



County of Fairfax, Virginia

November 6, 2014

**2014 Planning
Commission**

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Assistant Director

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Clerk to the Commission

Inda Stagg, Land Use Planner
Walsh, Colucci, Lubeley & Walsh, PC
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

Re: SE 2014-MV-019 – QIN H. ZHENG
Mount Vernon District

Dear Ms. Stagg:

At its November 5, 2014 meeting, the Planning Commission voted 9-0-1 (Commissioner Murphy abstained. Commissioners de la Fe and Lawrence were absent from the meeting) to **RECOMMEND DENIAL** of the above referenced application to the Board of Supervisors. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,

Jill G. Cooper, AICP
Executive Director

cc: Gerald Hyland, Supervisor, Mount Vernon District
Earl Flanagan, Planning Commissioner, Mount Vernon District
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors
Megan Duca, Staff Coordinator, ZED, DPZ
Robert Harrison, ZED, DPZ
November 5, 2014 date file

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SE 2014-MV-019 – QIN H. ZHENG

Decision Only During Commission Matters
(Public Hearing held on October 15, 2014)

Commissioner Flanagan: Thank you, Mr. Chairman. Yes, tonight we have, for decision only, SE 2014-MV-019. On October 15, the Commission held a public hearing to receive testimony about a Special Exception Number 2014-MV-019, that would be needed to build a new home in the Mount Vernon District New Alexandria neighborhood – a flood plain adjacent to the Potomac River. The Special Exception is needed as new homes may not be built by-right in a floodplain. In reviewing the testimony I was impressed by testimony such as the following:

- First, the proposed new home would be on a vacant – on vacant land that suffers the deepest flooding in New Alexandria. The stream that drains all of a New Alexandria watershed ends up at the applicant's site. To illustrate, a photo was shown of a garage and home built in 1939 next door to the applicant and the garage was filled with 7 feet of water at one point in Hurricane Isabel – flood of 2003. The flooded adjacent stream was 11 feet deep. This is substantial. Somewhat surprisingly, when asked, this same neighbor offered to acquire the applicant's site next door as open space. This previously unknown option would appear to best satisfy the Zoning Ordinance Special Exception requirements in 2-905 Part 7B, which requires denial of an application unless, "The proposal is the least disruptive option to the floodplain." Quite simply, this application is not the least disruptive alternative in light of the option offered by the neighbor, as well as the option of pursuing other designs that do not require the level of fill requested in the floodplain.
- Second, just recently the Base Flood Elevation was increased to 11 feet – the maximum depth of flooding in New Alexandria. The definition of the term Base Flood Elevation in Part 906 of the Zoning Ordinance for Floodplain Regulations states, "The Federal Emergency Management Agency designated water surface elevation of a flood having a one percent chance of being equaled or exceeded – and I emphasize exceeded – in any given year shown on the flood insurance rate map. Testimony was presented and not rebutted that mean sea levels are rising already and likely to continue.
- Third, the testimony confirmed that comparable new homes in the area of the applicant listed at the bottom of the Staff Report page 2 stopped in 1997 and no Special Exceptions were listed thereafter for new homes – only to repair or replace existing flood damaged homes. One new home one block to the north and two blocks to the east built after Hurricane Isabel could have been listed on page 2 of the staff report, but it wasn't and for good reasons. It was for a home on an island four inches above the surrounding shallow 2003 floodplain. Technically the lot is outside the floodplain. The bottom of the floor joists only had to be 14 inches above natural grade. The SE for the new home was supported by the neighborhood association, the Mount Vernon Council, and the Supervisors. The applicant's drawing on Sheet 2 of 5, in stark contrast, proposes first

floor joists that would be eight feet, five inches above the natural grade. In stark contrast – and that is five feet higher than a typical crawl space. I know that eight feet doesn't sound like a crawl space. The applicant's SE home design is neither in harmony with the surrounding homes nor supported by the new neighborhood association, New Alexandria Homeowners Association, and the Mount Vernon Council.

