

*City of Alexandria, Virginia*

MEMORANDUM

DATE: JUNE 18, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER  
IGNACIO B. PESSOA, CITY ATTORNEY *IBP*

SUBJECT: ACQUISITION OF 5 ACRES OF SEMINARY FOREST APARTMENT SITE FOR PASSIVE PUBLIC RECREATION AND OPEN SPACE

**ISSUE:** Acquisition of approximately 5 acres of the Seminary Forrest Apartment site at 4500 Braddock Road for passive public recreation and open space purposes.

**RECOMMENDATION:** That City Council authorize the City Manager and City Attorney to acquire the property, along the lines discussed in this memorandum.

**DISCUSSION:** The Open Space Steering Committee has included this site, at the rear of the Seminary Forrest Apartment Complex, among the "priority sites" for acquisition by the City. The property owner has agreed to sell the parcel to the City, for \$750,000, which is half of the site's assessed value. The owner will, for tax purposes, be treated as having donated the difference between the purchase price and the parcel's fair market value to the City.

This area will need to be subdivided from the balance of the apartment property, and the resulting parcel to be acquired by the City will be approximately 5 acres. The general boundaries of the parcel to be acquired are shown on Attachment 1. Use of the parcel will be limited to passive public recreation and open space uses, and any future improvements to the property by the City will require City Council's approval. Contract negotiations between the City and the property owner will be finalized during Council's summer recess, and the required subdivision will be considered by the Planning Commission in September.

We believe that it is in the City's advantage to secure the property at this time. Accordingly, we recommend that City Council authorize the negotiation and execution of a contract for the purchase of the property, at the price of \$750,000.

**FISCAL IMPACT:** Money from the Open Space Trust Fund Account, funded by the one cent real estate tax dedicated to open space acquisition, will be used for this acquisition.

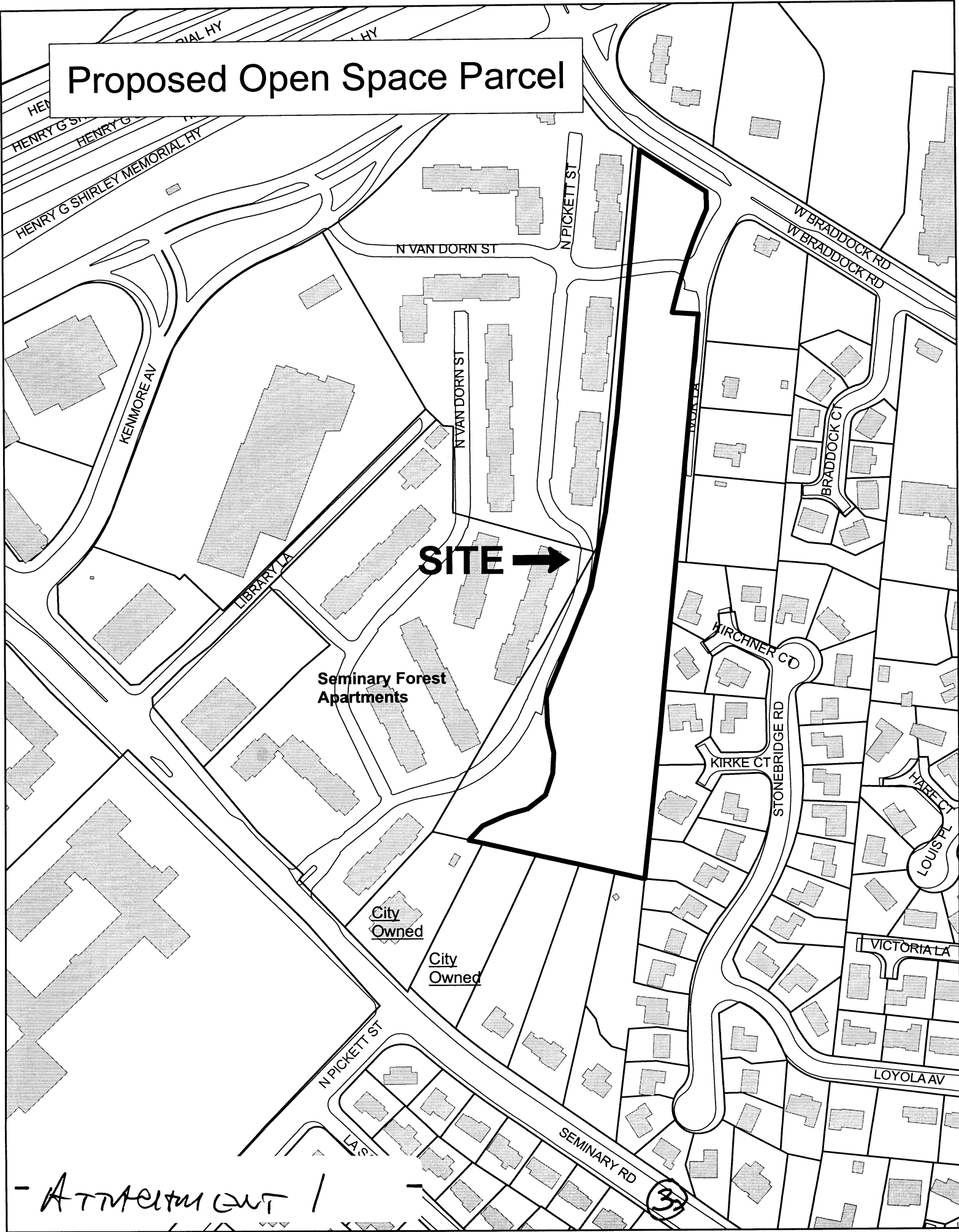
We will be pleased to answer any questions concerning these issues on June 22nd.

