

3A
11-13-01

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, October 13, 2001 - - 9:30 a.m.

Present: Mayor Kerry J. Donley, Vice Mayor William C. Cleveland, Members of City Council Claire M. Eberwein, William D. Euille, Redella S. Pepper, David G. Speck, and Joyce Woodson.

Absent: None.

Also Present: Mr. Pessoa, City Attorney; Ms. Evans, Assistant City Manager; Mrs. Godwin, Assistant City Manager; Mr. Jinks, Assistant City Manager; Ms. Fogarty, Director of Planning and Zoning; Ms. Ross, Deputy Director of Planning and Zoning; Mr. Baier, Director of Transportation and Environmental Services; Ms. Whitmore, Director of Recreation, Parks and Cultural Activities; Ms. Barnett, Deputy Director of Recreation, Parks and Cultural Activities; Ms. McManus, Landscape Architect Supervisor; Ms. Davis, Director of Housing; Mr. Neckel, Director of Finance; and Captain Rosboschil, Captain Butler and Lieutenant Uzzell, Police Department.

Recorded by: Ms. Susan K. Seagroves, Deputy City Clerk and Clerk of Council.

OPENING

The Meeting was called to Order by Mayor Donley, and the Deputy City Clerk called the Roll; all Members of City Council were present.

2. Public Discussion Period.

(a) Rosemarie Yuhasz, 8620-D Beekman Place, Alexandria 22309, talked about the memorial established in honor of her late father, Louis Yuhasz, a long-time employee of the City's Transportation Department. She asked that the City join with the Yuhasz family and Camp Kings Mount to make a difference in the lives of children who suffer from eating disorders and the complications that come with being overweight. The family will put up the money every year to pay for a child's way to camp, and she requested that the City identify a child or children of a City employee who could benefit from this program.

Mayor Donley thanked the Yuhasz family and accepted the offer. The Mayor asked the City Manager to communicate to all City departments about identifying a young person each year who could attend the camp and benefit from its activities.

Councilman Speck brought up that last spring he had asked the City Manager, in conjunction with the Personnel Director, to tell us whether there was anything we could do to have some more permanent recognition of our long-time employees, and he asked that that come back to Council. Assistant City Manager Evans responded that they have been working on that and will bring something back to Council.

(b) William F. Smith, 1329 Chetworth Court, gave an overhead presentation on dog runs.

(c) Kimberlie MacDonald, 1332 Michigan Avenue, presented the results of a neighborhood petition and asked that Chetworth Park be returned to its original intent, a community park that all citizens can enjoy, with dogs on leash.

(d) Barbara Smith, 1329 Chetworth Court, asked that the City change the designation of Chetworth Park and give this park back to the people.

(e) Erin Lee, 1312 Seaport Lane, adjacent to Chetworth Park, spoke in support of the current designation of the park both as a children's playground and as a dog exercise area. She supports the Recreation Department's plan to create a separate entrance to the children's playground, update the equipment and raise the fence height.

(f) Lois Thomas, 1126 Portner Road, spoke to support the multi-use proposal for Chetworth Park.

(g) Patrick Lawver, 831 Bashford Lane, a member of the Board of the Northeast Civic Association, offered his opinion that the problem is not Chetworth Park but lack of open space in the City. He would like to have a committee formed to look at all open space and its usage, and he volunteered to participate.

(h) Lou Bertin, 964 North Washington Street, read a letter from Mary Stein, 815 Chetworth Place, in support of the Recreation Department's proposal.

(A copy of Ms. Stein's letter dated October 12, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 2; 10/13/01, and is incorporated herewith as part of this record by reference.)

(i) Jerry Hermele, 1204 Portner Road, spoke in support of maintaining the current use of the Chetworth Park.

(Communications received on this item are on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 2 of Item No. 2; 10/13/01, and is incorporated herewith as part of the record by reference.)

Mayor Donley requested that staff proceed on Chetworth Park with at least those improvements on the regular schedule.

There was considerable discussion among the Members of Council about alternative dog run sites that might be available before the Potomac Yard site in 2003.

Councilwoman Pepper expressed her personal preference for the site she identified earlier which is immediately west of and adjacent to Domino's Pizza on Slater's Lane, and she asked that be included as one of the alternate sites.

Councilman Euille recommended that due to severe budgetary restrictions facing the City that we should get together, and whatever the final outcome for an alternative site, let's share the funding that may be necessary to make this work. He also suggested that in the interim, there are some sites that we can move on tomorrow, just for a temporary solution for alternative sites, and we ought to explore those likewise.

