections and determined that no intermittent stream exists on site. Therefore, only the isolated wetland at the site is a protected feature, and is protected by the 50-foot vegetated buffer as required by the Zoning Ordinance. Construction of a sewer line is an exemption from the buffer protection and is allowed within the buffer area pursuant to the Zoning Ordinance.

A Water Quality Impact Assessment (WQIA) is a document designed to clarify and specify mitigation for any impacts to RPAs during development. It is only required when development occurs within designated RPAs. As this site has no designated RPA, no WQIA is required. Regardless, it is important to note that only the minimum disturbance necessary is allowed in the City-required 50-foot buffer. Consistent with the function of a WQIA for projects where one is necessary, staff is committed to ensuring through the final site plan review process that any impacts to the buffer area at this site are minimized and only the minimum amount of disturbance necessary occurs within the wetland buffer for the installation of the proposed sewer line shown on the most recent plan set. No disturbance will be allowed within the delineated wetland.

D. Potential for Increased Stormwater Runoff

Appeal Ground

Appellants have expressed concern that problems with stormwater runoff have not been properly addressed in the proposed Karig Estates development. Two identified concerns are: 1) risks associated with the forecast levels and quantities of stormwater have not been detailed and 2) the development would increase stormwater runoff toward the swale and adjacent properties, causing negative impacts to nearby dwellings and land.

Staff Response

Stormwater runoff is subject to compliance with a variety of requirements regarding both water quantity and water quality contained in the Virginia Stormwater Management Act regulations, the CBPA, and Article XIII of the Alexandria Zoning Ordinance (Environmental Management). Adequate provisions for stormwater collection are also a site plan approval standard in Section 11-410(N) of the Zoning Ordinance.

Stormwater runoff from post-development conditions cannot create adverse impacts on adjoining and downstream properties compared to the pre-development conditions. In accordance with City's policies, practices, and regulatory requirements, the applicant completes hydrologic analyses for pre- and post-development runoff generation for two-year, 10-year and 100-year storm events. Different and progressively increasing rainfall depths, exceeding the minimum depths recommended for this region by the Northern Virginia Rainfall Atlas, are built into the analyses for each of these scenarios. Some of the methods by which the applicant would prevent such an increase in stormwater runoff during these storm events include possibly detaining water on site and slowing the velocity of stormwater conveyance to provide non-erosive velocities.

The Karig Estates developer has proposed, and shown in plan computations, to discharge less runoff in the post development condition compared to existing conditions. Achieving reduced runoff is possible in this instance, despite an increase in impervious area from new dwellings and driveways, given that six bio-retention areas and pervious pavement would be installed at the

site. The majority of the runoff from the new impervious areas would be directed forward on the properties through the use of roof drains (away from the swale) and into new bio-retention areas, where the water would be treated and infiltrate into the ground. The applicant has submitted a geotechnical report demonstrating that the underlying soils in the bioretention area sites meet or exceed the infiltration requirements of the Virginia Department of Environmental Quality (DEQ) for their installation. The runoff from the new public road will also be directed into roadway bioretention areas that will reduce the amount of runoff and provide water quality treatment.

For these reasons, the provisions for stormwater at the Karig Estates project are consistent with Section 11-410(N) of the Zoning Ordinance.

E. Potential Slope / Building Failure and Presence of Marine Clay

Appeal Ground

Appellants have stated that the potential for slope failure to occur in connection with the Karig Estates project is high for several reasons. These include: 1) that portions of the proposed dwellings would be located on the eastern/southern slope of the swale; 2) that several existing trees would be removed; 3) that construction work would cause vibrations; and 4) due to the presence of marine clay at the site. Appellants have also asked about marine clay and below-surface groundwater at the site apparently out of concern that new buildings could slide and cause damage to adjacent properties or damage the on-site wetland.

Staff Response

Section 11-410(S) of the Zoning Ordinance requires that “adequate provision shall be made to control the slippage, shifting, erosion, accretion and subsidence of soil.” As part of the final site plan process, the applicant will be required to demonstrate compliance with erosion and sediment control requirements found in Title 5, Chapter 4 of the City Code (added to the code in June 2007), and the stabilization of disturbed grounds requirements of the City of Alexandria and Commonwealth of Virginia. The Karig Estates developer will be required to submit an Erosion and Sediment Control Plan depicting the design and implementation of various standard practices to control soil and water erosion and thereby protect adjoining and downstream properties, as well as any natural water resources, from soil erosion damage. Staff has not received or reviewed the Plan because it is not required at the current stage of the project. However, it is possible from a technical perspective that the applicant could meet these requirements.

Two notable matters that would influence the details of the future Erosion and Sediment Control Plan are the presence of marine clay and anticipated post-development stormwater conditions. The presence of marine clay at the site has been acknowledged through the early submission of a geotechnical report and will guide staff’s final site plan review regarding which erosion and sediment control practices would function best at the site to prevent soil impacts on adjacent properties. The developer’s plans for stormwater control in connection with the new dwellings would also result in less water flowing toward the swale than it does currently without development. Stormwater flow is one of the most common reasons for soil instability. The proposed reduction in stormwater flow over sloping portions of the project site in connection with this proposal should mitigate soil erosion damage to neighboring properties.

Appellants also appear to express concern about the potential for building failure due to the presence of marine clay and potential for subsurface groundwater. Although the geotechnical report prepared for this project indicates that marine clay exists at the site, it did not find groundwater at any of its test locations. Nonetheless, the applicant will be required to meet Section 11-410(T) of the Zoning Ordinance, which states that “adequate provision shall be made to control the slipping and shifting of buildings and structures.” This requirement is confirmed at the time of the building permit review, which would follow final site plan approval. Engineering recommendations and designs are initially provided by, and are the responsibility of, the project’s geotechnical and structural engineers. Staff would then review the applicant’s proposal to ensure that the new dwellings meet building code requirements for proper construction and support of structures at this site, including those requirements for buildings proposed on sites with marine clay and with below-surface groundwater. Ultimately, marine clay is routinely found throughout Alexandria and the rest of Northern Virginia and would not disqualify property from being developed consistent with Sections 11-410(S), (T), and other requirements.

F. Natural Habitat/Area Loss

Appeal Ground

Appellants have expressed concern that the project would cause irreparable damage to one of the few natural habitats or areas left within the City of Alexandria.

Staff Response

Section 11-410(W) of the Zoning Ordinance, states that “adequate provision shall be made to ensure that development as shown by the site plan, will not destroy, damage, detrimentally modify or interfere with the enjoyment and function of any significant natural, topographic, scenic or physical features of the site.” Although the property contains notable changes in topography and is heavily wooded, only the isolated wetland on the southern end of the property and the site’s post-development tree canopy are specifically protected natural features. The wetland is protected through the Federal Clean Water Act and through Section 11-410(BB) of the Zoning Ordinance, the latter of which states that “adequate provisions shall be taken to minimize the impact to existing or developing wetlands.” In this case, the applicant has made adequate provisions to protect the isolated wetland within the site plan submission. No portion of the delineated wetland would be disturbed in connection with this project and no buildings would be constructed in the City-required 50-foot buffer around the isolated wetland. The proposed sanitary sewer line would be located in a portion of the 50-foot buffer as allowed pursuant to exemptions contained in the Zoning Ordinance.

The site’s post-development tree canopy is specifically protected through Section 11-410(CC)(2) of the Ordinance, which contains a minimum 25% crown coverage requirement, a percentage representing the upper limit of what the City can require under current law. In this case, the applicant is proposing tree crown coverage for each new lot of at least 40%. When measured across the entire project site (including the new public street), the tree crown coverage provided post-development is nearly 39%. This tree canopy proposal, which is further enhanced with the applicant’s agreement to a tree preservation covenant that includes

the retention of existing trees within the swale, exceeds minimum requirements of what is deemed adequate minimum landscaping in the Zoning Ordinance.

The proposal also includes adequate provisions regarding the non-wetland areas of the swale at the site, which is not a specifically protected feature under current regulations. The central and southern/western portions of the swale, which are those areas closest to adjacent properties, would remain intact except for underground sewer pipe work. As mentioned previously, portions of all four proposed dwellings would be sited on the swale's eastern/northern side and some re-grading and new retaining walls are proposed. Nonetheless, the eastern/northern side of the swale would continue to include grade changes in the areas where they exist today between the dwellings. Therefore, the swale's function as a place of topographic change, though modified, would still exist under this proposal on the eastern/northern side of the slope. With virtually no change to its central and southern/western portions, and modifications to the eastern/northern portion that still retain their essential topographic function, the proposal contains adequate provisions regarding the swale.

For Council's information, the current proposal (DSP amendment) represents an improvement over the original request regarding provisions for natural features. The shifting of the dwelling proposed for Lot #4 by 12.5 feet toward the new public street resulted in the retention of one additional tree, a reduction in the amount of land within the limits of clearing and grading, and a reduction in the extent and height of new retaining walls to be constructed nearby.

Staff concludes that the proposal meets the requirement that "adequate provisions" be made to not damage significant natural features of the site as required by Zoning Ordinance Section 11-410 (W), and more specifically, the wetlands and tree canopy protections of Sections 11-410(BB) and (CC), respectively.

G. Tree Inventory

Appeal Ground

Appellants have stated that no tree inventory has been included in the submission from which the tree size, species, health, or age of trees on the property.

Staff Response

A tree inventory containing information about the size, species, and health of each tree at the site was provided on Sheets #31 through #33 of the original site plan submission (DSP#2016-0025). Sheet #33 was revised to save one additional tree as part of the site plan amendment (DSP#2017-0025). The original and revised sheets would be incorporated into the final site plan for staff review when it is submitted.

The submission of information about the age of trees at the project site is not required as part of the site plan submission. The size, species, and health of trees at a project site represent more useful information to staff during its site plan review than a tree's age. In addition, the process of determining age can cause damage to a tree in some instances.

H. Restrictive Covenant

Appeal Ground

Appellants request that the Karig Estates project include a restrictive covenant requiring that future property owners be informed of the site's environmental features, that trees cannot be removed, and that the wetland cannot be disturbed.

Staff Response

The original DSP request and the amendment both contain conditions of approval that are related to this ground for appeal. Conditions #6 through #9 prevent the applicant from removing trees outside of the limits of clearing and grading during the construction of the dwellings. Condition #10 requires that the applicant record a tree preservation easement to prevent the removal of these same trees, many of which are located in the central and southern/western portions of the swale, from being removed. Finally, Condition #82c specifies that, among other notifications, the Karig Estates developer must inform the future owner of Lot #4 that a mapped wetland exists on the property. Federal regulations already provide protections for the wetland and the City imposes an additional 50-foot buffer requirement around the wetland that must be shown on the plans.

I. City Staff Question

Appeal Ground

Appellants have asserted that a particular employee is the City's expert regarding potential damage to water quality and forested slopes at the site. They further state that the City and the Planning Commission should have insisted upon his testimony at the Planning Commission hearings in October and November and, since it did not insist, the Commission's decision on the project at two public hearings "should be given little weight."

Staff Response

The standards for site plan approval found in Section 11-410 do not specify that individual staff members must be present at the public hearings before the Planning Commission. Since this ground for appeal is not related to the site plan standards or any other Zoning Ordinance provisions, staff does not believe City Council should consider it. Nonetheless, Planning and Zoning staff has worked on this project with its colleagues in the Departments of Transportation and Environmental Services (TES), Code Administration, and Recreation, Parks, and Cultural Services (RPCA), including the individual mentioned in the appellants' letters. In addition, the Planning Commission noted at the November 9, 2017 public hearing that it was provided with written material authored by the individual in question that detailed and adequately conveyed his concerns. Thus the Commission was able to weigh the individual's concerns in its decision.

J. Alternative Sewer Location

Appeal Ground

Appellants believe that an alternative location for the sanitary sewer pipe should be required for the Karig Estates project in order to avoid the need for the pipe to be located within the 50-foot buffer around the wetland on the southern portion of the site. This alternative is described as

being feasible and more consistent with Section 11-410(BB) of the Zoning Ordinance, which requires that “[a]dequate provision shall be made to minimize the impact on existing or developing wetlands.”

Staff Response

Staff has evaluated sanitary sewer alignment options to provide sewer service to the proposed development consistent with the requirement of Section 11-410(O), which states that “adequate provision shall be made for the collection and disposition of all on- and off-site sanitary sewage, which disposition is to be by connection to existing separated sanitary sewer lines.” While an identified alternative location for the sanitary sewer, other than one proposed by the developer for the Karig Estates project, may be technically feasible, it is not recommended.

The alternative that the appellants have discussed consists of constructing a line from the dwellings in a northern direction, toward Seminary Road, to connect to the closest existing sanitary sewer in that direction. The closest sewer line is located at the intersection of Saint Stephens Road and Seminary Road. This connection, due to the topography of the area, cannot be made by gravity sewer installation. Therefore, grinder pumps would be required for each home, along with the construction of a “force” sewer main to Seminary Road. From there, an additional gravity sewer line would have to be constructed westward along Seminary Road to reach the existing sewer at Saint Stephens Road.

Staff does not support the alternative sewer location for several reasons, including:

- The alternative sewer location would require a total of 1,155 feet of public sewer line to be constructed, representing an increase of 560 feet compared to the 595 feet of public sewer line proposed in the site plan. The City would be responsible for additional costs in operating and maintaining a longer sewer compared to the location shown on the Karig Estates site plan. In addition, sanitary force mains have additional reliability and operations issues compared to gravity sewers.
- The total cost for the alternative sewer location is approximately double the cost of what is proposed with the Karig Estates project.
- There is a higher risk of sewer back-ups or sanitary sewer overflows into the environment when utilizing pumps and force mains compared to gravity sewer service.
- In order to construct the sanitary sewer on Seminary Road, one lane of traffic would have to be closed for three to four weeks, assuming no major conflicts or issues arising during the construction phase.

Staff supports the proposed sanitary sewer shown on the Karig Estates project site plan as it proposes construction connecting to an existing City sewer easement, proposes gravity sewer service and minimizes the amount of sewers the City will be responsible for maintaining. With respect to the 50-foot wetland buffer on the southern portion of the site, it should be noted that the installation of public utilities is an allowable use in this area and there are existing storm sewers in this utility corridor. Staff will work with the developer to use construction methods to minimize impacts.

K. Potential Preschool Impact

Appeal Ground

Appellants have asserted that construction and road impacts on the preschool located at the abutting Beth-El synagogue property were not considered. A request has been made that the Karig Estates developer should agree to the installation of new fencing or landscaping to mitigate the stated impact.