Attachment

Staff: Kirk Kincannon  
Director, RP&CA

Barbara Ross  
Deputy Director, P&Z

# Proposed Open Space Parcel



Seminary Forest  
Apartments

City  
Owned

City  
Owned

- ATTACHMENT 1

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**From:** william brandon <mbrandon99@comcast.net>  
**To:** city council  
**Date:** Tuesday, June 22, 2004 12:37 PM  
**Subject:** Ivor Lane

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6-22-04

June 22, 2004

TO: The Honorable Mayor and Members of City Council

FROM: Bill Brandon

RE: Staff's response to my e-mail

I must correct some factual errors in the staff's response. They have implied in the next to last paragraph the Mike Caruthers of Seminary Forest opposes the use of this tract for anything other than passive open space. This is false. He actually supports the improvement of Ivor Lane and is not opposed to some minor development. He has made it very clear that the City use should not include active recreation. He would tend to agree with me that the way the staff has dealt with this matter borders on the unethical. His primary interest, unfortunately, is tied to disposing of this property and having the City acquire the bulk of it as open space is the only thing that makes sense. I must also comment that the staff characterization of my comments as 'complaining' is only a convenient way to discard critical comment. I am not complaining but merely trying to stimulate critical and important discussions, discussions that the planning staff seem to be afraid to allow.

The staff has asserted that the ONLY way to improve Ivor Lane is with the land holdings of the property owners on the east side. This is absurd. There is no reason why the property owner on the west side cannot be involved. There is a history that predates the revision of the master plan that needs to be accounted for. The world did not begin with this most recent master plan; if it had, the issues surrounding Ivor Lane would not exist. Indeed, all plans dating back to the 50's had this street being widened to the west. We found a cooperative owner who agreed to cede this right of way if his other concerns could be satisfied. Call me stupid for looking out for the City's interest and bringing the acquisition opportunity forward but the nexus of the proposal as initially agreed to by Seminary Forest was always to cede the right of way for improvement of Ivor Lane. The staff has now turned the essence of this proposal on its head.

