

Robert L. Calhoun  
3204 Circle Hill Road  
Alexandria, Virginia 22305

June 21, 2004

The Honorable Mayor William D. Euille  
And Members of the Alexandria City Council  
City of Alexandria  
Alexandria, Virginia 22314

Re: Open Space Report

Dear Mayor Euille and Members of Council:

Since I will not be able to attend the Council's public hearing on this matter this evening, I am submitting these comments on the May 2004 Open Space Report ("Report"), and some of the issues it presents. Except by way of illustration, I have no comments on any of the particular sites discussed in the Report.

Open Space Criteria

For the most part, I agree with the 12 criteria set out on page 2 of the Report. While reasonable people can and do disagree with some of them and with their application to particular sites, the Report sensibly recognizes that it is neither possible nor prudent to acquire land or interests in land simply because it is "open." As has sometimes happened in the past, valuable land will be removed from the tax roll, and annual maintenance costs incurred without real consideration of a corresponding public benefit. The 12-point criterion developed by the Task Force recognizes the need for this balance, as for example, in its discussion of the Second Presbyterian site. With respect to the particular sites discussed, the Report is not complete in its analysis of lands or interests in lands owned by churches and other non-profits. As the experience with the Second Presbyterian site has shown, simply because the owner pays no real estate taxes is no assurance that the property will remain in its present use.

As a final general comment, the Council should make it clear that the fact that a parcel is discussed in this Report is not an indication of its future status. There is always the danger that the mere listing of a property for some public purpose will have an adverse impact on the future value of the property and complicate its future sale. Therefore, except in those instances where it

is clear that the City intends to acquire the property or an interest in the property in the near future, it should be made clear that the listing of a parcel in this Report is simply information and is of no legal significance.

### Acquisition Techniques and Methods

In addition to outright purchase of land or interests in land, the Report, both generally and with respect to particular parcels, recommend the extensive use of easements. Easements are a well recognized land use preservation technique. They can also be problematic for both the grantor and the grantee.

From the grantor's perspective, easements provide a way to benefit the public while realizing certain federal and state income tax benefits along with some continuous reduction in real estate taxes. At the same time, they restrict (as intended) the grantor's and the grantor's heirs' ability to change the nature and use of the property. As a member of the Board of Real Estate Assessment Appeals, I have seen several cases where property owners have been reluctant to consider easements because of the potential impact on their heirs. There is also the issue of unreasonable expectations with respect to the "value" of easements. As the City Assessor can advise you in greater detail, an open space easement may reduce the value of the land so burdened by no more than 25 percent, if that. The result is a degree of unhappiness on the part of the taxpayer even though, given the overall development of Alexandria, an open space easement may actually enhance the resale value of the property.

From the grantee's (the City or some entity such as the Northern Virginia Conservation Trust or the Virginia Outdoors Foundation) perspective, the most important consideration is one of enforcement. Elsewhere in Virginia, there have been reported instances where, due to inadvertence or indifference, easement restrictions have been violated or ignored. In part, this is due to a lack of a public record of what easements have been granted and to whom. Only now is the State undertaking to compile such a record. If the City is going to embark on an extensive easement program, a comprehensive list of existing easements from the Assessor's records should be made first with directions to keep it current and accessible as a means of insuring compliance.

Although not discussed in the Report, the "land use tax" authority recently granted the City merits some brief discussion. This technique has been used in rural Virginia for nearly 30 years with mixed results. ( In the interests of full disclosure, I should note that I own land in a rural county which is subject to "land use" treatment). As a way preserving agricultural and forest-based economies, and reducing the burden of providing infrastructure and costly services such as education, it has worked well for the short time. However, it is at most a holding action in any jurisdiction that is experiencing high growth. At that point, it simply becomes a tax subsidy for landowners waiting for a developer to buy them out or a developer waiting to build. Even if the owner has to pay the heavy penalty for taking property out of land use prematurely, there will still be a good profit.