Staff Response

The site plan standards in the Zoning Ordinance contain overlapping provisions requiring that various elements of the project do not “adversely impact surrounding property” (Section 11-410(C)) and that “adequate provisions shall be made to protect other lands, structures, persons and property” (Section 11-410(U)). Staff does not believe that the stated impacts on the neighboring preschool would be significant enough to require the installation of an additional fence or landscaping. The existing preschool playground is located in close proximity to the property line shared between the synagogue and Karig Estates project site, and would therefore be near a portion of the proposed new public street. However, a chain link fence already exists around the playground and it is presumed that children at recess would be carefully watched by preschool staff to prevent them from accessing the very low-trafficked public street that would be built. Additionally, the applicant would also erect temporary fencing to limit access to the site during construction.

L. Potential Impact on Property Values

Appeal Ground

Appellants have argued that their properties, many of which are immediately adjacent to the project site, would suffer a loss of property value if the Karig Estates project is built. Two specific reasons for the loss in property value that have been identified are slope collapse and the loss of trees.

Staff Response

Although it does include a requirement that adequate provisions be made to mitigate impacts to adjacent properties, the site plan approval standards in Section 11-410 of the Zoning Ordinance do not include a specific requirement to evaluate whether a particular site plan request would result in a loss of value for adjacent properties. Therefore, staff does not believe that a potential loss in property value represents a ground of appeal that City Council may consider. Nonetheless, staff has noted previously in this memorandum that slope failure is not expected to occur in connection with the project. The current site plan exceeds the minimum tree canopy requirement and many existing trees at the site would be retained through the tree preservation covenant.

M. Request for Additional Information

Appeal Ground

Appellants have requested additional information, such as the submission of pre-development and post-development 3-D models and diagrams, to better understand the proposal.

Staff Response

This ground of appeal is not listed within the standards of approval for site plan projects in Section 11-410 of the Zoning Ordinance and staff therefore believes that City Council should not consider it. It should also be noted that the type of information requested is not required to be submitted to the City as part of the site plan process.

N. Additional Rebuttal Questions

Appeal Ground

Appellants have called upon staff to provide answers to a list of questions posed by the consulting engineer they hired. The questions, many of which are geotechnical and/or environmental in nature, are themselves a rebuttal to staff's October 1st response to questions from the engineer and his clients.

Staff Response

Answering additional questions from the appellants' consulting engineer is not contained within the site plan standards of approval and should not be considered as a ground for appeal. Nonetheless, staff has answered the previous questions that the engineer and his clients in the neighborhood have posed. Those answers, along with the information contained in this memorandum, adequately address the matters that have been raised.

VI. STAFF RECOMMENDATION

Staff recommends approval of the amended Karig Estates proposal as approved by Planning Commission at its November 9, 2017 hearing. It finds that the proposal either meets the approval standards relevant to the stated appeal grounds or that the grounds should not be considered because they do not pertain to an approval standard. As noted in the staff report for the DSP amendment, the site plan is consistent with the approval standards of Section 11-410, other portions of the Zoning Ordinance, and the Alexandria Master Plan.

City Council's review in this site plan appeal is limited only to the written grounds of appeal and, further, only those grounds related to approval standards and requirements. If Council agrees with the staff recommendation that the DSP request meets all approval standards and requirements regarding the points contended in the appeal, it should uphold the Planning Commission decision to approve the project.

Other options are available to City Council if it finds that one or more aspects of the project that are related to the grounds for appeal do not meet approval standards and requirements. If it believes that a small change is warranted in order to meet said standards, Council may amend the project through condition language. Any such change impacting the site plan submission, as long as it is limited in extent, could be reconciled through the staff-level final site plan process. If it believes that substantial changes are necessary in order to meet standards or requirements, staff recommends that Council remand the issue back to Planning Commission with specific instructions to the applicant regarding what should be amended. Reversal of the Planning Commission's decision is also an option for Council if it finds that aspects of the project related to the grounds for appeal do not meet standards and requirements for site plans.

ATTACHMENTS

| | |
|------------------------|--|
| Attachment #1-A | List of the appeal grounds from the report cross-referenced to each appeal letter |
| Attachment #1-B | Appeal letters filed with City Clerk |
| Attachment #2 | Subdivision appeal data |
| Attachment #3 | Zoning Ordinance Section 11-410 (site plan standards) |
| Attachment #4 | Letters from the public to staff since November 9, 2017 |
| Attachment #5 | Staff reports for DSP amendment (DSP#2017-0022) and original request (DSP#2016-0025) |

Attachment #1-A

Cross-Referenced Appeal Grounds List

Appeal Letter #1 (Beth-El Hebrew Congregation):

- *Appeal Ground A, Appeal Ground B, Appeal Ground C, Appeal Ground G, Appeal Ground I, Appeal Ground K, Appeal Ground E, Appeal Ground J, Appeal Ground H, Appeal Ground F.*

Appeal Letter #2 (Tokarz):

- *Appeal Ground B, Appeal Grounds D and E, Appeal Ground J*

Appeal Letter #3 (Lytle):

- *Appeal Grounds A and B, Appeal Grounds D and E, Appeal Ground F*

Appeal Letter #4 (Reed):

- *Appeal Ground B, Appeal Grounds D and E, Appeal Ground F*

Appeal Letter #5 (Alexandria Coalition for Responsible Stewardship):

- *Same as Appeal Letter #1 (by reference)*

Appeal Letter #6 (Needles/Lachance):

- *Appeal Grounds D, Appeal Ground L, Appeal Ground E, Appeal Ground M, Appeal Ground N*

Attachment #1-B

Appeal letters filed with City Clerk

RRB

attorneys at law

RICH
ROSENTHAL
BRINCEFIELD
MANITTA
DZUBIN &
KROEGER, LLP



November 22, 2017

Mayor Silberberg and Members of Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

Re: Appeal of Planning Commission Decision of November 9, 2017
re Karig Estates, Development Site Plan and Subdivision

Dear Mayor and Members of Council:

Pursuant to Zoning Ordinance Section 11-409 (C)(1), and as attorney and agent on behalf of Beth El Hebrew Congregation, an adjoining property owner east of the subject site, we hereby appeal the Planning Commission's decision of November 9, 2017, to the City Council, which modified and affirmed its decision of October 3, 2019. The grounds for appeal are as follows:

1. The wrong blockface was applied in determining the proper set back from Seminary Road. The blockface used was actually two blocks, not one block. Even assuming there is discretion in determining the blockface, that discretion, under the facts and circumstances of this case, was arbitrary and abused.
2. The Planning Commission failed to address the legal argument that the Director's discretion in setting the blockface must be informed and prescribed by the site plan provisions, Section 11-410(A), and the environmental regulations that require that "no more land shall be disturbed than is necessary for the proposed use or development" and that "indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development." Section 13.109(A) and (B) of the Zoning Code. These rules apply to the entire parcel, not just to the buffer area. These rules, in our opinion, must inform the Director of P&Z when exercising his discretion in setting the blockface for this project. In other words, if he has reasonable choices of the blockface, then the Environment regulations require that he chose a blockface that disturbs the least amount of land, vegetation and special features. In this matter, he could have chosen a 57 foot setback from Seminary as the blockface, but instead chose 104 foot setback. It is our position that the City, in order to comply with the environmental regulations, is required to redo the subdivision based on the 57 foot setback and get all four homes closer to Seminary and out of the ravine. The end result should be to move the 4th house

about 40 feet from the proposed location toward Seminary.

3. The City has made protecting the waters of the Chesapeake Bay a priority. To enforce the protection of the waters of the Bay, the City enacted Article VIII, Environmental Management, adopted March 15, 2014, specifically Sections 13-100 et. seq. It is in §13-100 that the City notes that the Chesapeake Bay is one of the most productive estuaries in the world, providing substantial economic and social benefits to the people of the Commonwealth of Virginia. This section concludes that “[t]he general welfare of the people of the Commonwealth depends upon the health of the Bay. The waters of the Chesapeake Bay and its tributaries, including the Potomac River and Alexandria’s local streams, have been degraded significantly by point source and nonpoint source pollution, which threatens public health and safety and the general welfare.” Therefore, the City declares in §13-101 (Purpose) “[i]t is the policy of the City...to protect the quality of water in the Chesapeake Bay and its tributaries and, to that end, to require all land uses and land development in the City to:

- (1) Safeguard the waters of the Commonwealth from pollution;
- (2) Prevent any increase in pollution of state waters; and
- (3) Promote water resource conservation.

To fulfill this policy, this Article VIII is adopted to minimize potential pollution from stormwater runoff, minimize potential erosion and sedimentation, reduce the introduction of harmful nutrients and toxins into state waters, maximize rainwater infiltration while protecting groundwater, and ensure the long-term performance of the measures employed to accomplish the statutory purpose.

Within § 13-103 (Definitions), “Buffer Area” is defined as an area of natural or established vegetation managed to protectstate waters from significant degradation due to land disturbances. To effectively perform this function, the buffer area will achieve a 75% reduction of sediments and a 40% reduction of nutrients. A 100-foot wide buffer area shall be considered to meet this standard.

Section 13-105 states that “All land within the corporate limits of the city is designated as a Chesapeake Bay Preservation Area (CBPA). The CBPA is divided into resource protection areas (RPA’s) and resource management areas (RMA’s). Resource protection areas include ... (3) Nontidal wetlands connected by surface flow and contiguous towater bodies with perennial flow.

Very stringent regulations govern a RPA, and somewhat less stringent regulations govern RMA’s. The decision of the Planning and Zoning Commission failed to acknowledge that the wetland identified on the Karig property is a source of the headwaters for Strawberry Run, which is a tributary of the Potomac River. The City has wrongfully failed to consider the opinions of its Resource Manager, Rod Simmons, who has opined that the spring on the Karig property is one of the headwaters of Stawberry Run and therefore constitutes a tributary of the Potomac River. Because the City has wrongly concluded that this wetland is not a RPA, it has failed to conduct the necessary evaluation of the consequences of disturbing the land and wetland, and has allowed development which is not permitted under this Article. For example, the felling of trees is not be permitted within 100 feet of a RPA. The excavation of a new sewer line would not be

permitted in the buffer zone. Further, it does not appear that the water quality major impact assessment required under §13-117 (D) in RPA was conducted.

By default, even if not a RPA, the property is a RMA. Even if only a RMA, the Director of T&ES may, due to the unique characteristics of a site of the intensity of the proposed development.... require a water quality impact assessment as provided in subsections 13-117(C) and (D). Even if a RMA instead of a RPA, the City's proposed 50 foot buffer for the wetland does not protect the water quality for several reasons: (1) the City has permitted the developer to excavate a new sewer line through the wetland and its buffer, and (2) the City has not assessed the degradation of water quality caused by the clear cutting of dozens of trees to excavate for construction of the 4th home on the forested slope. It defies credulity to conclude that this development which includes a new road, 4 new huge homes, each over 5,000 square feet, and excavation for foundations and retaining walls on slopes composed at least partially of marine clay will not degrade the water quality of Strawberry Run and therefore degrade the water quality of the Chesapeake Bay.

Further grounds for appeal include the fact that no-one has counted or inventoried the number, species, health or age of the trees to be cut on the property. Without this information, an informed decision cannot be made about the damage to water quality and the sensitive forested slopes throughout the property.

The expert within the City on these matters is the Resource Manager, Rod Simmons. Given the City's inexplicable instruction to Rod Simmons that he not testify, and given Planning Commission's failure to insist on his appearance, the decision of the Planning Commission should be given little weight. The Planning Commission did not consider many important facts, including facts which would likely establish the wetland as a Resource Protection Area.

4. There was a failure to address the construction and road impacts on the preschool immediately adjacent to the subject property. This issue had been raised by Counsel and was mentioned by two speakers at the hearing on October 3rd. Basically, we want a fence, a barrier and/or dense landscaping that will prevent preschoolers from being drawn out into the construction site or new roadway.

5. There is considerable evidence that disturbance of the mature forest on the steep slopes on this property represents a danger of slope failure. See statement of Tony Fleming. There is no indication that staff consulted or gave appropriate consideration to the concerns of the City naturalist, Rod Simmons, who sees great environmental danger in construction disturbance on the slope, especially as to the 4th house. Furthermore, the Planning Commission refused to demand the appearance of Rod Simmons, because the City Manager and/or Director of Planning & Zoning said that he could not appear at the request of the Commission despite the clear authority for the Commission to have his testimony. See City Charter, Section 9.08. While the Planning Commission Chair stated that she preferred the written statement of Mr. Simmons, she (and other Commissioners) proceeded to ask numerous environmental questions that were most appropriate for Mr. Simmons to address. You, City Council, should want him to address

your questions.

6. With regard to the sewer easement that runs through the buffer area, there is a feasible alternative – a lift station that will discharge to the sewer main on Seminary or St. Stephens Road. “Adequate provision shall be made to minimize the impact on existing wetlands.” Section 11-410(BB) of the Zoning Code. While it is true that sewer lines are exempt from the buffer area created on the south end of the property, see Section 13-123(A)(2) of the Zoning Code, that does not mean that sewers are required to or should automatically go through a buffer area. That exemption should be used sparingly – when it is absolutely necessary and there are no alternatives. There may be some more expense in connecting to the Seminary sewer main; but, in the context of the total project, those costs can be absorbed in order to protect the trees and slopes. When asked by the Planning Commission why not use a lift station, there was a lot of looking around by staff. Then, staff offered a guestimate of \$40-50K for a lift station, and said that a gravity system was the preferred method. A gravity system may be preferred for most situations, but not for going through an unstable slope and wetland buffer area. There should have been a serious cost-benefit analysis. It was obvious that had not been done.

7. The Planning Commission dismissed the marine clay concerns by saying that there is marine clay in many places that are built up. However, there are not many places in the City that are built up that have significant marine clay on steep slopes stabilized by a mature forest. The existence of marine clay on the slopes of this site makes development problematic.

8. The Planning Commission dismissed the slope concerns by noting that a sewer pipe was laid in the ravine 20 years ago. 1) Environmental regulations have matured since those of decades ago which apparently allowed the storm sewer to traverse the property. 2) The loss of mature forest was not as important to the City decades ago as compared to today when regulations pertaining to the Chesapeake Bay are paramount. 3) Two wrongs don’t make a right. 4) There has been no testimony explaining the health and value of the forest as it exists today, even with the storm sewer. And, there has been no testimony from the City Naturalist about the effects of running a sewer line from the 4th home into and through the protected wetland. Therefore, an informed decision on the impact of this proposal was impossible at the Planning Commission.

9. The Planning Commission said that its 12 foot adjustment was a compromise. It was not a compromise but an unsatisfactory one-sided offer by the developer. We do appreciate the effort by the developer and staff to address our concerns, but the proposal was never agreed to by the neighbors or Beth El for the very good reason that it does little to protect the mature forest on the slope where home #4 is planned and does nothing to protect the sensitive wetland.