WHEREUPON, upon motion by Councilman Speck, seconded by Councilman Euille and carried unanimously, City Council requested staff to proceed with the playground changes and to make the changes to the entrance gate and fence, and even more aggressively move to look for the alternative sites for the dog run by the end of the year. The voting was as follows:

Speck	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Pepper	"aye"
		Woodson	"aye"

(j) Jack Sullivan, 4300 Ivanhoe Place, reported on the successful outcome of negotiations between Seminary Hills Association and INOVA Alexandria Hospital on the proposed hospital expansion. An agreement has been achieved. He especially commended the Mayor for his insight, and asked that Council support this negotiated agreement when it comes forward for approval.

(k) Julie Crenshaw, 816 Queen Street, expressed her concerns about a Freedom of Information request made to the City by the Waterfront Alliance.

(l) Patrick Cooper, 2400 Mount Vernon Avenue, representing Supa Duper Entertainment, which provides entertainment to the Afghan Restaurant [on Jefferson Davis Highway], addressed his concerns about the difficulties he has had dealing with City officials.

Mayor Donley directed staff to prepare a report relative to the applications Mr. Cooper has made with the City for business licenses or special use permits and a history of any problems he has had in the operation of his business, and come back to City Council about the allegations he has made.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-5)

Planning Commission

Without Objection, City Council considered docket item no. 9 as part of the Consent Calendar.

3. SPECIAL USE PERMIT #2001-0063 -- 410 S VAN DORN ST --EL PASO OF LANDMARK -- Public Hearing and Consideration of a request for a special use permit to offer on-premise alcohol sales and live entertainment at an existing restaurant; zoned CG/Commercial General. Applicant: El Paso of Landmark, by Rigoberto Gomez.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 10/13/01, and is incorporated herewith as part of the record by reference.)

4. SPECIAL USE PERMIT #2001-0091 -- 706-708 MONTGOMERY ST; 831, 837 N COLUMBUS ST -- Public Hearing and Consideration of a request for a special use permit for off-street parking located within 300 feet of a church use; zoned CD-X/Commercial Downtown. Applicant: Scripture Church, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 10/13/01, and is incorporated herewith as part of the record by reference.)

5. VACATION #2001-0004 -- 109 FRANKLIN ST -- Public Hearing and Consideration of a request for vacation of the public street right-of-way; zoned RM/Townhouse. Applicant: Paul I. Kaplan, by Duncan W. Blair, attorney, and appointment of viewers for same.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 10/13/01, and is incorporated herewith as part of the record by reference.)

9. SPECIAL USE PERMIT #2001-0051 -- 4603 DUKE ST -- FOXCHASE CENTER -- PINES OF FLORENCE RESTAURANT -- Public Hearing and Consideration of (1) staff's recommendation that the special use permit be revoked, and (2) the applicant's request to add live entertainment, to increase the number of indoor seats, and to expand the hours of operation of the existing restaurant; zoned CG/Commercial General. Applicant: GFA, Inc., by Mohammad Khan and Sami U. Khan.

COMMISSION ACTION: Recommend Denial 6-0

(A copy of a letter dated October 12, 2001, from Ms. Khan requesting deferral, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 10/13/01, and is incorporated herewith as part of this record by reference.

A telephone message from Victoria Paulcha, 4600 Duke Street, Apt. 1518, dated October 11, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 9; 10/13/01, and is incorporated herewith as part of this record by reference.

A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 9; 10/13/01, and is incorporated herewith as part of this record by reference.)

Councilwoman Pepper asked that the realtor be notified of the suspension.

Mayor Donley announced that even after the Planning Commission hearing there have been other violations of the special use permit. This is an unusual step to take, but in this particular instance, in the issues relating to the operation of this business, they have not made any attempt in curing the problems, and they continue to operate in a manner that violates the special use permit.

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried unanimously, City Council approved the Action Consent Calendar as presented, and deferred the public hearing on docket item no. 9 until November and suspended the special use permit until after the public hearing. The Planning Commission recommendations are as follows:

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation. John Hines, chair, Ross Bell and Lee Roy Steele were appointed as Viewers.
9. City Council deferred the public hearing on this item until November. The special use permit is suspended and will remain as such until after the hearing.

The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Speck	"aye"
	Woodson	"aye"	

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

6. Public Comment on the Design, Plantings and Programs at King Street Gardens Park.

(A copy of the City Manager's memorandum dated October 5, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.

A copy of a petition dated October 3, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.

Communications received on this item are on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 3 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.)