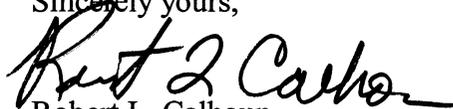
In a developed city, such as Alexandria, use of the land use tax method to preserve open space is likely to be a waste of money. The conditions that commend its use in rural areas are not present in Alexandria. Its use on larger parcels will lead to the foregoing of tax revenue from land that will eventually be developed. If they are worth preserving, they are worth acquiring either outright or in context of a development proposal. For smaller parcels, such as the several residential parcels listed in the Report as "overzoned," granting tax concessions for property that may be no more than an overly large backyard is a poor use of tax resources unless there is something unusual about the property and there is no other technique such as an easement or a re-zoning that will accomplish the same purpose.

#### Land Use Regulations And Related Issues

As mentioned, the Report discusses in several places, notably in Part IV, a number of residential properties that are said to be "overzoned", thus permitting additional development by way of additions or further subdivision (the Report is not clear on this point). This is an important issue that should be given further extensive study by the Council and the Planning Commission. The demolition and replacement or enlargement of older and smaller dwellings should not be per se discouraged since redevelopment of the City is part of its continuance as a viable entity. At the same time, it is not good for the City or its citizens to be faced with "McMansion" dwellings in neighborhoods where they do not fit or development on parcels that might better be left as is. The difficulty here is twofold. First, the zoning code as presently constituted is not always adequate to the task when it comes to dealing with compliant already subdivided land. It should be reviewed and changed where necessary. Second, even where the zoning regulations are adequate, the integrity of the regulations can be undermined by the liberal granting of variances by the Board of Zoning Appeals. As the Planning staff can advise you in greater detail, many of these variances now being granted are legally dubious in terms of the requirements set out in the Code and, more important, under three recent decisions of the Virginia Supreme Court.

Thank you for this opportunity to discuss the Report.

Sincerely yours,

  
Robert L. Calhoun

6-21-04

Ginny Hines Parry  
<ghparry@fortebrio.com  
>

06/21/2004 04:20 PM

To: Del Pepper <delpepper@aol.com>, Joyce Woodson  
<council@joycewoodson.net>, Andrew Macdonald  
<MacdonaldCouncil@msn.com>, Ludwig Gaines  
<Councilmangaines@aol.com>, Rob Krupicka  
<Rob@krupicka.com>, "William D. Euille"  
<wmeuille@wdeuille.com>, "William D. Euille"  
<alexvamayor@aol.com>, Paul Smedberg  
<paulcsmedberg@aol.com>  
cc: Jackie Henderson <jackie.henderson@ci.alexandria.va.us>  
Subject: 6/21/04 Docket: Item #2, Consideration of Report of the Open Space  
Steering Committee

June 21, 2004

The Honorable Mayor and Members of City Council  
City Hall  
301 King Street  
Alexandria, VA 22314

6/21/04 Docket: Item #2, Consideration of Report of the Open Space Steering  
Committee

Dear Mayor and Members of City Council:

Alexandrians for Sensible Growth (ASG) previously wrote to the City Council and the Planning Commission about our concerns with the processes and criteria used by the Open Space Steering Committee (OSSC) to recommend certain sites for purchase with open space funds. Instead of restating those concerns, that letter is provided below for your consideration as part of tonight's public hearing on the report of the Open Space Steering Committee.

As you deliberate as to which open space sites the City will acquire with open space funds, many, many Alexandrians would hope that you will give the Second Presbyterian Church site full consideration as a worthwhile open space site. The city has an opportunity to turn this 6.07-acre site into a model urban park that will be accessible to all parts of the city because of its central location. Second Presbyterian is already served by mass transit and already has parking. It is an accessible destination from all parts of the city.

The Second Presbyterian site was ranked low by the OSSC in the criterion related to accessibility to schools. However, the OSSC did not take into consideration that MacArthur Elementary School is within 2 blocks of the site. Every fall, MacArthur Elementary school children walk past Second Presbyterian when they take their fall field trip to the pumpkin patch at Immanuel-on-the-Hill Episcopal Church. Second Presbyterian is also within walking distance of Bishop Ireton High School, Episcopal High School, the Butterfly House Preschool (on the campus of the Virginia Theological Seminary), and the Minnie Howard Ninth Grade Center. Second Presbyterian could be an extended learning center accessible to all of these schools.