10. The applicant should be required to put a restrictive covenant on the property so that future owners know the property has sensitive environmental features and cannot denude the forested slopes of the ravine or disturb the sensitive wetland.

11. The policy grounds for this appeal is that environmental concerns matter. Those

concerns are not to be given short shrift. When there are environment concerns, like protection of forested slopes constituting a remnant forest, and wetlands whose waters eventually flow into the Chesapeake Bay, the City must do everything possible all along the way to protect as much of the environment (mature trees and steep slope) as possible. That has not been done in this case.

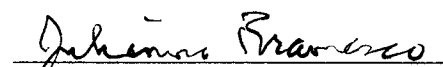
Conclusion:

We urge you to reverse the Planning Commission decision and refer the matter back to the staff and applicant to start with a 57 foot blockface with lots sub-divided so that the 4th house is not in the ravine and so that the sewer can be directed away from the buffer area. If the 4th house cannot be moved out of the ravine, then it should be deleted from the development plan.

Respectfully submitted,



Lonnie C. Rich


Julienne Bramesco, President
Beth El Hebrew Congregation

Subject: Formal appeal to City Council re. Karig Estates

To: Mayor, Vice Mayor, City Council, and appropriate City Staff.

As an adjoining neighbor to this land for the last 24 years, I formally appeal the November 9, 2017 decision of the Planning and Zoning Commission to the Alexandria City Council. The decision approving the Karig Estates (3832-3834 Seminary Road) Site Plan as amended and the Subdivision Plan should be temporarily set-aside and referred to staff and the applicant to satisfactorily resolve concerns raised in the Beth El Hebrew Congregation Appeal.

Remaining issues include 1) the setback of Lot #1 from Seminary Road, 2) the location of Lot #4 on the edge of the ravine and the resulting increase in slope erosion and water flow into the ravine and wetland, and 3) the location of the proposed sewer line through the wetland buffer zone.

Community concerns were routinely dismissed by the Planning and Zoning Commission. The city staff and therefore the Planning Commission who depend on the staff for information, did not acknowledge the realistic concerns presented by Tony Fleming, (a geologist that developed the city's geologic atlas that shows the dangers presented by building on steep slopes on top of marine clay) , Ken Fraine (a soil and water engineer with local experience), or Rod Simmons, (the city expert on ecological concerns).All three of these experts recommend moving the houses as far away from the unstable slope of the ravine as possible. City staff pledges that they will continue to monitor and work with the applicant before granting final approval were not reassuring.

I ask the Planning and Zoning Decision be remanded back to staff to accomplish the following:

1) Re-evaluate the building setback from Seminary Road to conform with the setback of adjacent residential subdivision lots; This will allow movement of all four houses closer to Seminary Road and away from the steepest and most vulnerable part of the ravine. A preliminary plan to do just that was developed by city staff and the applicant but set aside when the Planning Commission ruled this was not an amendment to the site plan but would require a whole new site plan submission. This decision was made late at night without proper consideration of all the time and effort that the applicant and staff had put in to develop this compromise solution over the previous two years. This decision should be

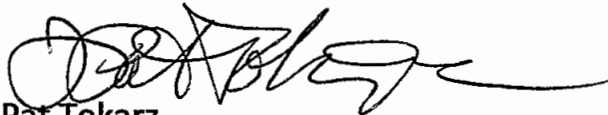
reversed by City Council allowing resolution of these issues in a more timely fashion as an amendment to the approved site plan.

2) Ensure the house on Lot# 4 is set back as far as possible from the edge of the ravine so as not to increase slope erosion and storm water drainage into the ravine and on to adjacent properties. This will shorten the new road, decreasing the amount of impermeable surface, the amount of mature forest that needs to be clear cut, and the distance to Seminary road that the sanitary sewer needs to traverse; and :

3) Relocate the proposed sewer line away from the buffer zone and wetland to connect with the sanitary sewer on Seminary Road. The goal being to minimize impacts on the buffer zone, spring, wetland and saturated soils on adjacent properties. This will reduce the need for clear cutting mature forest, the amount of disruption to the natural aquafer, and the subsequent increase in storm water flow and water degradation.

This proposal was made by the Stormwater Section of the City Department of transportation and Environmental services, but was not given adequate consideration by the Commission at their late night meeting. It should be given the attention it deserves, as it addresses so many of the concerns about this project.

Thank you for your time and attention to this important matter,



Pat Tokarz

3937 Colonel Ellis Ave.

Alexandria, Va.

22304

571-221-1969

Lytle
3925 Colonel Ellis Avenue
Alexandria, Virginia 22304



November 25, 2017

Dear Madam Mayor, Mr. Vice Mayor, and City Council Members,

Thank you for your efforts to help find very necessary corrective improvements to the flawed plan for 3832 & 3834 Seminary Rd./Karig Estates.

We formally appeal the decisions of the planning commission on Oct 3 & Nov 9th to City Council and request that the parties involved look more carefully into ways to improve the present site plan.

Our house is adjacent to the site in question. We have been homeowners in the City for 25 yrs, 19 in our current home. We are particularly concerned about setback, water runoff, building on the unstable slope, and irreparable damage to one of the few natural habitats left in the City. There just isn't a good reason why the houses shouldn't be set closer to Seminary Rd. in order to avoid building in the ravine. We also take great issue with the negative characterizations made by Ms. Gibbs and Mr. Gant about those of us opposing this plan during the prior hearing.

We invite you to come see the site for yourselves anytime at your convenience. We'd be happy to have you stop by to see exactly why we are concerned.

Thank you for your careful consideration.

John & Christina Lytle
3925 Colonel Ellis Ave.
Alexandria, Virginia 22304

27 November 2017

Steven & Anne Reed
3933 Colonel Ellis Avenue
Alexandria, VA 22304



Dear Mayor and Council,

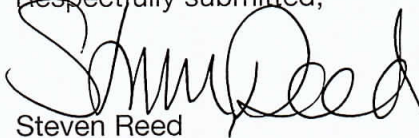
Thank you for trying to facilitate necessary corrective improvements to the **3832 & 3834 Seminary Road - Karig Estates** project.

As adjoining landowners, we formally appeal the decisions of the Planning Commission of October 3, 2017 and November 9, 2017 to proceed with the Karig Estates project without full scrutiny of the environmental and land use effects of this project, and in particular the impacts on nearby properties that receive drainage from the Karig Forest.

Many commenters have noted that the Karig Forest is an environmentally sensitive and dynamic property, and qualified experts have attested that there are issues with building on the downslope of this steeply sloping and heavily wooded property. These issues were not given proper consideration by the Planning Commission.

We are particularly concerned that the Planning Commission blocked an alternative plan that would have moved the planned houses on this property closer to Seminary Road. That plan — which the developer did not oppose if it could be implemented without undue delay — would at least mitigate some of the more objectionable features of the proposed development by moving the fourth house (the one furthest from Seminary Road) away from the steepest slope at the back of the property (closest to Colonel Ellis Avenue). The Planning Commission and staff apparently gave greater weight to a very wooden and literalistic interpretation of the setback rules than they did to the very significant environmental and drainage issues created by putting the fourth house on the steep downslope (including the increased loss of trees and risk of unsettling the slope).

Respectfully submitted,


Steven Reed


Anne Reed



Alexandria Coalition for Responsible Stewardship

November 27, 2017

The Honorable Allison Silberberg and Members of Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

Re: Appeal of Planning Commission Decision of November 9, 2017
re Karig Estates, Development Site Plan and Subdivision

Dear Mayor and Members of Council:

Pursuant to Zoning Ordinance Section 11-409 (C)(1), and as Co-Chair of the Alexandria Coalition for Responsible Stewardship which is comprised of more than 25 Alexandria citizens. I hereby appeal the Planning Commission's decision of November 9, 2017, which modified and affirmed its decision of October 3, 2019. The grounds for our appeal to Mayor Silberberg and Members of the Council are the same as those expressed in Beth El Hebrew Congregation's appeal of November 22, 2017.

Listed below are the names of the Alexandria resident citizen Coalition members who signed the attached individual signature pages.

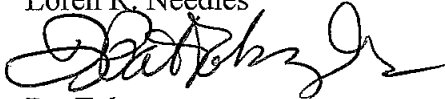
Cynthia Evans
Charles Evans ✓
Robert McLaughlin
Suzanne McLaughlin
Loren Needles
Janice Lachance
Leslie Pierre
Joan Pierre
Bertha Braddock
Joe Braddock
Lynette Goree
Skip Goree
Nina Schwartz
Robert Schwartz
Marianne Coates
Buck Coates
Dave Cavanaugh
Joanne Lepano

Craig Roach
John Lytle
Christina Lytle
Catherine Lytle
Leslie Lytle
John Scruggs
Nancy Scruggs
Steven Reed
Ann Reed
Pat Tokarz
Lynn Tokarz
Michael Tokarz
John Robert Tokarz
Walter H. Lohman Jr.
Elizabeth D. Lohman
Walter H. Lohman III
Allison Coleman
Ira Gitlin
Susan Gitlin
Deborah Spagnoli

Respectfully submitted,
Coalition Co-Chairs:



Loren R. Needles



Pat Tokarz

Mayor Silberberg and Members of the Council
C/O City Clerk
City Hall Room 2300
301 King Street
Alexandria, Virginia 22314

I support appeal of the November 9, 2017 decision of the Planning and Zoning Commission to the Alexandria City Council. The decision approving the Karig Estates (3832-3834 Seminary Road) Site Plan as amended and the Subdivision Plan should be temporarily set-aside and referred to staff and the applicant to satisfactorily resolve concerns raised in the Beth El Hebrew Congregation Appeal.

I add my name to the Alexandria Coalition for Responsible Stewardship petition in support of the November 22, 2017 Beth El Hebrew Congregation's letter appealing the decision.

Name: David Cavanaugh

Address: 4008 Fort Worth Avenue, Alexandria, Virginia 22304

Signature: David Cavanaugh Date: 11/26/2017

E Mail: dacava1@yahoo.com

Telephone: 703-461-3310

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: Cynthia B. Evans

Address: 1211 Saint Stephens Rd

Signature Cynthia B Evans

eMail Cynthiaevans52@gmail.com.

Phone 703.370.3113

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or-Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or-FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: CHARLES EVANS

Address: 1211 ST. STEPHEN'S RD.

Signature Charles J. Evans

eMail CHARLESE33@GMAIL.COM

Phone 571. 482. 0216

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or-Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or-FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: PAUL F. GOREE III

Address: 3941 Colonel Ellis Ave., Alexandria, VA 22304

Signature Paul F. Goree III

eMail sgoree@comcast.net

Phone (703) 489-2661

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or-Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or-FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: LYNNETTE W. GOREE

Address: 3941 Colonel Ellis Ave., Alexandria, VA 22304

Signature Lynette W. Goree

eMail Lgoree6@gmail.com

Phone 703-751-1171

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or—Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or—FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: Joanne Lepanto

Address: 4009 N. Garland Street
Alexandria, VA 22304

Signature  11-26-2017

eMail jlepano@bostonpacifc.com

Phone 703-823-1241

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or--Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or--FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: CRAIG R. ROACH

Address: 4009 North Garland St.

Signature Craig R. Roach 11-26-17

eMail _____

Phone _____

Return instructions:

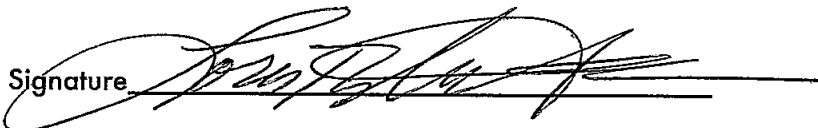
Call Loren to arrange pick-up 703-836-5800
Or--Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or--FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: LOREN R. NEEDLES

Address: 1115 ST STEPHENS RD

Signature: 

eMail: LOREN@LORENNEEDLES.COM

Phone: 703-836-5800

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or-Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or-FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: JANICE R LACHANCE

Address: 1115 SAINT STEPHENS ROAD

Signature: Janice R Lachance

eMail: JANICE@JANICE LACHANCE.COM

Phone: 703-388-8601

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or-Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or-FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: Leslie J Pierre

Address: 1109 St. Stephens Rd, Alexandria, VA

Signature 

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Phone 703 751 7328

Return instructions:

Call Loren to arrange pick-up 703-836-5800
Or-Drop it off at his home (Mail Slot): 1115 St Stephens Rd
Or-FAX to UPS at 3213 Duke St Fax Number 703 823-3920

Mayor Silberberg and Members of the Council
c/o City Clerk
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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

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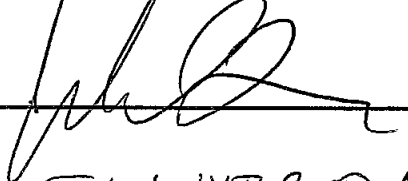
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NOV 9 2017

Name: JOHN D. LYTLE

Address: 3925 COLONEL RUDPS AVE

Signature: 

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11/9/17 [initials]

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Signature: [Handwritten Signature]

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Nov 9 2017

Name: Catherine Lytle

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Signature Catherine Lytle

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Phone 703 - 751 - 4004

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Nov 9 *JS*

Name: Leslie Lytle

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Signature Leslie Lytle

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Name: Robert S. Schwartz

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Signature: Robert S. Schwartz

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Name: NINA SCHWARTZ

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Signature: Nina Schwartz

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Name: JOSEPH V. BRADDOCK

Address: 1101 ST STEPHENS RD, ALEXANDRIA, VA 22304

Signature Joseph V. Braddock

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Name: BERTHA S. BRADDOCK

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Signature Bertha S. Braddock

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Name: Alison Coleman

Address: 3937 Colonel Ellis Ave.

Signature: 

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Name: John Pat Tokarz

Address: 3937 Col. Ellis Ave

Signature: J Pat Tokarz

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Phone: 571-221-1969

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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: Lynn TOKARZ

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Name: Michael Tokarz

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Signature M. Tokarz

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Name: John Robert Tokarz

Address: 3937 Col. Ellis Ave

Signature: 

eMail: JACKTOKARZ@gmail.com

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Or-Drop it off at his home (Mail Slot): 1115 St Stephens Rd
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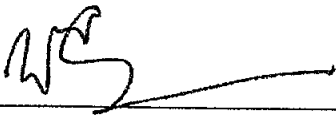
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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El
"Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan."

Name: Walter H. Lohmann III

Address: 4005 Fort Worth Ave

Signature



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Phone 703-212-7615

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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El
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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El
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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

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703 823-4535

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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

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Signature: Ch. Coates

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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: MARIANNE COATES

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Signature: Marianne X. Coates

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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: Robert T McLaughlin

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Signature Robert T McLaughlin

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I hereby add my name to the Alexandria Coalition For Responsible Stewardship's Appeal in support of the Beth El "Appeal of Planning Commission Decision of November 9, 2017 re Karig Estates, Development Site Plan.