The following persons commented on this item:

Lois Walker, 417 South Royal Street, gave a history of this site and spoke in support of the park;

Marlin Lord, 2724 Hickory Street, noted that Jim Kline of Lardner/Kline Landscape Architects, 814 King Street, 4th Floor, had to leave the meeting. He distributed Mr. Kline's statement to Council and asked that it be made a part of the record;

(A copy of Mr. Kline's statement is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 4 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.)

Joseph M. Egerton, 106 West Bellefonte Avenue, spoke in support of King Street Gardens Park and suggested that maybe there needs to be more information provided on the site to let people know what it is;

Mr. Egerton responded to questions from Councilman Speck and Councilwoman Eberwein about the appearance of the park and staff's recommendations.

Councilwoman Pepper suggested that the adopt-a-park program might be helpful in having some maintenance performed by neighbors.

Director of Recreation, Parks and Cultural Activities Whitmore responded to Councilwoman Woodson's inquiry whether the staff recommendations address some of the problems being heard today so that Council will not be revisiting them. She reported that the wetlands are going to be replanted with lower and more colorful native plants, and other plantings have been made; the vines are being trimmed and appropriate vines have been planted; and we need to get a water source for proper watering. She related that we are just in our fifth growing season, and according to the architects that designed this, we needed at least five years before we started changing things out. These changes will be done gradually and should affect the weedy and unruly appearance as well.

Pam St. Clair, 10 West Linden Street, spoke in support of the park;

Councilman Speck and Councilwoman Eberwein directed questions about landscaping to Ms. St. Clair, and Recreation, Parks and Cultural Activities Director Whitmore. Landscape Architect McManus participated in the discussion.

Kathryn Brown, 2724 Hickory Street, representing Friends of King Street Gardens Park, spoke in support;

Nina Tisara, spoke in support;

Mario di Paolo, 1036 North Royal Street, spoke in support;

Brian W. Marquis, 332 North Pickett Street, spoke in support of the park as it was designed;

Sherry Brown, 1600 Prince Street, Unit 603, spoke in support;

Carrol Hauptle, 222 South Washington Street, explained the Visual Arts Rights Act as it relates to an artist's work, and he suggested some kind of agreement between the City and the artist;

Marlin Lord, 2724 Hickory Street, representing Friends of King Street Gardens Park, spoke in support of the artists' project without any changes;

(A copy of Mr. Lord's information packet is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 5 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.)

Theresa Buchanan, 4015 Ellicott Street, spoke in opposition to the park;

Ann Marie Pittman, 501 Slater's Lane, #319, spoke in support;

Christa Watters, 1186 North Pitt Street, spoke in support;

(A copy of Ms. Watters' statement is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 6 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.)

Kathleen Baker, 1605 Boyle Street, spoke in support of keeping the park as originally designed;

Katy Cannady, 20 East Oak Street, spoke for the removal of the 3-story metal structure and for use of the park as an open space;

(A copy of Ms. Cannady's statement is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 7 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.)

Kerry St. Clair, 10 West Linden Street, spoke in support of the park, but to improve it by maintaining the plantings;

Alisa Carrel, Post Office Box 9661, president of the Alexandria Arts Forum, spoke in support of the City's efforts to preserve the artistic integrity of King Street Gardens and encouraged the continuing efforts of the City to adapt the plantings to fulfill the artists' concept;

Margene Berry, 110 Gibbon Street, on behalf of the Public Art Committee, spoke in support of the process and the ongoing effort for this piece of public art;

Councilman Speck directed questions to Ms. Berry on the City's process relating to public art.

Bruce L. Gilmore, M.D., 504 Richards Lane, speaking on behalf of 35 neighbors who do not support the park, recommended that it be torn down. He also read a letter in opposition from H. Alan Young who was unable to attend the meeting ;

(A copy of Mr. Young's letter dated October 12, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 8 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.)

Peter Spencer, 121 Harvard Street, on behalf of the Upper King Street Neighborhood Civic Association, spoke in support of City staff's recommendations and emphasized the need to have some sort of informational signage in the park; and

Carolyn Merck, 324 North Royal Street, speaking on behalf of Old Town Civic Association, recommended that the park be reconfigured into something beautiful to visit, see and use.

(A copy of a computer-enhanced photograph of the King Street Gardens Park is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 9 of Item No. 6; 10/13/01, and is incorporated herewith as part of this record by reference.)

City Council and Recreation, Parks and Cultural Activities Director Whitmore participated in the discussion of this item. Council clarified that in June it did direct staff to move forward with some of the maintenance and plantings that were necessary to keep the improvements going.