The Second Presbyterian site was also ranked low in the criterion related to historical significance. However, Second Presbyterian was not recognized as a unique site that offers both significant open space and an historic structure. The OSSC did not take into consideration that the "Manse", with its unique architecture, is almost 100 years old and can be nominated to the national and state historic registries. The developer plans to demolish the "Manse" if it proceeds with its development plans. If that is allowed

to occur, the opportunity to register the "Manse" will be lost forever and that would be a tragedy. And since September, 2002, the Alexandria Historic Resources Preservation Commission has been urging City Council to acquire Second Presbyterian for both its open space and historic value.

Unlike most of the other sites ranked by the OSSC, the 2nd Presbyterian Church site is almost a ready-made park and could be enjoyed by the public immediately. A useable structure already exists on the site that could house recreational or educational programs. The "Manse" could be restored and provide another functional building. And a parking lot is available to visitors.

Most of the other sites listed by the OSSC would need a significant amount of capital investment, in addition to the initial acquisition costs, in order to make them accessible to the public. For example, the waterfront sites would need to have the existing structures and asphalt parking lots removed. The Clermont Cove site would also need to be developed into a walkable site accessible to the public. The additional expenses associated with converting these spaces into useable open space must be taken into account in weighing the costs of each site now under consideration for acquisition.

The Second Presbyterian Church site lies on the far western border between Planning Districts 2 and 3. It has been noted frequently that Planning District 2 has large yards and plenty of open space and therefore is not entitled to more open space. However, Second Presbyterian's location makes it readily accessible to Planning District 3, which is in great need of more open space because of the exploding population growth there.

In closing, this City Council has an opportunity to view Second Presbyterian in a fresh light. With bond money soon-to-be available, this City Council could save Second Presbyterian as valuable open space that will be enjoyed by all Alexandrians for generations to come. There will truly be something to celebrate if Second Presbyterian is saved.

To borrow an adage from a former City Councilmember: Will your decision withstand the 20 year test? When people go by Second Presbyterian in 20 years, will they wonder who allowed 8 over-sized houses to be built there? Or will they be wondering who had the vision and foresight to save Second Presbyterian for families to enjoy kite flying on a beautiful spring day? Many, many Alexandrians hope that it will this City Council that had the vision and foresight to save Second Presbyterian.

Sincerely,

Ginny Hines Parry, President  
Alexandrians for Sensible Growth  
317 Skyhill Road  
Alexandria, Virginia 22314  
703-212-0982  
ghparry@fortebrio.com

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April 20, 2004

Mayor William Euille, Vice Mayor Redella Pepper  
and Council Members Ludwig Gaines, Rob Krupicka,  
Andrew Macdonald, Paul Smedberg and Joyce Woodson

Planning Commission Chair Eric Wagner, Vice Chair  
Donna Fossum, and Commissioners Stewart Dunn, Jesse Jennings, John  
Komoroske, Richard Leibach and Lawrence Robinson City Hall Alexandria,  
Virginia

Dear Mayor, Vice Mayor, Council Members, and Planning  
Commission Chair, Vice Chair and Commissioners:

Alexandrians for Sensible Growth strongly urges City Council to approve  
the purchase of the Second Presbyterian Church site for the following  
reasons.

1. The Recommendation of the Open Space Steering Committee to Allow  
Development of the Second Presbyterian Church Site Contradicts the Open  
Space Plan.

a. The Open Space Steering Committee Solicited No Public Input Prior to  
Rewriting the Open Space Plan.

Contrary to the spirit of the open space planning process that culminated in  
the adoption of the Open Space Plan as an amendment to the Master Plan in  
the spring of 2003, the Open Space Steering Committee essentially excluded  
the public from participating in its deliberations  
concerning the Second Presbyterian site. Unlike the development of the  
Master Plan, the Committee interviewed no stakeholders, held no community  
sessions, held no citywide forum, convened no public hearings and did not  
otherwise solicit or invite any input from citizens, civic  
associations or the committees deeply involved in the creation of the Open  
Space Plan, such as the Parks and Recreation Commission and the  
Environmental Policy Commission.

b. The Open Space Steering Committee's Explanation of its Recommendation to  
Allow Second Presbyterian to be Developed Ignores the Plan's Conceptual  
Framework and the Central Open Space Conservation Area, Goal 6 Concerning  
Preservation In Perpetuity of Institutionally-Owned Open Space, and the  
Plan's Statement that the Site is Critical to Achieving the Goals of the  
Plan.