Name: Suzanne McLaughlin

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Signature Suzanne McLaughlin

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6

Loren R. Needles
Hon. Janice R. Lachance, Esq.
1115 Saint Stephen's Road
Alexandria, VA 22304

703-836-5800



The Honorable Allison Silberberg and Members of the Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

Re: Appeal of Planning Commission Decision of November 9, 2017
re: Karig Estates, Development Site Plan and Subdivision

Dear Mayor and Members of Council:

Pursuant to Zoning Ordinance Section 11-409 (C)(1), we hereby appeal the Planning Commission's Decision of November 9, 2017 which modified and affirmed its decision of October 3, 2019.

First, we live at 1115 St. Stephens Rd. which is directly across the ravine from Beth El Temple. We respectfully request that the site plan be substantially modified to eliminate the present risks of costly damage to adjacent residential properties from storm water and the overlooked presence of Marine clay. Alternately, we request the developer set aside 2.5 Million dollars (\$2,500,000) to be used to compensate property owners for the damages sustained by construction activities which include but are not limited to slope collapse, storm water surges and presence of marine clay. We request additional study, analysis and reporting by Alexandria's professional Planning and Zoning staff and their expert consultants on the following concerns and glaring information deficits:

Loss of property value due to collapse of the fragile slope at the back end of our property and concurrent loss of many mature trees -- growing on that ground—which provide a beautiful woodland view from our residence and back yard

Changes in hydrostatic pressure and vibration from the construction of buildings on lots three and four produced by heavy earth moving equipment and pile driving will cause the fragile slope to slide into the ravine and incidentally, illegally covering most of the wetland below and destroying wildlife habitat. The near-term collapse of that slope, indicated to be most fragile on Alexandria's Geological Atlas, will take down mature trees and understory woodland on our property.

The change from our present view of a small patch of woodland to a view of the back side of ugly, massive MacMansions will reduce the value of our property by an estimated 10% or

\$100,000 or more according to a review of 25 studies by John L. Crompton, a professor at Texas A&M University. Requirement for compensation for damage caused by pile driving is a matter of law as indicated by *Divicent v. Sanderson*, 239 La. 51 (La. 1960) in which the court held the landowner liable for damages caused to adjoining property from pile-driving operations performed by a contractor.

Second. Specifically address, in a comprehensive and detailed addendum to the site plan, the incidence of marine clay and below surface ground water, the problems caused and actions intended to resolve those problems and the long-term risks associated with Marine Clay and below ground water throughout the building site.

Third. Re-examine and report in an addendum to the site plan, the risks associated with the occurrence and forecast levels and quantities of storm water. The examination must be based on externally available systemic analysis tools including but not limited to *The U.S. Environmental Protection Agency's National Stormwater Calculator (SWC)* and the *U.S. Department of Agriculture's Updated Hydrological Soils Group D* which consist of "soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission."

Fourth. In a separate addendum, describe and illustrate the key aspects and considerations of the site plan in a way that adjoining and downstream non-engineer property owners as well as other interested Alexandria residents can readily understand the plan, the relationships of the various parts and the overall development in the context of the ravine topography. Before and after 3-D models and diagrams are the appropriate alternative to over-long free standing text descriptions.

Fifth.

Please answer the rebuttal questions in the attached document titled "Twenty Questions" by Anthony Fleming.

Respectively submitted,


Loren R. Needles


Janice R. Lachance

TWENTY QUESTIONS
By Anthony Fleming, Geologist and Geologic Atlas

October 2, 2017

This document is a set of questions posed by our well known geologist Anthony Fleming. It was submitted to staff more than one month before the first Planning Commission hearing. Staff responded on September 29, only 2 working days before the hearing.

The late response failed to give affected homeowners any time to respond to many faulty assertions by staff. In this case, there is a wide divide between regulations, common sense and science. Good government dictates that we can process and respond to staff assertions

*Below is the overnight partial and **exasperated** response by Geologist Tony Fleming. Examples of the insufficiency of staff's response are check marked. Since we were prevented from entering comments or rebuttals into the until the last minute, we are including the complete document as part of our appeal to Council. It makes good sense that Council remand this whole matter to staff.*

The document is preceded by a cover note to Loren Needles and Pat Tokarz who commissioned Tony's work.

Dear Loren and Pat-

"There are several problems in the responses by the city to these questions, too numerous to delve into with the limited time available. I made a few comments) below some of them.

"Overall, I am not very impressed or encouraged by these responses, but I would urge you to continue to press ahead with some of these questions at the hearing because they are legitimate issues that cannot be adequately answered by hiding behind ordinances and technicalities of the regulations, instead of applying critical thinking. To me the most outrageous statement is the answer to question #1, regarding the ravine not being considered as an "intermittent stream" under the regulations. How do they think this steep sided, narrow bottomed ravine is maintained if not by occasional running water? Someone is going to have a rude awakening during a future storm. Saying this ravine isn't a stream is like saying Seminary Road isn't a city street.

Questions 7 and 8 also received wholly inadequate answers that deserve much better explanations. I hope your engineer is also able to amplify on some of the engineering points and questions herein.

My overall impressions are:

- 1) That the city's development ordinances do a good job raising the cost of housing by requiring various studies, but they do a lousy job of protecting the environment and existing residents;
 - 2) Whether a site/project is approved seems to have less to do with science than with politics.
- How else could the proposed development at 5335 Polk Street (located on a hill of sand) be

delayed by the city for years and ultimately denied approval while Seminary Road (located on clay in an area with known slope stability issues) be approved so fast? This is nonsensical;
3) The process seems rigged: as long as the developer checks all the boxes, everything is fine, even when it isn't. I conclude that the city is not serious about its "eco city" designation.

Geologist Question:

√ 1. From a practical standpoint, what difference does it make whether the stream in the ravine on the site is perennial or intermittent?

City Response:

Per section 13-105(b) of the City's Environmental Management Ordinance (EMO), which incorporates the requirements of the Chesapeake Bay Act, perennial streams are protected by a designated (Resource Protection Area) RPA. The Bay Act does not protect intermittent streams. However, per section 13-109(e)(11) of the City's more stringent requirements, intermittent streams contained within an existing natural channel are protected via a 50' buffer. Based on this definition for perennial and intermittent streams, this site does not contain a perennial or intermittent stream.

Geologist's response

I don't understand what they think is missing...the floor of the ravine constitutes a "natural channel". Do they think the form of this ravine magically appeared without the aid of recently running water? Or is it because a storm sewer line runs down the ravine? Regardless, by this definition, few if any second order ravines in the city apparently qualify as any kind of "stream" under the regulation – perennial or intermittent – meaning that any stream that has had some portion re-routed underground in a pipe is not "a stream". As an aside, this shows how hollow the Chesapeake Bay act really is: every headwaters ravine in the city and in southeastern Fairfax County is an intermittent stream, because none flow continuously all year from source to mouth.

Geologist Question:

√2. How will the post-development runoff from this site not impact the homeowners on Colonel Ellis Drive?

The site is perched at the crown of a steep (15-25+%) slope, at the bottom of which are dozens of homes along Colonel Ellis Drive, a street that, for better or worse, was established decades ago in the same ravine that heads at the site. Conversion of this site from mature forest with a sponge-like ability to absorb heavy precipitation to one with as much as 20% impervious surfaces and vastly reduced mature tree cover is likely to increase stormwater runoff by 5- to 10- fold during major storms and hurricanes. Some homeowners on Colonel Ellis Drive report experiencing significant water problems now. Most homeowners of houses built on similar slopes have had to bear expensive repair bills over the years.

City Response:

The Environmental Management Ordinance protects the down gradient properties from negative impacts of any new development. The construction of new homes cannot negatively impact adjoining properties and shall be protected in accordance with the laws.

Any possible negative impacts of the proposed development, including surface water runoff generation, are mitigated through compliance of the requirements in Article XIII of the zoning ordinance – the Environment Management Ordinance – and completing the Channel and Flood Protection analyses. This includes ensuring that stormwater runoff is not increased from the pre-development conditions to the post-development conditions through attenuation of the peak rate of runoff and delay in releasing the stormwater runoff from detention structures.

Geologist's response

If they check off all the boxes and do their cookie-cutter, one-size-fits-all model “analyses”, what could possibly go wrong? Death by 1,000 cuts for those living downstream.

Geologist Question:

√3. How will the added runoff from development of the site be mitigated?

The BMP's to be used at this site are described in the completeness plan and appear to consist chiefly of 4 relatively small infiltration trenches located on higher portions of the site and intended primarily to capture street runoff. A sizable impervious area of roofs, driveways, etc. located topographically below the new public street does not appear to be served by such structures and will presumably generate significant amounts of runoff to the ravine.

The geotechnical report studiously avoids discussing the runoff potential from this site and only mentions “retention basins” in passing. For context, a garden variety hurricane could easily generate an acre foot (~329,000 gallons) of overland runoff from the site (post development), which would totally swamp the proposed BMP features, not to mention the people living below.

City Response:

The BMPs proposed for this site are bio retention areas and permeable pavement. The runoff from the roofs and other impervious areas on the site is directed into the bio retention areas located on the individual lots for treatment and runoff reduction. The runoff from the street is directed into bio retention areas on the street for treatment and runoff reduction. The applicant has provided calculations to demonstrate compliance.

The City's GIS maps show that the site is currently served by existing sanitary and storm sewers. The applicant shall be required to provide additional improvements to the existing sanitary and storm sewers to serve the proposed development. The improvement shall be required to comply with the requirements of Memorandum to Industry 06-14 on sanitary sewer adequate outfall analysis and channel and flood protection analyses per Article XIII Environmental Management Ordinance for storm water. The applicant must demonstrate that the site will be required to comply with water quantity requirements and determine that adequate outfall exists in the proposed post-development conditions, and that existing infrastructure is not surcharged. The post-development conditions cannot increase the amount of stormwater runoff being discharged from the site to the existing storm sewer infrastructure, and will likely have to provide detention of stormwater runoff to provide this protection.

Geologist Question:

√4. How can effective infiltration basins be installed in heavy, low permeability clay?

This is a follow-on to the previous question. Presumably, infiltration basins, French drains, and other BMP's that catch runoff from at least the two lowest lots will have to be in lowest part of the property. Yet the lower elevations of the site are underlain at shallow depth by Arell clay, a heavy, poorly permeable formation with a perched water table whose permeability is likely to be less than 0.02 inches per hour – far too low to have any meaningful infiltration ability, much less keep up with a major precipitation event.

Realistically, only a large basin in the thickest part of the terrace gravel would have any possibility of effectively mitigating the runoff from a garden variety thunderstorm, and that geologic setting occurs only at the highest parts of the property, not the lowest, where runoff can be consolidated and caught.

At the same time, disturbing the crown of the slope and changing the hydrology at the clay gravel interface are leading causes of landslides in the Potomac Formation in northern Virginia, according to every published source available on the topic.

City Response:

The geotechnical reports submitted by the engineer demonstrate that the proposed bio retention areas are in areas where the soil has infiltration rates ranging from 0.6 inches per hour to 3.4 inches per hour. Per the Virginia Department of Environmental Quality (VDEQ) BMP Clearinghouse guidelines, these soils are suited for bio retention areas with infiltration.

Geologist's response

Good luck with that. The Arell clay lies just beneath the terrace gravel in the lower part of the site, as shown on the site borings and by the presence of the spring. This unit is very poorly permeable and acts as an aquitard, causing seeps and springs to appear along hillsides and in ravines along the gravel-clay interface. There are going to be major problems in the lower part of the site during the first major storm or hurricane – shallow ground water piping in coarse gravel, basin blowouts and overflows, and/or slope failures – mark my words.

Geologist Question:

√5. How does the presence of a “drainage divide” on the property affect the review? and approval process?

City Response:

Drainage divides show the location of flow to properly size appurtenance structures.

Geologist Question:

6. Does the site (or parts of it) have a shallow water table and, if so, how will that effect the review and approval process? Practically speaking, why is a perched water table any different from any other water table?

According to the report (section 4-3):

“Based on our field observations, and the anticipated depth of excavations, we do not anticipate that groundwater table will be encountered during grading operations and utility

excavations. However, perched water conditions should be anticipated, especially if excavation are carried out in wet seasons or following prolonged periods of precipitation.”

Indeed. They only looked for groundwater in the boreholes within 24 hours of drilling, then closed the boreholes. Given the very slow permeability of the clay, it could take longer than that to see a measurable amount in the holes.

However, the observations in four boring logs (B3, B4, B5, and B6) indicate this is an incomplete picture. Specifically, all four of these borings penetrated the underlying Arell clay (“fat clay” or “Potomac Formation clays” of the report), whose colors are described variously as brown, yellow, gray, blue-gray, and olive. The latter three colors are gleyed soil colors produced by reducing conditions below the water table. The colors near the top of the clay in some borings are also described as “brownish gray”, yellow and olive”, etc., a mix of oxidized and gleyed colors that suggests mottling due to water table fluctuation.

Significantly, boring B-4, located on lot 4 in one of the lowest topographic settings on the site, describes the entire clay interval as entirely “light gray and bluish gray”, which indicates perennially wet conditions.

Ergo, no one should assume that a seasonal water table is not present below site, and especially below the lower elevations of the site where these four borings were taken.

Based on the soil colors reported in the borings, it seems likely that groundwater will be encountered beneath lot 4, and possibly below parts of lot 3, during excavating and construction: the existence of the wetland in that area of the site becomes rather hard to explain in the absence of shallow groundwater!

The report tacitly acknowledges this possibility with the statement:

“Variations in groundwater conditions from those described herein should be anticipated at different locations across the site and at different times of the year. Furthermore, construction activities may impact existing groundwater conditions”.

Considering that an explicitly listed purpose of the report was to evaluate the potential of a seasonal high water table, they did an incomplete job given that they apparently don’t understand the significance of soil color to this question. Thus, the proposed alterations of the land surface, and the possible installation of runoff control measures to mitigate runoff in the lower parts of the property are likely to disturb the natural hydrologic regime along the gravel-clay interface, potentially destabilizing the clay

City Response:

If a shallow or perched water table exists on site, the geotechnical recommendations will address how to manage it. Geotechnical field testing and engineering are performed by a professional geotechnical engineer registered in the Commonwealth of Virginia and in accordance with governing standards of engineering. Construction of new homes including foundation, soil inspection and concrete placement will be reviewed and approved by Code Administration during the building permit process to ensure compliance with the 2012 Virginia Residential Code and the 2012 Virginia Construction Code and will be inspected by City inspectors and the Geotechnical Engineer of Record and his field staff.

Geologist’s response

See response to #7 below. Connect the dots...