- My fourth point is – the testimony – was the applicant has not rebutted a claim that swales to be dug below the existing grade along the northern fence would kill the neighbor's trees. I find this contrary to the Zoning Ordinance requirements in Section 9-006, Part 3, that states, "The proposed use shall be such that it will be harmonious with and will not adversely affect the use of development of neighboring properties."
- Fifth, the applicant's lot is totally within an RPA. It will require 570 cubic feet of fill spread over 2,499 square feet of the lot's 7,000 square feet. This will exceed the 50-foot encroachment allowed on an RPA and triggered an appeal to the Supervisors for a concurrent exception noted in the DPWES – that's the Department of Public Works – staff report found at Appendix 5. Page 7 of the DPWES staff report and Page 14 of the Department of Planning and Zoning staff report note that the reports do, "not reflect the position of the Board of Supervisors." And that's right because, of course, the ultimate decision in this matter is up to the Board of Supervisors. Likewise, the previous buildable lot determination does not, of course, dictate the outcome of this application because Special Exception applications can only be decided by the Board of Supervisors, based on different and more expansive criteria.
- Sixth item that I was impressed with was – I mention the RPA in the fifth in part because several Commissioners thought the slope of the fill in the side yards was too steep to permit walking from the front yard to the rear yard. I agree. The slope on Sheet 2 of 5, Cross Section B, is shown to be 2 to 1. That's what the slope of the side yard is. This is an extreme slope of 50 percent. To demonstrate how steep a 50 percent slope is, I refer you to the applicant's email sent to us on October 31. A photo in the email was sent as justification for the 16.33 slope of the applicant's driveway. The driveway in the email photo is the steepest and only such driveway in New Alexandria community. It's 18.5 percent. In addition, the garage in the emailed photo was built in 2000, before Hurricane Isabel. The owner promptly converted the original garage that the driveway led to into habitable – into a habitable room in the photo after receiving his Residential Use Permit. That driveway ramp is now referred to by locals as, "The Driveway to Nowhere."
- Seventh, the staff report Wood Haven Road profile on sheet 2 of 5 clearly shows the middle of the road in front of the driveway to be 6.25 feet above flood stage – above sea level – and 6 feet at the road edge. Even the site plan on sheet 1 of 5 shows the nearest street manhole in the center of Wood Haven Road to be near the south – and that's to be near the south lot line – at an elevation of 6.16 above sea level. The applicants own drawings demonstrate that the proposed driveway slope for the curb – from the curb to the garage door is from 6 feet to 12.5 feet. It climbs from 6 feet to 12.5 in a distance of 39.8 feet. And that equals a 16.33 percent slope. If any part of that 39.8 distance is flatter, as stated in the email, the 16.33 slope will be even greater than 16.33. The applicant's –

they might even approach the 18 of the steepest slope that leads to nowhere. The applicant's driveway serves as a pedestrian as well as a vehicle access to the proposed building. The maximum slope of inside ramps for occupants is 12 percent in the uniform – in the Virginia Uniform Building Code. Most outdoor ramps in New Alexandria are that or less. Although Fairfax County does not have an explicit standard for outside residential ramps such as the Driveway to Nowhere, that should nonetheless be rejected under the General Special Exception Criteria as incompatible with surrounding uses, failing to be – to provide adequate parking and pedestrian access for the proposed use and for the degree of disruption to the floodplain.

In my opinion, the seven concerns listed above justify Environmental Policy 7A in the Comprehensive Plan, adopted by the Board of Supervisors to “Prohibit new-” and I emphasize new “-residential structures within flood impact hazard areas.” Therefore Mr. Chairman I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DENY SE 2014-MV-019, RPA ENCROACHMENT EXCEPTION NUMBER 1391-WRPA-001-1, AND WATER QUALITY IMPACT ASSESSMENT WQIA NUMBER 1391-WQ-001-1.

Commissioners Litzenberger and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it deny SE 2014-MV-019, RPA Encroachment Exception 1391-WRPA-001-1, and Water Quality Impact Assessment WQIA 1391-WQ-001-1.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. The Chair abstains, not present for the public hearing. Thank you very much.

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(The motion carried by a vote of 9-0-1. Commissioner Murphy abstained. Commissioners de la Fe and Lawrence were absent from the meeting.)

JLC