The Open Space Steering Committee's explanation of its recommendation to  
allow Second Presbyterian site to be developed, as set forth in its April  
19, 2004 memo, ignores (i) the importance of the "Central Open Space  
Conservation Area" to the "conceptual framework" of the Open Space Plan,  
(ii) Goal 6 of the Plan, which states that certain  
institutionally-owned open space, specifically including the Second  
Presbyterian site, should be protected and preserved in perpetuity, and  
(iii) the Plan's statement that preserving the Second Presbyterian site and  
eight other sites is "critical" to achieving the goals of the Open Space  
Plan. Each of these elements of the Plan are discussed below.

c. The Open Space Steering Committee's Evaluation Process Incorrectly Uses  
Open Space Categories to Recommend that Second Presbyterian Not Be Acquired  
by the City.

Goal 2 in the Open Space Plan, at pages 52-53, states that the City should  
"Develop Innovative Opportunities for Creating Additional Public Open  
Space." The Plan then makes "eight recommendations, highlighted below  
[that] identify a number of innovative methods for creating public open  
spaces." The eighth recommendation for creating "innovative" open spaces  
states that the City should "[u]tilize the following selection criteria for  
identifying privately-owned land suitable for acquisition by the City for  
parkland/open space use," and then lists twelve

categories of oft-overlooked, non-traditional open space, such as pocket parks, excess rights of way, land near trails, and street endings.

Other recommendations to further Goal 2's objective of developing "Innovative Opportunities" for creating open spaces include creating parkland atop below-ground parking structures, bridging over roads to link open spaces, and use of air rights to create new open space.

Goal 2 of the Open Space Plan and the recommendations for "innovative methods for creating public open space" have absolutely nothing to do with whether a large privately-owned open space site such as the Second Presbyterian Church should be acquired for open space. The Open Space Steering Committee's reliance on the categorization of non-traditional land-types that further the goal of developing "innovative methods for creating public open spaces" in order to evaluate the Second Presbyterian site is at best an inadvertent misreading of the Open Space Plan and at worst a transparent attempt to rank the site as low as possible by using wholly inappropriate evaluation criteria. Obviously, the Second Presbyterian site ranked low because it is not an "innovative method of creating open space," but is rather an entirely traditional open space site -- for Alexandria, a generously-sized park of about six contiguous acres with numerous mature trees and rolling meadow that is exactly what the Central Open Space Conservation Area, as discussed below, is intended to preserve and protect.

In summary, the Open Space Steering Committee recommendation not to acquire the Second Presbyterian site (1) was developed without any public input, (2) ignores the Plan's recommendations concerning the Central Open Space Conservation Area, as articulated in Goal 6 and the Plan's list of "critical" sites, and (3) is based on a misreading of Goal 2 of the Plan, which concerns "innovative methods of creating public open spaces", but provides no criteria nor analytical approach for evaluating and prioritizing potential open space acquisitions.

2. The Open Space Plan Designates the Second Presbyterian Site as One of the Top Ten Sites in the City to Preserve as Open Space.

a. The Open Space Plan is the Result of Extensive Public Input.

In the spring of 2003, first the Planning Commission and then the City Council approved the Open Space Plan as an amendment to the City's Master Plan. As detailed in Chapter 4 of the Open Space Plan, "Community Process: Synthesis of Ideas," a "multi-tiered involvement process was used to engage a broad range of key stakeholders, community groups, and residents in the planning process," including interviews with open space stakeholders, community sessions, a citywide Open Space Summit and public hearings before the Planning Commission and the City Council.

b. City Council and Planning Commission Both Unanimously Approved the Open Space Plan.

Four members of the current City Council voted in favor of the Open Space Plan--Mayor Euille, Vice Mayor Pepper and Council Member Woodson, as well as Council Member Gaines (then a Planning Commissioner).

c. The Plan States that Preserving Second Presbyterian is "Critical to Achieving the Goals of the Open Space Plan."