Geologist Question:

√7. How will the BMP's and any other dewatering structures installed for construction avoid dewatering the wetland? And what pre-construction and post-construction monitoring is planned to ensure this doesn't happen?

City Response:

BMPs and construction dewatering are not designed to dewater or impact any wetlands. Erosion and sediment control measures will be put in place to protect the wetland and associated buffer required per the City's ordinance. The post-development runoff rate must not exceed the pre-development runoff rate.

Geologist's response

This response failed to answer the question being asked. The geotechnical report mentions dewatering structures to lower the shallow ground water table likely to be encountered in the lower two lots. What do they think feeds the spring? Pixie Dust? Will shallow ground water continue to supply the spring if the water table is lowered by dewatering structures? This question deserves serious investigation because if their intent is to protect the spring (by drawing a 50-foot radius around it as a buffer zone), then they also need to ensure the ground water that feeds the spring isn't interrupted by development activities.

√Geologist Question:

8. Is the "Global Stability Evaluation" (GSE) presented in the geotechnical report appropriate to the geologic and topographic conditions at this site? Please explain why or why not.

City Response:

This evaluation was done by the professional geotechnical engineer registered in the Commonwealth of Virginia to ensure there will be no slope stability failure.

Geologist's response

This answer is irrelevant. North Van Dorn Street (Landmark Mall), Taney Ave, St. Stephens, etc. were also vetted by "professional geotechnical engineer(s) registered in the Commonwealth of Virginia to ensure there will be no slope stability failure" (reports are in city files) and you can see how well that worked out. The point is, there is every incentive for an engineer (and the city) to give the OK to development projects in places with a history of geotechnical problems.

Geologist Question:

9. Explain why the proposed development at this site will not pose a risk of destabilizing the adjacent slopes, when other developments in identical geological settings in the City have resulted in serious slope failures?

In case you need examples, a couple of prominent landslides in the past decade or two are North Van Dorn St (N side of Landmark) and St. Stephens School, both very large and problematic landslides caused by a combination of hydrologic changes and loading of the crown of the slope at the terrace gravel-clay interface. Other smaller landslides and old

landslide scars are visible throughout the escarpment, such as the one between Fort Worth Drive and Taney Avenue. In fact, the entire escarpment largely owes its form to landslides and other natural mass wasting processes. To assume otherwise is foolish indeed!

City Response:

If the site plan is approved by the Planning Commission, the next stage will be a Final Site Plan, where the final engineering review occurs. The Final Site Plan must demonstrate compliance with erosion and sediment control requirements (City Code; Title 5, Chapter 4) prior to its approval and release, as well as demonstrate stabilization of the disturbed grounds per the City of Alexandria and the Commonwealth of Virginia requirements. Onsite slope stability measures in accordance with the submitted geotechnical report and permitted approved plans will be monitored and inspected by City inspectors and the Geotechnical Engineer of Record and his field staff.

Geologist Question:

√10 How will the changes in site hydrology that result from the proposed development (e.g., widespread excavating and disruption of the terrace gravel aquifer and the underlying clay unit, placement of stormwater control measures in the lower part of the site near the crown of the slope, etc.) change the risk of slope failure?

All publications on the matter cite disturbance at the crown of the slope, particularly along the terrace gravel-clay interface, as a leading trigger of landslides.

City Response:

Any possible negative impacts of the proposed development, including surface water runoff generation shall be mitigated through compliance of the requirements in Article XIII of the Zoning Ordinance: The Environmental Management Ordinance; and completing the Channel and Flood Protection analyses. Through the preliminary and final site plan processes, staff reviews the applicant's plans to ensure that stormwater runoff is not increased from the predevelopment conditions to the post-development conditions. The regulatory compliance of the post development stormwater runoff ensures not to adversely impact the adjoining and downstream properties from the resultant impact of new development by providing possible detention on site and non-erosive velocities of stormwater conveyance from the development site. The availability of a storm sewer to service this site will help to achieve the objective of protecting the neighboring and downstream properties. The site will be monitored and inspected by City inspectors during construction.

Geologist's response

Failed to answer the question being asked (about changes in slope stability), probably because there is only a cookie cutter geotechnical report available for the site that doesn't care to look beyond the site boundaries for fear of what might be found.

Geologist Question:

11. What do the regulations require when a channel is present in the gravel below the site or when the data submitted by the geotechnical engineer is suggestive of such a condition but inconclusive?

The boundary between the base of the terrace gravel and the underlying Potomac Formation clay is an irregular erosion surface that locally includes gravel-filled channels cut into the clay, a possibility the geotechnical consultant is presumably aware of based on the statement in section 2.2 of the report:

“The basal contact is irregular and locally fills erosional channels”.

These channels are commonly significant groundwater conduits, and Obermeier (1984) provides numerous examples of slope failures that originated where these channels are truncated along the crowns of hillsides. In fact, in elaborating on the geologic conditions most favorable to landslides, Obermeier (1984, p. 16) calls out this condition as a leading predictor of slope failures:

“The unconformity separating the Potomac Formation from younger sediments is a locus of concentration for both slumps and planar glide blocks, especially where the Potomac Formation is overlain by water-bearing, relatively permeable, sand-and-gravel-filled channels”.

The basic mechanism is that the near constant presence of ground water in these channels softens the underlying clay and creates zones of high pore pressure in fractures in the clay, both of which significantly reduce the bulk strength of the material from what might be predicted in a laboratory test on a small borehole sample or from the general properties of the material.

At least two geotechnical boring sites on the Seminary Terrace, both located on the Seminary grounds and less than a half mile from the subject property, indicate prominent channels cut into the underlying clay. Thus, it is hardly unreasonable to expect such features to be present at other sites. Four of the eight test borings at the subject property were deep enough to reach the base of the gravel (top of the clay), and they show the elevation of the gravel/clay contact falling off by at least 10 feet to the southwest; these limited data are thus suggestive of a channel whose axis lies beneath or somewhere to the west of the thalweg of the ravine. However, the borings are insufficient in number to clearly define the feature. If such a channel is indeed present, it could significantly increase the risk of a slope failure.

Given the circumstances, the developer should be required to perform sufficient borings to properly define the feature.

City Response:

All home sites will be constructed in accordance with geotechnical & structural engineering practices and in compliance with Chapter 4 of 2012 Virginia Residential Code and 2012 Virginia Construction Code and will be reviewed, approved and inspected by various City Departments; however, the 2012 Virginia Residential Code doesn't specifically point out issues regarding a channel, this would be an item the geotechnical engineer would evaluate and provide a solution. During the build permit process, a structural engineer will design the foundation to follow the 2012 Virginia Residential Code and the geotechnical engineer's recommendations.

Geologist Question:

12. Who will pay to remediate any landslides that occur on the slopes below or

adjacent to the site? In fact, what kinds of post-mortem evaluations does the city do now to follow up on past developments and ensure constant improvement of building practices viz landslides and to protect the interests of the public and affected neighbors to those developments?

It is well understood and documented in the literature (c.f., the Alexandria geologic atlas, Langer and Obermeier, 1978; Obermeier, 1984) that landslides in the Potomac Formation commonly do not become noticeable (that is, start to move significantly) until years, or even decades, after the causative disturbance. The North van Dorn St slide is a good example: it occurred years after the Landmark Mall site was graded.

The underlying question here is: how are neighbors and taxpayers protected, while those who create the problem (and their geotechnical consultants) are held accountable?

City Response:

The City works diligently to ensure that all permit applications are carefully evaluated and issued in accordance with all applicable City, State and Federal laws and regulations and that all requirements of the development are adhered to after issuance. The City performs a government function and cannot assume any liability on behalf of the adjacent property owners.

All home site construction will be constructed in accordance with the 2012 Virginia Residential Code and 2012 Virginia Construction Code and will comply with the requirements in Article XIII of the Zoning Ordinance: The Environmental Management Ordinance.

Geologist Question:

13. What do they plan to do with the plastic clays and other material excavated from the site?

Per section 4.1 of the geotechnical report:

“Additionally, fat clays (CH) and elastic silt (MH) soils, if encountered at the subgrade elevations for footings and slabs, must be excavated depending on their depth below the planned subgrades for footings and slabs, and for roadways, as discussed in following sections in this report. The excavated soils should be replaced with approved controlled fills.”

The volume of material we are talking about here is not inconsequential. They will be sorely tempted to distribute these materials across other parts of the site, right up to the 50’ wetland boundary, to save on trucking and disposal costs.

City Response:

All soil excavation operations, including hauling or reuse of any excavated soil will be governed by City inspectors. The geotechnical engineer will specify if the excavated materials can be used as backfill or not. The unsuitable material excavated from the site will be transported to appropriate dump sites as deemed appropriate by the City inspectors.

Ecology

The land serves as an integral part of the natural drainage of the surrounding properties and provides habitat for flora and fauna. Trees cool the air, reduce soil moisture loss, absorb harmful gases-carbon dioxide and carbon monoxide and release oxygen, trap dust and pollen, and reduce noise. They also reduce surface water runoff decreasing soil erosion and accumulation of sediments in streams and waterways.

Geologist Question:

1. How does the razing of a high quality old age forest remnant and the complete removal of a largely pristine soil profile that absorbs runoff and recharges groundwater fit into the framework of Alexandria's "Eco City (EC)" registration, specifically: a) the Ecological Imperatives defined under the International EC Framework and Standards; and b) the stated target of a 40% tree canopy on page 41 of the city's EC Action Plan 2030?

Since the various site plans show construction areas extending over virtually the entire site in and east of the ravine, the proposed project will completely gut the forest vegetation and soil structure over at least 2/3 of the site area. According to section 4.1 of the geotechnical report (Site Preparation and Earthwork):

"The construction areas including building pads, roadway, retaining walls, and driveways, should be stripped of trees, vegetation, topsoil organic matter, soft soils and any other unsuitable materials such as undocumented man-made fill."

There's a reason the International Eco City framework calls them "Ecological Imperatives": the standard assigns equal weight to the preservation of ecological integrity vs. the built environment. Moreover, the amount of city land in public ownership is significantly less than 40%, thus achieving the 40% tree canopy target virtually requires that much of that canopy be on private land. As is clear from the inventories published by the City's Natural Resources Division, tracts of old forest of the size at the subject property (~3 acres) are rather uncommon in the city limits; most remnants are much smaller. Finally, very little of the Old Town terrace, which makes up about a third of the land area of the city, has any meaningful tree cover. Nearly all of it is on the uplands to the west.

Similarly, both the international framework and the City's EC policies place great weight on preserving and enhancing ecological connectivity and continuity. The Hospital Escarpment represents what is perhaps the largest mostly unprotected natural corridor remaining in the city, of which the subject property is a key link. Along the same lines, most if not all the escarpment is ill-suited to development because of steep, unstable, stormwater runoff-prone slopes underlain by high shrink-swell clays; such characteristics would seem ideally suited to protection as a natural corridor, a win-win situation for the environment, neighborhoods, and unsuspecting homeowners.

Finally, let there be no doubt about the lack of prior historical soil disturbance on this site:

The geotechnical report indicates they found 5-8" of topsoil in the borings. Such topsoil thicknesses: 1) require centuries to millennia to develop; and 2) indicate a mature old age forest with little or no historical disturbance.

City Response:

The Environmental Action Plan 2030 aims at establishing sustainability goals and targets for the City and several of these goals and targets are aspiring to lead the City toward environmental sustainability. These goals and targets are used as guidance. About 40% of each new lot, or more, will be covered with tree canopy.

Geologist Question:

√2. Wetland designation: why should a preexisting storm sewer line installed decades ago downgrade the resource protection classification of this wetland?

If preexisting stormwater pipes, sanitary sewers, water lines, and other such infrastructure are the criteria for determining the level of protection, then virtually every wetland and riparian corridor in the city is not worthy of the highest protection (RPA designation), yet some of these other wetlands and streams with existing buried infrastructure do, in fact, receive RPA designation. This seems like an inconsistent application of the city's code to favor this developer and permit the trenching of a gravity sewer line through it.

City Response:

There is no downgrade in protection of the wetland. Per the City's Environmental Management ordinance which incorporates the Chesapeake Bay Protection Act (CBPA), the wetland does not meet the requirements to be included in the City's Resource Protection Area (RPA) because it is not (a) a tidal wetland, or (b) a nontidal wetland connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow. However, the wetland is protected by a 50 ft. buffer per the City's local, more stringent requirements protection for isolated wetlands that is not included in the CBPA, but is required by Section 13-109(E)(11) of the City's ordinance. Per Section 13-123(A)(2), the construction of sewer lines is exempt from the buffer requirement and is allowable within the wetland buffer area that the City regulates.

The wetland onsite has been examined by the U.S. Army Corps of Engineers who has issued a preliminary jurisdiction letter for the wetland. The applicant has had the site delineated by a Certified Wetland Delineator and U.S. Army Corps of Engineers (Corps) has confirmed with the applicant that the delineated boundary is correct. If any disturbance occurs to the wetland, the applicant will be required to obtain a wetland permit from Corps and meet all permit requirements.

Geologist's response

What I think respondent is trying to say is that, in fact, there is a downgrade in the wetland's protection, it just occurred at the front end of the entire process (i.e., when the city's environmental management ordinance definitions were written to conveniently exclude isolated wetlands). It is this kind of thinking that has led to the loss of the clear majority of original wetlands in the city and the country. In a functioning hydrologic cycle, there is no such thing as an "isolated wetland".

Geologist Question:

√3. The proposed sewer line that will run through the supposedly protected wetland/forested spring should be abandoned in favor of a lift station that pumps the sewage to the sanitary main on Seminary Road.

The current plan for sewage disposal is to run a line through the supposedly protected forested spring/wetland area. This will destroy the feature: the trenching activity will irreparably destroy the ground surface and soil structure, while the trench itself (presumably gravel filled) will act as a drainage tile and dewater the wetland. Of necessity, the trench will be cut into the underlying clay, which acts as a confining unit near the spring. All of this could be avoided by instead installing a lift station, which is a reliable and widely used method of dealing with sewage lines in areas of inconvenient topography.

City Response:

The sewer line does not run through the wetland. It is located outside of the jurisdictional limits confirmed by the Army Corps of Engineers. The wetland is protected by a 50 ft. buffer as is required by Section 13-109(E)(11) of the City's local, more stringent requirement not found in the CBPA. Per Section 13-123(A)(2), the construction of sewer lines is exempt from the buffer requirement and is allowable within the wetland buffer area. However, the contractor must take extra precautions to not impact the wetland. If the wetland, as delineated, is impacted, the Corps must be notified and decide of what enforcement or permitting would then be required.

Geologist's response

To an ordinary reader, the underline phrases directly contradict each other.