The staff has created a lot of confrontation from a simple effort to do the right thing for all parties. I think we need to get beyond this and move on, and in the spirit of cooperation, I think there is a way to do that by concentrating on what we all believe to be true, that the acquisition of the bulk of the tract as open space is the right thing to do.

Since the acquisition of land with designate open space funds raises a legal question of the legality of alternate uses, there is a way to side step that issue. The fact that this parcel will need to be subdivided prior to acquisition has not been discussed. It will need to be divided not only to slice of a portion that Seminary forest wishes to retain but that portion that the City acquires must also be subdivided in to two parcels, one that is purchased to establish land value and one that is to be donated. This arrangement is a requirement of Seminary Forest to satisfy their gift tax deduction requirements. The Council can instruct the City manager that the portion gifted to the City should include an eighty foot tract to the west of the portion of Ivor Lane that is only 20 feet and restrictive wording on the use of this donated property should NOT include anything to preclude street right of way or minor development use. I have talked to Mike Caruthers and know this is entirely acceptable to him. This will allow acquisition to proceed forward in a timely fashion while still preserving a flexibility of options and giving time to obtain much needed additional information and citizen input.

Many of the assertion contained in the staff response to my e-mail are of questionable accuracy. The staff asserts that Bill Wykoff can build one house on his property at the end of Ivor Lane. I assert

this is only a pie-in-the-sky theory not supported by economic reality. With no sewer, no water, no firehydrant within minimum distances, there is no way the infrastructure requirements can be justified for only one house. In effect, Mr. Wykoff is experiencing a taking without the benefit of judicial proceedings or compensation. It should be noted that this property was not acquired out of choice, but rather as part of an estate planning necessitated by Medicare laws. The Wykoff/Daniels family will suffer significant financial hardship if Mr. Wykoff is not allowed to develop this property in a reasonable fashion.

The staff asserts that development would "require removal of significant trees". I assert we don't need to level the fifty foot required right of way but only remove those trees necessary for a minimum street width that affords the standard emergency vehicle access. To accomplish this I count only four mature hardwood trees on the edge of a dense stand that need to be removed. The remainder are small or are Loblolly Pine which could be considered an invasive species. Removal of the pine would actually be a good management practice allowing the more desirable small hardwood trees behind them to flourish. Removing four mature hardwood trees to obtain a City mandated minimum fire access is not a big cost. If the Council decided that good fiscal policy was to allow the proposed minor development, only an additional three mature trees (one of which is of questionable health) would need to be removed, as the proposed development takes advantage of a naturally occurring clearing.

The staff asserts that I believe the City has an obligation to provide land for the widening of Ivor Lane. While I might actually believe this it is a rather avarice position for the Staff to take since the City doesn't own the land, Seminary Forest does. I, on behalf of the property owners, 'found' this right of way and submitted a proposal whereby it would be ceded to the City as a street right of way. The staff seem to be refusing to accept it.

The staff assert that "the value of the site stands on its own" but have failed to give any rationale of how the improvement of Ivor Lane and/or the minor development incursion in any lessens this value.

The staff assert that "the City has no obligation to facilitate developing Ivor Lane property to its maximum development potential". I assert that they should not be taking active steps to frustrate this development. The staff have demonstrated themselves as unreliable partners in the cooperative efforts needed to advance Alexandria into the 21st century. Their whole argument hangs from the thin thread that, when many years ago a planner III took a blunt magic marker and outlined the boundaries of the master plan open space, they included this little section of property in the master plan without consideration of the history and implications of this action, and that this should be the rigid parameters of our policy making today (a position that is totally reversed when it meets their needs). The master plan is just that, a generalized master, not a precise plan. Certainly the improvement of Ivor lane to minimum standards (and I would also assert allowing of the minor proposed development) in no way violates the intent of the master plan. What ever the case, it is not a decision to be made by staff.