Chapter 6, "Plan Priorities and Funding Strategies," identifies eleven "priority actions [in no specific order] for the City to undertake first in its implementation of the Plan." Open Space Plan at pp. 81-83. One of the

"priority actions" is to acquire a group of properties on the waterfront. A second "priority action" identifies nine sites, one of which is Second Presbyterian, which are "critical to achieving the goals of the open space plan" and recommends that the city "[s]trongly consider [these] properties for easements, acquisition, or other methods of open space preservation within the short term."

3. The Open Space Plan Establishes a "Central Open Space Conservation Area," which includes Second Presbyterian Church.

a. The Plan Advocates for Protecting Second Presbyterian in Perpetuity as Part of the Central Open Space Conservation Area.

Chapter 5, "Plan," provides a "conceptual framework" for "making the most of the small amount of available land for open space use." As part of this framework, at p. 48, "a Central Open Space Conservation Area is established in the heart of the City through the preservation of land owned by Episcopal High School, the Episcopal Theological Seminary and the Second Presbyterian Church." The objectives are that "these open spaces can be protected in perpetuity and, possibly, certain areas made accessible to the general public for many years to come." Acquisition of the Second Presbyterian Church site achieves these objectives.

b. Goal 6 of the Plan States that Institutionally-Owned Open Space Should be Protected and Preserved In Perpetuity.

Recognizing that "some of the most significant open spaces in the City are institutionally owned," Goal 6 of the Plan states that "[t]he City, together with these institutions, should collaborate on protecting, in perpetuity, these important open spaces" and recommends that the City "[p]reserve and protect all, or significant parts, of . . . Second Presbyterian Church."

4. The Pickering Subcommittee Report Ranks Second Presbyterian as the Fourth Highest Priority Open Space Site in the City.

On March 11, 2004, the Search Subcommittee of the Open Space Steering Committee, chaired by former Council Member Ellen Pickering, released its one and only report. The Pickering Report ranks the Second Presbyterian Church site as the fourth highest priority open space site in the City. Pickering Report at p. 5. (The other members of the Pickering Subcommittee are Planning Commissioner Richard Leibach, Bill Dickinson, Bruce Dwyer and Kenyon Larsen.)

The Pickering Subcommittee used a two-step process to arrive at this ranking. First, the Subcommittee identified, i.e., nominated, sites for consideration as open space (an appropriate use of the land-type categories listed in Goal 2 of the Open Space Plan). As the Pickering Report, at p. 1, states, "Goal 2 recommends the following selection criteria for identifying privately-owned land suitable for acquisition by the City for parkland/open space use: [listing of twelve categories of types of open space]." The Pickering Subcommittee correctly understood that this listing of categories is not intended to be used to evaluate and prioritize sites for acquisition.

Second, for each "acquisition opportunity" identified, the Subcommittee used seven "considerations," or evaluation criteria, to determine the ranking of each identified site: (i) property location and address, (ii) description, including unique environmental features, (iii) descriptions of all development, (iv) parking availability, (v) possible future uses, (vi) price, and (vii) an initial indication of priority (high, medium and low).

The Pickering Subcommittee identified the Second Presbyterian site as privately-owned open space suitable for acquisition. Next, using the seven evaluation criteria, the Pickering Subcommittee ranked the Second Presbyterian site as the fourth highest priority site to acquire for open space in the City. This ranking by the Pickering Subcommittee is entirely consistent with the Open Space Plan, which states that preserving the Second Presbyterian site, as part of the Central Open Space Conservation Area, is "critical to achieving the goals of the open space plan."

Thus, not only is Second Presbyterian a "critical" open space site pursuant to the Open Space Plan, but the only City committee after adoption of the Plan that used appropriate criteria to evaluate and rank open space sites concluded that the site is the fourth highest priority site in all of Alexandria to protect and preserve as open space.

Alexandrians for Sensible Growth urges City Council to implement the Open Space Plan, as adopted as an amendment to the Master Plan in 2003, and acquire the Second Presbyterian Church site.

Respectfully submitted,

Ginny Hines Parry  
President  
Alexandrians for Sensible Growth, Inc.