General

1. The credibility of the geotechnical report is diminished by its omission of several key topics that are clearly of major significance at this site. For example, the report is silent on stormwater runoff, with the main mentions of drainage being related to removing water from around foundations and other construction activities as quickly and effectively as possible, without any thought to where it is being removed to.

This passage from section 4.6.2 is a good example, but there are many others:

"The peripheral basement drains can be discharged by gravity for walk-out basements and by pumping for in-ground basements to appropriate locations (my emphasis)." Exactly where and what are those "appropriate locations"?

City Response:

The geotechnical report is only intended to cover relevant items, such as groundwater, not stormwater runoff. It provides recommendations for assumed bearing capacity for foundations, lateral soil pressure values for foundation walls, specifications for backfill soils, foundation and subsoil drainage requirements.

All stormwater runoff will be mitigated by the Best Management Practices, stormwater detention devices and closed conduit storm sewer system that is designed for the site as shown on the approved development plans.

Geologist Statement:

2. The geotechnical consultant does not seem to understand that the site lies in the heart of the city's landslide-prone area, i.e., that "marine clay" + "slope" = "landslide".

There is no mention of the word 'landslide' in this report, even though even a casual look at nearby parts of the landscape and a cursory review of relevant literature (e.g., Obermeier, 1984; the Online Alexandria Geologic Atlas; even the city's 1976 marine clay map) reveals the issue.

Geologist Question:

3. What geologic resources does city staff use/have at its disposal when they review proposed developments? Why is the geotechnical report using a nearly 40-year-old, very small scale (1: 48,000, or one inch = 4,000 ft.), “open file” geologic map of Fairfax County as the basis for geologic descriptions, instead of recent modern largescale (1: 12,000) maps and publications that deal directly with the City of Alexandria (e.g., the geologic atlas) or with the issues specific to the site, such as slope stability on Potomac Formation clays (Obermeier, 1984). This suggests, at best, a lack of curiosity on the part of the consultant, and perhaps a lack of interest in local geology.

City Response:

Geotechnical field testing and engineering are performed by a professional geotechnical engineer registered in the Commonwealth of Virginia and in accordance with governing standards of engineering including the specific onsite soil characteristics.

Geologist Question:

4. The geotechnical report stops at the site boundary and fails to consider the possibility that the impacts of the proposed development (e.g., hydrology, slope stability, etc.) extend beyond the site itself. Is this also how the review process functions?

How does this site and the proposed development fit into a holistic plan such as that stated in the city’s Eco City charter and Action Plan 2030?

City Response:

The City looks at how the development site affects neighboring properties, in areas such as stormwater, sanitary sewer, traffic, etc.

Geologist Question:

5. This development should be a perfect example of how the city could work with a developer to educate and encourage adaptations that would further the city’s action plan.

Who within the city structure is charged with this task?

Attachment #2
Subdivision Appeal Data

| | Appeal Name | Property Owner Name | Address | Requested SUB Appeal? | Property Area Within 300-Foot Buffer (SF) | % of 683,595 SF Area within 300-foot Buffer |
|---|--|---------------------------------|------------------------|-----------------------|---|---|
| 1 | Beth-El | Beth-El Hebrew Congregation | 3830 Seminary Rd | No | 209569 | 30.7% |
| 2 | Tokarz | Pat Tokarz | 3937 Colonel Ellis Ave | Yes | 21179 | 3.1% |
| 3 | Lytle | Christina & John Lytle | 3925 Colonel Ellis Ave | Yes | 13804 | 2.0% |
| 4 | Reed | Anne & Stephen Reed | 3933 Colonel Ellis Ave | Yes | 19515 | 2.9% |
| 5 | Alexandria Coalition for Responsible Development | Evans | 1211 St. Stephens Rd | No | 19707 | 23.1% |
| | | McLaughlin | 1123 St. Stephens Rd | | 19885 | |
| | | Needles / Lachance | 1115 St. Stephens Rd | | 20273 | |
| | | Pierre | 1109 St. Stephens Rd | | 19050 | |
| | | Braddock | 1101 St. Stephens Rd | | 23135 | |
| | | Goree | 3941 Colonel Ellis Ave | | 21174 | |
| | | Lytle | 3925 Colonel Ellis Ave | | 13804 | |
| | | Tokarz | 3937 Colonel Ellis Ave | | 21179 | |
| 6 | Needles / Lachance | Loren Needles & Janice Lachance | 1115 St. Stephens Rd | No | 20273 | 3.0% |

Attachment #3

11-410 - Site plan requirements.

In reviewing an application, the planning commission shall consider those factors listed below which it determines to be applicable in a given case.

- (A) The application shall comply with the provisions of this ordinance and all other ordinances of the city and of any other applicable laws.
- (B) The site plan shall be in reasonable conformity with the master plan of the city.
- (C) Adequate provision shall be made to ensure that the massing, location and orientation of buildings and uses, and the engineering design and location of roadways, parking, pedestrian amenities, open space and other site features are adequately related to each other and are compatible with and do not adversely affect the surrounding property and the character of the neighborhood.
- (D) Reasonable provision shall be made to ensure that development will be served by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, schools, and public transportation.
- (E) Each building or structure shall be reasonably accessible to fire, police, emergency and service vehicles. When deemed necessary for access by the fire chief or the director of transportation and environmental services, emergency vehicle easements shall be provided. The access for fire, police and emergency vehicles shall be unobstructed at all times.
- (F) Adequate provision shall be made to ensure the compatibility of the proposed development, including mass, scale, site layout and site design with the character of the surrounding property and the neighborhood.
- (G) Adequate provision shall be made for at least the required amount of open space in a configuration that makes that open space usable, functional, and appropriate to the development proposed.
- (H) The width, grade, location, alignment and arrangement of streets, sidewalks and alleys shall conform to the master plan of the city as near as reasonably practicable.
- (I) Off-street parking facilities shall have a reasonable slope and be accessible, safe and properly drained.
- (J) Streets, sidewalks and alleys shall, insofar as reasonably practicable, provide access and good traffic circulation to and from adjacent lands, existing streets, alleys and sidewalks.

- (K) Provision shall be made to ensure that adequate access roads or alleys or entrance or exit drives will be provided and will be designed and improved so as to prevent traffic hazards or problems and to minimize traffic congestion in public streets and alleys.
- (L) Adequate provision shall be made to ensure that the vehicular circulation elements of the proposed development will not create hazards to the safety of vehicular or pedestrian traffic on or off the site, disjointed vehicular or pedestrian circulation paths on or off the site, or undue interference and inconvenience to vehicular and pedestrian travel.
- (M) Adequate water mains and fire hydrants shall be provided in accessible places in accordance with good fire fighting and fire prevention practice acceptable to the chief of the fire department.
- (N) Adequate provision shall be made for the collection and disposition of all on- and off-site storm water and natural water, including but not limited to on-site drainage retention facilities. Natural drainage ways shall be used when it is reasonably practicable to do so and improvements shall be made to the ways in accordance with good engineering practice when in the opinion of the director of transportation and environmental services good engineering practice indicates improvements.
- (O) Adequate provision shall be made for the collection and disposition of all on- and off-site sanitary sewage, which disposition is to be by connection to existing separated sanitary sewer lines.
- (P) Adequate provision shall be made to avoid an increase in hazard to adjacent property from flood, increased runoff or water damage, including hazards to sidewalks from roofwater.
- (Q) The obstruction of natural watercourses shall be avoided.
- (R) No building for any residential use shall be allowed within a 100 year floodplain, unless there is first a change in elevation placing the lowest habitable floor of any building above the floodplain and unless the waterway involved has been improved in accordance with good engineering practice acceptable to the director of transportation and environmental services. This requirement shall not be construed to allow buildings in flood plains where the city council by ordinance or resolution has declared otherwise.
- (S) Adequate provision shall be made to control the slippage, shifting, erosion, accretion and subsidence of soil.
- (T) Adequate provision shall be made to control the slipping and shifting of buildings and structures.
- (U) Adequate provision shall be made to protect other lands, structures, persons and property.

- (V) Adequate provision shall be made to clean, control and otherwise alleviate contamination or environmental hazards on land when the site is in an area found by the director of transportation and environmental services to be contaminated by a toxic substance or otherwise to contain environmental hazards which are detrimental to the public health, safety and welfare.
- (W) Adequate provision shall be made to ensure that development as shown by the site plan, will not destroy, damage, detrimentally modify or interfere with the enjoyment and function of any significant natural, topographic, scenic or physical features of the site.
- (X) Adequate provision shall be made for lighting as shall be determined by standards established by the city council of all parking areas, roadways and walkways between public streets and parking lots and any buildings open after dark.
- (Y) Adequate provision shall be made to avoid glare of vehicular and stationary lights that would affect the established character of the neighborhood, and to the extent such lights will be visible from any residential zone, measures to shield or direct such lights so as to eliminate or mitigate such glare shall be taken.
- (Z) Adequate provision shall be made to ensure that the location, lighting and type of signs and the relationship of signs to traffic-control is appropriate for the site and will not have an adverse affect on any adjacent properties.
- (AA) Adequate provision shall be made in the designs for buildings or structures to afford appropriate protection against the accumulation of hazardous quantities of combustible gases.
- (BB) Adequate provision shall be made to minimize the impact on existing or developing wetlands.
- (CC) Adequate minimum landscaping shall be provided as follows:
 - (1) All landscaping, including without limitation the utilization of reference standards and landscape plan submission requirements, protection and preservation of existing vegetation, specification of plant material in general and for street trees and parking areas, calculation of crown coverage, design and specification of bioretention plantings, and maintenance of plantings, shall be provided and performed as specified in guidelines prepared and maintained by the director of recreation, parks and cultural activities. The guidelines shall be known as the City's Landscape Guidelines, shall be made available to the public and shall be used by applicants in the preparation, submission for approval, execution and maintenance of landscape improvements, including as required by this [section 11-410](#)(CC).
 - (2) Area coverage of trees to be planted, together with the existing crown area of those retained, shall occupy at least 25 percent of the total land area of the proposed project. With the approval of the planning commission, up to 50 percent of the required

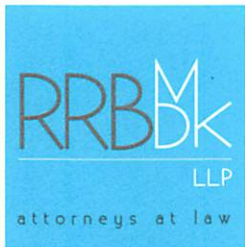
landscaping may consist of new trees planted on adjacent public right-of-way or other public land or of on-site, roof-top, deck or plaza plantings; provided that, in the case of uses in certain zones which are permitted to cover 100 percent of the total land area of the proposed project, up to 100 percent of the required landscaping may consist of new trees planted on adjacent public right-of-way or other public land or of on-site, roof-top, deck or plaza plantings, with the approval of the planning commission. Total land area for purposes of this paragraph shall be the area shown on the site plan as the area of the site plan under consideration. All proposed plantings, including, but not limited to, shade trees, ornamental trees, evergreen trees, shrubs, groundcovers and turf grasses to be planted, shall be provided in accordance with the Landscape Guidelines.

- (3) The planning commission or city council on appeal may require screening on-site plans where a commercial or industrial use abuts a residential use or is directly across the street or other public right-of-way from a residential use. The screening may be composed of either plant or man-made materials. Where plant material is required, it may be included as part of the 25 percent area coverage of trees and shrubs required in [section 11-410\(CC\)\(1\)](#) above.
- (4) Approved measures and methods shall be provided to preserve and protect existing vegetation from damage during construction and to protect vegetation in the public right-of-way. Methods for preservation and protection shall be approved by the director of recreation, parks and cultural activities in accordance with the Landscape Guidelines.
- (5) Any parcel proposed to be used for the outdoor display or storage of motor vehicles shall be required at a minimum to contain a landscaped buffer at a depth of six feet and a minimum height of three feet located along those streets upon which such parcel has frontage.
- (6)
 - (a) Where nonstructured surface parking areas are provided, they shall be designed with planting areas in the surface area at intervals to be determined by the director of recreation, parks and cultural activities and the director of transportation and environmental services. The planting areas shall be in the form of curbed space of sufficient size to permit the planting of trees and shrubs which may overhang the curbed space without damage from cars.
 - (b) Where a required surface parking lot abuts a public road or sidewalk, there shall be provided a landscaping strip at least six feet in width between the abutting right-of-way and the parking lot.
 - (c) Area coverage of trees or shrubs planted in the breaks and strips may be calculated as part of the landscaping required by section 4-110(CC)(1) above.
- (7) The location and type of all ground cover proposed to be planted on all disturbed areas of the site shall be indicated but this paragraph shall not operate as a limitation upon any landscaping that city council may require as a condition attached to a special use permit.

- (8) In addition to the provisions of this [section 11-410](#)(CC), further requirements relating to street trees within the site and on public rights-of-way adjacent to the site are set forth in [section 11-412](#)(D)(6).
- (9) Where trees are to be planted within the public right-of-way, they shall be planted in appropriate tree wells and provided protection as determined to be necessary and appropriate by the director of recreation, parks and cultural activities.

Attachment #4

Letters from the public to staff since November 9, 2017



RICH
ROSENTHAL
BRINCEFIELD
MANITTA
DZUBIN &
KROEGER, LLP

November 22, 2017

Mayor Silberberg and Members of Council
c/o City Clerk
City Hall, Room 2300
301 King Street
Alexandria, VA 22314

Re: Appeal of Planning Commission Decision of November 9, 2017
re Karig Estates, Development Site Plan and Subdivision

Dear Mayor and Members of Council:

Pursuant to Zoning Ordinance Section 11-409 (C)(1), and as attorney and agent on behalf of Beth El Hebrew Congregation, an adjoining property owner east of the subject site, we hereby appeal the Planning Commission's decision of November 9, 2017, to the City Council, which modified and affirmed its decision of October 3, 2019. The grounds for appeal are as follows:

1. The wrong blockface was applied in determining the proper set back from Seminary Road. The blockface used was actually two blocks, not one block. Even assuming there is discretion in determining the blockface, that discretion, under the facts and circumstances of this case, was arbitrary and abused.

2. The Planning Commission failed to address the legal argument that the Director's discretion in setting the blockface must be informed and prescribed by the site plan provisions, Section 11-410(A), and the environmental regulations that require that "no more land shall be disturbed than is necessary for the proposed use or development" and that "indigenous vegetation shall be preserved to the maximum extent practicable consistent with the use or development." Section 13.109(A) and (B) of the Zoning Code. These rules apply to the entire parcel, not just to the buffer area. These rules, in our opinion, must inform the Director of P&Z when exercising his discretion in setting the blockface for this project. In other words, if he has reasonable choices of the blockface, then the Environment regulations require that he chose a blockface that disturbs the least amount of land, vegetation and special features. In this matter, he could have chosen a 57 foot setback from Seminary as the blockface, but instead chose 104 foot setback. It is our position that the City, in order to comply with the environmental regulations, is required to redo the subdivision based on the 57 foot setback and get all four homes closer to Seminary and out of the ravine. The end result should be to move the 4th house

about 40 feet from the proposed location toward Seminary.

3. The City has made protecting the waters of the Chesapeake Bay a priority. To enforce the protection of the waters of the Bay, the City enacted Article VIII, Environmental Management, adopted March 15, 2014, specifically Sections 13-100 et. seq. It is in §13-100 that the City notes that the Chesapeake Bay is one of the most productive estuaries in the world, providing substantial economic and social benefits to the people of the Commonwealth of Virginia. This section concludes that “[t]he general welfare of the people of the Commonwealth depends upon the health of the Bay. The waters of the Chesapeake Bay and its tributaries, including the Potomac River and Alexandria’s local streams, have been degraded significantly by point source and nonpoint source pollution, which threatens public health and safety and the general welfare.” Therefore, the City declares in §13-101 (*Purpose*) “*[i]t is the policy of the City...to protect the quality of water in the Chesapeake Bay and its tributaries and, to that end, to require all land uses and land development in the City to:*

- (1) Safeguard the waters of the Commonwealth from pollution;*
- (2) Prevent any increase in pollution of state waters; and*
- (3) Promote water resource conservation.*

To fulfill this policy, this Article VIII is adopted to minimize potential pollution from stormwater runoff, minimize potential erosion and sedimentation, reduce the introduction of harmful nutrients and toxins into state waters, maximize rainwater infiltration while protecting groundwater, and ensure the long-term performance of the measures employed to accomplish the statutory purpose.

Within § 13-103 (Definitions), “Buffer Area” is defined as an area of natural or established vegetation managed to protectstate waters from significant degradation due to land disturbances. To effectively perform this function, the buffer area will achieve a 75% reduction of sediments and a 40% reduction of nutrients. A 100-foot wide buffer area shall be considered to meet this standard.

Section 13-105 states that “All land within the corporate limits of the city is designated as a Chesapeake Bay Preservation Area (CBPA). The CBPA is divided into resource protections areas (RPA’s) and resource management areas (RMA’s). Resource protection areas include ... (3) Nontidal wetlands connected by surface flow and contiguous towater bodies with perennial flow.

Very stringent regulations govern a RPA, and somewhat less stringent regulations govern RMA’s. The decision of the Planning and Zoning Commission failed to acknowledge that the wetland identified on the Karig property is a source of the headwaters for Strawberry Run, which is a tributary of the Potomac River. The City has wrongfully failed to consider the opinions of its Resource Manager, Rod Simmons, who has opined that the spring on the Karig property is one of the headwaters of Stawberry Run and therefore constitutes a tributary of the Potomac River. Because the City has wrongly concluded that this wetland is not a RPA, it has failed to conduct the necessary evaluation of the consequences of disturbing the land and wetland, and has allowed development which is not permitted under this Article. For example, the felling of trees is not be permitted within 100 feet of a RPA. The excavation of a new sewer line would not be

permitted in the buffer zone. Further, it does not appear that the water quality major impact assessment required under §13-117 (D) in RPA was conducted.

By default, even if not a RPA, the property is a RMA. Even if only a RMA, the Director of T&ES may, due to the unique characteristics of a site of the intensity of the proposed development.... require a water quality impact assessment as provided in subsections 13-117(C) and (D). Even if a RMA instead of a RPA, the City's proposed 50 foot buffer for the wetland does not protect the water quality for several reasons: (1) the City has permitted the developer to excavate a new sewer line through the wetland and its buffer, and (2) the City has not assessed the degradation of water quality caused by the clear cutting of dozens of trees to excavate for construction of the 4th home on the forested slope. It defies credulity to conclude that this development which includes a new road, 4 new huge homes, each over 5,000 square feet, and excavation for foundations and retaining walls on slopes composed at least partially of marine clay will not degrade the water quality of Strawberry Run and therefore degrade the water quality of the Chesapeake Bay.

Further grounds for appeal include the fact that no-one has counted or inventoried the number, species, health or age of the trees to be cut on the property. Without this information, an informed decision cannot be made about the damage to water quality and the sensitive forested slopes throughout the property.

The expert within the City on these matters is the Resource Manager, Rod Simmons. Given the City's inexplicable instruction to Rod Simmons that he not testify, and given Planning Commission's failure to insist on his appearance, the decision of the Planning Commission should be given little weight. The Planning Commission did not consider many important facts, including facts which would likely establish the wetland as a Resource Protection Area.

4. There was a failure to address the construction and road impacts on the preschool immediately adjacent to the subject property. This issue had been raised by Counsel and was mentioned by two speakers at the hearing on October 3rd. Basically, we want a fence, a barrier and/or dense landscaping that will prevent preschoolers from being drawn out into the construction site or new roadway.

5. There is considerable evidence that disturbance of the mature forest on the steep slopes on this property represents a danger of slope failure. See statement of Tony Fleming. There is no indication that staff consulted or gave appropriate consideration to the concerns of the City naturalist, Rod Simmons, who sees great environmental danger in construction disturbance on the slope, especially as to the 4th house. Furthermore, the Planning Commission refused to demand the appearance of Rod Simmons, because the City Manager and/or Director of Planning & Zoning said that he could not appear at the request of the Commission despite the clear authority for the Commission to have his testimony. See City Charter, Section 9.08. While the Planning Commission Chair stated that she preferred the written statement of Mr. Simmons, she (and other Commissioners) proceeded to ask numerous environmental questions that were most appropriate for Mr. Simmons to address. You, City Council, should want him to address

your questions.

6. With regard to the sewer easement that runs through the buffer area, there is a feasible alternative – a lift station that will discharge to the sewer main on Seminary or St. Stephens Road. “Adequate provision shall be made to minimize the impact on existing wetlands.” Section 11-410(BB) of the Zoning Code. While it is true that sewer lines are exempt from the buffer area created on the south end of the property, see Section 13-123(A)(2) of the Zoning Code, that does not mean that sewers are required to or should automatically go through a buffer area. That exemption should be used sparingly – when it is absolutely necessary and there are no alternatives. There may be some more expense in connecting to the Seminary sewer main; but, in the context of the total project, those costs can be absorbed in order to protect the trees and slopes. When asked by the Planning Commission why not use a lift station, there was a lot of looking around by staff. Then, staff offered a guestimate of \$40-50K for a lift station, and said that a gravity system was the preferred method. A gravity system may be preferred for most situations, but not for going through an unstable slope and wetland buffer area. There should have been a serious cost-benefit analysis. It was obvious that had not been done.

7. The Planning Commission dismissed the marine clay concerns by saying that there is marine clay in many places that are built up. However, there are not many places in the City that are built up that have significant marine clay on steep slopes stabilized by a mature forest. The existence of marine clay on the slopes of this site makes development problematic.

8. The Planning Commission dismissed the slope concerns by noting that a sewer pipe was laid in the ravine 20 years ago. 1) Environmental regulations have matured since those of decades ago which apparently allowed the storm sewer to traverse the property. 2) The loss of mature forest was not as important to the City decades ago as compared to today when regulations pertaining to the Chesapeake Bay are paramount. 3) Two wrongs don’t make a right. 4) There has been no testimony explaining the health and value of the forest as it exists today, even with the storm sewer. And, there has been no testimony from the City Naturalist about the effects of running a sewer line from the 4th home into and through the protected wetland. Therefore, an informed decision on the impact of this proposal was impossible at the Planning Commission.

9. The Planning Commission said that its 12 foot adjustment was a compromise. It was not a compromise but an unsatisfactory one-sided offer by the developer. We do appreciate the effort by the developer and staff to address our concerns, but the proposal was never agreed to by the neighbors or Beth El for the very good reason that it does little to protect the mature forest on the slope where home #4 is planned and does nothing to protect the sensitive wetland.

10. The applicant should be required to put a restrictive covenant on the property so that future owners know the property has sensitive environmental features and cannot denude the forested slopes of the ravine or disturb the sensitive wetland.


11. The policy grounds for this appeal is that environmental concerns matter. Those

concerns are not to be given short shrift. When there are environment concerns, like protection of forested slopes constituting a remnant forest, and wetlands whose waters eventually flow into the Chesapeake Bay, the City must do everything possible all along the way to protect as much of the environment (mature trees and steep slope) as possible. That has not been done in this case.

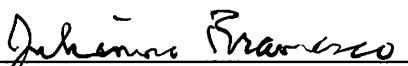
Conclusion:

We urge you to reverse the Planning Commission decision and refer the matter back to the staff and applicant to start with a 57 foot blockface with lots sub-divided so that the 4th house is not in the ravine and so that the sewer can be directed away from the buffer area. If the 4th house cannot be moved out of the ravine, then it should be deleted from the development plan.

Respectfully submitted,



Lonnie C. Rich



Julienne Bramesco, President
Beth El Hebrew Congregation

From: Nancy Williams
Sent: Wednesday, November 29, 2017 5:13 PM
To: Jennifer McClory
Cc: Karl Moritz; Robert Kerns; Nathan Randall; Kim Agee; Kristen Walentisch; Joanna Anderson; Christina Brown
Subject: Fwd: Opposition to Karig Estates Development

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks, Jennifer, I am copying folks here so they are aware.

Sent from my iPhone

Begin forwarded message:

From: Jennifer McClory <jennifer.mcclory@alexandriava.gov>
Date: November 29, 2017 at 12:17:29 PM PST
To: Nancy Williams <Nancy.Williams@alexandriava.gov>, Kim Agee <Kim.Agee@alexandriava.gov>
Subject: FW: Opposition to Karig Estates Development

Hello,

This came in to T&ES as a Call Click Connect, but I understand it is not a CCC request at this point. I discussed it with Yon and he told me the message was provided to Council for their consideration in the Council decision if there is a protest of the recent Planning Commission decision (it's possible this has already been filed but we have not yet heard).

I wanted to make sure you have it for your docket materials as necessary.

Thank you, Jen

From: John Scruggs <jscruggs3929@gmail.com>
Sent: Sunday, November 26, 2017 3:50 PM
To: Call Click Connect; ddunbar@alextimes.com; smauren@connectionnewspapers.com; James Cullum; maryann.barton@patch.com
Cc: Allison Silberberg; Justin Wilson; vmiles@alextimes.com
Subject: Opposition to Karig Estates Development

Please send my email and attachments to the city clerk, city manager, all City Council members, the Chair and members of the Planning Commission staff. Please also provide me a ticket number.

Dear Mayor and Council,

We live at 3929 Colonel Ellis Avenue in Alexandria, just behind the Beth El Synagogue, separated by one property from the proposed development of Karig Estates at 3832 and 3834 Seminary Road. Thank you for your efforts to facilitate necessary corrective improvements to this proposed development.

We are adamantly opposed to the Karig Estates development as presently constituted. As the attached photographs demonstrate, our property contains the storm sewer which collects the water flowing from the several properties above us on Colonel Ellis Avenue as well as the hillsides surrounding the synagogue and adjacent properties. During even relatively minor storms our property contains essentially two flowing streams causing us to fight a constant battle with erosion. In fact, we recently had to beg the City to take corrective action to prevent the storm sewer from collapsing. The erosion was so severe that water had undercut an entire corner of the structure. Given the well-established nature of the soil and topography of the Karig site, the massive flow of water across our property, with all the attendant problems described above, will be exacerbated.

We are now living in our second home in the Seminary Ridge Development. Because of various improvements made in both homes, we have had some not insignificant experience with marine clay. Extensive, expensive remedial action was required in both locations. The structural implications of marine clay are a matter of ongoing concern to virtually every homeowner we know in Seminary Ridge. To construct a development like the proposed Karig Estates, with the identical issues related to soil, drainage and topography is simply irresponsible.

We hope you will review the attached photographs and just imagine the flow of water we experience. I would also be happy to show you the extensive work that was necessary to maintain the structural integrity of our home due to the marine clay. We understand that reasonable modifications can be made to the proposed Karig Estates that would be acceptable to all parties while ameliorating some of our concerns. We urge you to give these your careful consideration.

Best regards,

John and Nancy Scruggs
3929 Colonel Ellis Ave.
Alexandria, VA 22304

From: Cityworks.Mail@alexandriava.gov
Sent: Tuesday, November 28, 2017 9:36 AM
Subject: Service Request: 134227

Follow Up Flag: Follow up
Flag Status: Flagged

Dear [Call.Click.Connect](#) User

A request was either just created or updated using [CityWorks](#).
Please take the necessary actions in responding, handling and/or updating this request.

| | |
|------------------------------|---------------------------------------|
| Request Number: | 134227 |
| Date / Time Reported: | 11/26/2017 3:48:54 PM |
| Description: | Planning & Zoning - Inqs, Compliments |
| Problem Code: | PZ_FEEDBACK |
| Problem Address: | |
| Initiated By: | User, CCC |
| Submitted To | PLZ, FEEDBACK |
| Dispatched To | WALENTISCH, KRISTEN |
| Prj Complete Date | 12/1/2017 3:48:54 PM |

Caller Information

| Call | | Name | | Home Address | Home Phone | Work Phone | Email |
|------|--|-----------|-------|--------------|--------------|------------|--|
| | | CHRISTINA | LYTLE | | 703-217-7973 | | TINALYTLE@AOL.COM |

Questions and Answers

| Call | Questions | Answers |
|------|-----------|---------|
| | | |

Comments:

By User, CCC : 11/26/2017 3:48:55 PM

This is a "public" request. Information may be provided to anyone who requests it.

· · Initial customer description · ·

To Members of the Planning Commission/Planning & Zoning,

This is a copy of the letter we sent to Council for your review.

Thank you for considering this matter further.

John & Christina Lytle

Dear Madam Mayor, Mr. Vice Mayor, and City Council Members,

Thank you for your efforts to help find very necessary corrective improvements to the flawed plan for 3832 & 3834 Seminary Rd./Karig Estates.

We formally appeal the decisions of the planning commission on Oct 3 & Nov 9th to City Council and request that the parties involved look more carefully into ways to improve the present site plan.

Our house is adjacent to the site in question. We have been homeowners in the City for 25 yrs, 19 in our current home. We are particularly concerned about setback, water runoff, building on the unstable slope, and irreparable damage to one of the few natural habitats left in the City. There just isn't a good reason why the houses shouldn't be set closer to Seminary Rd. in order to avoid building in the ravine. We also take great issue with the negative characterizations made by Ms. Gibbs and Mr. Gant about those of us opposing this plan during the prior hearing.

We invite you to come see the site for yourselves anytime at your convenience. We'd be happy to have you stop by to see exactly why we are concerned.

Thank you for your careful consideration.

John & Christina Lytle
3925 Colonel Ellis Ave.
Alexandria, Virginia 22304

By BELLAMY, LATANGELA : 11/28/2017 9:35:42 AM

K. Walentisch will respond or dispatch for response to be sent directly to requester. I should be BCC in the email of response to close out ticket in system, if it is not closed by responder.

If you need assistance with handling this request, please contact
Calclickconnect@alexandriava.gov or call 703.746.HELP.

From: Cityworks.Mail@alexandriava.gov
Sent: Thursday, December 28, 2017 11:01 AM
Subject: Service Request: 136110

Follow Up Flag: Follow up
Flag Status: Flagged

Dear [Call.Click.Connect](#) User

A request was either just created or updated using [CityWorks](#).
Please take the necessary actions in responding, handling and/or updating this request.

| | |
|------------------------------|-----------------------|
| Request Number: | 136110 |
| Date / Time Reported: | 12/21/2017 7:48:57 AM |
| Description: | PLZ Council Request |
| Problem Code: | PLZ_COUNCIL |
| Problem Address: | |
| Initiated By: | GREEN, ARNELL |
| Submitted To | PLZ, COMPLAINTS |
| Dispatched To | WALENTISCH, KRISTEN |
| Prj Complete Date | 12/26/2017 7:48:57 AM |

Caller Information

| Call | Name | | Home Address | Home Phone | Work Phone | Email |
|------|--------|--------|----------------------------|--------------|------------|------------------------------------|
| | JEREMY | FLACHS | 6601 LITTLE RIVER TURNPIKE | 703 836-2675 | | MAILTO:JEREMY.FLACHS@FLACHSLAW.COM |

Questions and Answers

| Call | Questions | Answers |
|------|-----------|---------|
| | | |

Comments:

By GREEN, ARNELL : 12/21/2017 7:48:57 AM
Dear Mayor, Vice Mayor and City Council,

My wife Nancy and I live on Colonel Ellis Avenue, just one property removed from the proposed Karig Estates. We write to endorse in the strongest possible terms the views expressed by Mr. Jeremy Flachs in the attached email. Mr. Flachs succinctly states our views with regard to a reasonable approach to this matter that will protect the interests of the property owner, developer and neighbors. The evidence he presents for a new approach is strong accompanied by reasonable arguments for a compromise that deserves your favorable consideration.

Thank you very much.
John and Nancy Scruggs

PER JEREMY FLACHS 12/20/2017:

Dear Given the possibility that we do not meet or speak about the Karig Estate before the upcoming January 20 Council Hearing on appeal from P&Z, I am sending you this email with attachments, some of which you might have already read and others perhaps not. I hope that you decide to vote to send this case back to P&Z with instructions to move the fourth home off the forested slopes, as more specifically set forth below.

Attached are the questions designed for Rod Simmons, the only City employee of whom I am aware with the expertise and knowledge capable of answering accurately the questions. Also attached is Tony Fleming's Geologic report in which the report commissioned by the City shows the perennial Spring on the Karig Estate where the existing wetland is found (see page 2). Also attached is another copy of Beth El's appeal. Finally, I am attaching an earlier assessment of this development submitted by Rod Simmons to P&Z, but apparently ignored.

The last iteration of P&Z's report with a recommendation to approve is not accurate in a number of respects and the staff members whose names appear as the authors of that report do not have the expertise to stand behind its assertions. Nor is moving the last home 12.5 feet closer to Seminary Road a "compromise", but instead it was a fig leaf for P&Z, and it does almost nothing to reduce the destruction of wooded slopes. That reason the 12.5 foot move was recommended was not because it will save the steep and wooded hillside, but because the builder and City Staff can move the house those few feet and still work off the existing site plan/concept plan. In other words, it saves the developer the cost of new plans. There exists an overlay of the 4 homes on a map showing the elevations, but for reasons I can only guess at, it was not included in the P&Z report. I have seen that drawing so I know it exists, and it will show the 4th home smack in the middle of the forested hillside.

Rod Simmons is anxious to testify and is upset that at least to date, no one from City Staff has reached out to him for his opinions. The copy of his initial report I am attaching does not suffice to answer the myriad of relevant questions raised by the appellants and hopefully to be raised by Council. For these reasons Lonnie, Mr. Simmons, the neighbors who have also filed appeals and I all ask that you request Mr. Simmons appear at the public hearing on January 20, 2018 to answer questions.

To restate, our goal is to preserve the forested ravine, slopes and wetland constituting approximately the rear 1/3 of the property and which also extend around to the St Stephens side of the Estate. This means that the home furthest from Seminary must be pushed towards Seminary and away from the forested steep slopes which hold the soil and filter the rain water and run off. We also ask that the sanitary sewer feeding these 3 or 4 new homes run from the "plateau" where the 4 homes should be built, back to Seminary Road and not down the slope and through the protected wetland. The forested slopes, ravine and wetland should be deed restricted for the common good of the community.

Jeremy Flachs

By GREEN, ARNELL : 12/21/2017 8:02:37 AM
Dear Nancy and John Scruggs,

Thank you for contacting the City of Alexandria regarding your concern. Your information has been forwarded to the Department of Planning and Zoning for a review and response.

Sincerely,

Out With The Old, In With The New - Alexandria Hopes

Alexandria and City Council should be commended for adopting the goal of becoming an “Eco-city”. Many citizens and staff have spent years developing a comprehensive Environmental Action Plan with the sponsorship of Del Pepper and John Chapman. The implementation of this plan however, relies on all city staff and citizens to be creative and proactive and to use persuasion, education, and, lastly, legislation to enable the achievement of these goals.

Unfortunately, 2017 was not a good year for Alexandria's native tree canopy, natural world, and environment. City council decreased funding for planting new trees, promising instead to focus on preserving the mature tree canopy. Unfortunately we are left with neither goal accomplished. The story of the Karig Estates development proposal gives but one of many examples.

Although the Planning and Zoning staff recommended many helpful changes to the original application to develop a ravine with a wetland, springs and an intermittent stream that form the headwaters of Strawberry Run, they needlessly obstructed other amendments that would have made it even more environmentally sound. For over a year many concerned residents and organizations worked to improve the Karig Estates proposal and struggled against a complacent Planning and Zoning Department.

The developer, many citizens and organizations agreed to an amendment to the site plan to move all four houses closer to Seminary road, which would safeguard more of the intact forest and decrease runoff on the steepest and most unstable lot. This was a win-win compromise. At first the city staff stonewalled for several months, stating that requested changes could not possibly be made.

After concerned citizens hired a land use attorney to press the issue, P and Z agreed that there were several ways to interpret the rules defining the proper setback from Seminary Road, allowing a setback of 57 feet instead of the original 104 feet. But then P and Z insisted that this would require the developer to start over with a new application instead of considering this an amendment to the site plan that he had already spent two years developing. The developer refused further unnecessary delay.

The City Manager then suppressed the City's key expert in environmental matters from being present at the November 9th, 2017 Planning Commission hearing. This action effectively robbed proponents of improving the Karig Estates of any chance of a fair and impartial public hearing. With none of the subject matter experts present at the hearing the Commissioners had no accurate answers to questions obviously best suited to those experts. The Planning Commission approved significant other amendments to the Karig Estates project with no discussion of the proposed amendment to move all four houses to a more ecologically appropriate location. This left little choice but to further appeal to City Council. That hearing is set for January 20, 2018. We hope the city's experts in environmental matters will be invited to participate.

Council is being asked to remand the Karig Estates project back to Planning for serious amendments with the city's strongly stated environmental goals in mind.

This complacency for the City's environment and quality of life by Planning and Zoning, City Manager, and ultimately City Council is deeply troubling and unacceptable. It is Council's responsibility to ensure that staff is thoroughly engaged and proactive in maintaining a balance between environmental conservation interests and development interests. Last year's events, and indeed many similar over recent years, have shown that not only do development interests far outweigh conservation ones in Alexandria but that there is an insufficient climate or appreciation for conservation among our public servants. We will never reach our goals as an Eco-city until these changes take place.

Environmentalists are working way too hard and spending too much money in Alexandria trying to do what their public service government is required to do as its daily function. Correcting the root of the problem is Council's responsibility - beginning with some education and persuasion in Planning and Zoning and the City Manager's Office. They should remand Karig Estates back to Planning with strong guidance before the trees and ecology of this property have been totally lost.

By Council taking the time to address these issues and take appropriate actions to change the focus of our city's employees, Alexandria's natural world could have an improved chance for a brighter, sustainable future.

Sincerely,

Robert and Suzanne McLaughlin
Andrew Macdonald
Joan and Denis O'Toole
Wes and Margaret Teague
Dave Levy
Loren Needles
Bertha and Joe Braddock
Walter and Betsy Lohman
Nina and Robert Schwartz
Paul and Lynnette Goree
Janice Lachance
Pat and Lynn Tokarz
Cill Dara
John & Christina Lytle
Stuart Davis
Kathleen M. Burns
Robert and Nina Schwartz

From: Nathan Randall
Sent: Thursday, January 11, 2018 3:11 PM
To: Kristen Walentisch
Subject: FW: Opposition to Karig Estates Development

From: Jesse Maines
Sent: Wednesday, December 06, 2017 12:13 PM
To: Nathan Randall
Cc: Melanie Mason
Subject: FW: Opposition to Karig Estates Development

Nathan,

This info was sent in and per Yon should be included in the docket info. The proposed development should not change any existing conditions on this property.

Thanks,

Jesse Maines, MPA
Division Chief
T&ES, Stormwater Management
703.746.4643 (direct)
571.414.8237 (mobile)

From: Jennifer McClory
Sent: Wednesday, November 29, 2017 3:32 PM
To: Jesse Maines; William Skrabak
Subject: RE: Opposition to Karig Estates Development



From: Jesse Maines

Sent: Wednesday, November 29, 2017 3:24 PM

To: Jennifer McClory <jennifer.mcclory@alexandriava.gov>; William Skrabak <William.Skrabak@alexandriava.gov>

Subject: RE: Opposition to Karig Estates Development

Can you please forward the pictures?

Thanks,

Jesse Maines, MPA
Division Chief
T&ES, Stormwater Management
703.746.4643 (direct)
571.414.8237 (mobile)

From: Jennifer McClory

Sent: Wednesday, November 29, 2017 3:11 PM

To: William Skrabak; Jesse Maines

Subject: FW: Opposition to Karig Estates Development

Hi Bill and Jesse,

Please see below for you information.

Jen

From: Yon Lambert
Sent: Monday, November 27, 2017 11:23 AM
To: Jennifer McClory <jennifer.mcclory@alexandriava.gov>
Subject: RE: Opposition to Karig Estates Development

Jen, It was provided to Council for their consideration in the Council decision if there is a protest of the recent Planning Commission decision (it's possible this has already been filed but I have not yet heard).
It should be provided to Bill and Jesse as an FYI and P&Z to ensure it is included in the docket materials.

From: John Scruggs <jscruggs3929@gmail.com>
Sent: Sunday, November 26, 2017 3:50 PM
To: Call Click Connect; ddunbar@alextimes.com; smauren@connectionnewspapers.com; James Cullum; maryann.barton@patch.com
Cc: Allison Silberberg; Justin Wilson; vmiles@alextimes.com
Subject: Opposition to Karig Estates Development

Please send my email and attachments to the city clerk, city manager, all City Council members, the Chair and members of the Planning Commission staff. Please also provide me a ticket number.

Dear Mayor and Council,

We live at 3929 Colonel Ellis Avenue in Alexandria, just behind the Beth El Synagogue, separated by one property from the proposed development of Karig Estates at 3832 and 3834 Seminary Road. Thank you for your efforts to facilitate necessary corrective improvements to this proposed development.

We are adamantly opposed to the Karig Estates development as presently constituted. As the attached photographs demonstrate, our property contains the storm sewer which collects the water flowing from the several properties above us on Colonel Ellis Avenue as well as the hillsides surrounding the synagogue and adjacent properties. During even relatively minor storms our property contains essentially two flowing streams causing us to fight a constant battle with erosion. In fact, we recently had to beg the City to take corrective action to prevent the storm sewer from collapsing. The erosion was so severe that water had undercut an entire corner of the structure. Given the well-established nature of the soil and topography of the Karig site, the massive flow of water across our property, with all the attendant problems described above, will be exacerbated.

We are now living in our second home in the Seminary Ridge Development. Because of various improvements made in both homes, we have had some not insignificant experience with marine clay. Extensive, expensive remedial action was required in both locations. The structural implications of marine clay are a matter of ongoing concern to virtually every homeowner we know in Seminary Ridge. To construct a development like the proposed Karig Estates, with the identical issues related to soil, drainage and topography is simply irresponsible.

We hope you will review the attached photographs and just imagine the flow of water we experience. I would also be happy to show you the extensive work that was necessary to maintain the structural integrity of our home due to the marine clay. We understand that reasonable modifications can be made to the proposed Karig Estates that would be acceptable to all parties while ameliorating some of our concerns. We urge you to give these your careful consideration.

Best regards,

John and Nancy Scruggs
3929 Colonel Ellis Ave.
Alexandria, VA 22304

From: Bonnie Petry <bonnie.petry@outlook.com>

Sent: Tuesday, November 28, 2017 12:46 PM

To: Call Click Connect

Subject: Mayor, Vice Mayor, City Council - Endorsement of Temple Beth El's appeal of the Planning Commission Decision

Dear Mayor, Vice Mayor, and [Members of City Council](#),

I am writing to endorse Temple Beth El's appeal of the Planning Commission's decision to allow the Karig Estates Development to go forward on the 3832 and 3834 Seminary Road parcel.

As Temple Beth El's appeal makes abundantly clear, this development project, as currently planned, completely disregards the plan's negative ecological impacts and reflects a lack of thorough consideration by city planning staff.

To be clear here, the choice is not whether or not there can or should be development on the property, but rather *how* this property is developed.

The purpose of Planning and Zoning in any jurisdiction, to include the City of Alexandria, is to ensure that the development protects residents' public health, safety, and well-being. Protecting the environment is an aspect of this mandate.

Luckily, in this case, there are a number of viable options that would allow the property owner to profitably develop the land while protecting the community's interests.

Lift stations are one option – an option that Planning and Zoning did not raise with the developer nor consider until residents brought it up in front of the Planning Commission.

Another option, an even better one, would be to adjust lot and home placement/configuration and/or the number of homes to keep the development confined to the gravel terrace portion of the property closest to Seminary Road and out of the ravine. After all, the one site configuration presented is not the only possibility for the site.

A reconfigured plan that keeps a house and a sewer line out of the ravine could also include a conservation easement on the wooded ravine – a financially valuable incentive to the current and future property owner that would also provide tremendous public benefit.

In conclusion, I urge you to reverse the decision back to Planning and Zoning Staff and the applicant and ask that they come up with a revised plan that keeps the fourth house and sewer line out of the forested ravine.

A win-win solution, for the property owner and the community, is achievable here!

Sincerely,

Bonnie Petry