WHEREUPON, upon motion by Councilman Speck, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing and asked the Mayor to appoint a work group to consider the information received and make a recommendation. The voting was as follows:

Speck	"aye"	Cleveland	"aye"
Pepper	"aye"	Eberwein	"aye"
Donley	"aye"	Euille	"aye"
		Woodson	"aye"

7. Public Hearing and Consideration of Community Development Block Grant Funding for Rehabilitation Work at Jefferson Village.

(A copy of the City Manager's memorandum dated October 9, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 10/13/01, and is incorporated herewith as part of this record by reference.)

There were no speakers on this item.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried on a vote of 5-to-0, City Council: (1) approved a conditional grant of \$531,714 to the Alexandria Redevelopment and Housing Authority (ARHA), to be repaid only in the event the City determines the property is no longer being operated in accordance with Resolution 830; (2) approved Community Development Block Grant (CDBG) budget transfers of unexpended prior year monies in order to fund the grant; and (3) approved the submission of the CDBG program amendment to the U.S. Department of Housing and Urban Development (HUD). The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Speck	out of room
		Woodson	out of room

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

8. SPECIAL USE PERMIT #2001-0086 -- 1606 MT VERNON AV -- MT VERNON DELI -- Public Hearing and Consideration of a request for a special use permit for (1) a change of ownership, (2) addition of indoor seating, (3) addition of outdoor seating, and (4) reduction of off-street parking for an existing convenience store/restaurant; zoned CL/Commercial Low. Applicant: Im Sook Chang, by Donnie D. Goodwin.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 10/13/01, and is incorporated herewith as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried on a vote of 5-to-0, City Council approved the Planning Commission recommendation. The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Speck	out of room
		Woodson	out of room

10. **SPECIAL USE PERMIT #2001-0079 -- 108-110 E GLENDALE AV --** Public Hearing and Consideration of a request for a special use permit for a reduction of off-street parking to allow tandem parking spaces in conjunction with the construction of a semi-detached dwelling; zoned RA/Residential. Applicant: Landmark Communities, by Gaver Nichols, architect.

COMMISSION ACTION: Recommend Approval 5-0-1

(A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 10/13/01, and is incorporated herewith as part of this record by reference.

A copy of the staff PowerPoint presentation is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 10; 10/13/01, and is incorporated herewith as part of this record by reference.)

Planning and Zoning Deputy Director Ross gave a short presentation, and she responded to questions from Members of Council. Planning and Zoning Director Fogarty participated in the discussion.

The following persons participated in the public hearing on this item:

Gaver Nichols, Post Office Box 2921, architect, spoke in support of the Planning Commission recommendations which will allow him to build the plan as proposed, and he reiterated that he is willing to work with the neighbors and staff;

Members of Council directed questions to Mr. Nichols about the plan, and Transportation and Environmental Services Director Baier and Planning and Zoning Director Fogarty participated in the discussion.

Richard Leibach, 200 North Pickett Street, #507, Vice Chair of the Planning Commission, advised that staff has correctly described the concerns of the Commission and that it agrees with the development in general; and

Nichole Giannini, 107 East Glendale Avenue, spoke in opposition.

City Council questioned Ms. Giannini about her design concerns, and Planning and Zoning Deputy Director Ross participated in the discussion.

WHEREUPON, a motion was made by Councilwoman Eberwein to remand this case to the Planning Commission with direction that the applicant work with both staff and the Planning Commission to address their concerns; which motion DIED for lack of a second.

THEREUPON, following additional discussion, the motion was put on the floor again by Councilwoman Eberwein, seconded by Councilwoman Pepper, to remand this case to the Planning Commission with direction that the applicant work with both staff and the Planning Commission to address their concerns.

Councilman Speck offered a friendly amendment to defer this to the next legislative session; which amendment was not accepted by the maker.

WHEREUPON, Council returned to the motion by Councilwoman Eberwein, seconded by Councilwoman Pepper, to remand this case to the Planning Commission with direction that the applicant work with both staff and the Planning Commission to address their concerns; which motion FAILED on a vote of 2-to-5. The voting was as follows:

Eberwein	"aye"	Cleveland	"no"
Pepper	"aye"	Euille	"no"
Donley	"no"	Speck	"no"
		Woodson	"no"

THEREUPON, a motion was made by Councilman Speck, seconded by Councilwoman Pepper, to defer this to the next legislative meeting for final action and ask that the applicant work with the staff on design issues for further Council consideration.

Planning and Zoning Director Fogarty stated her understanding of Council's directions: that we work with the applicant to try and address some of the design issues as well as the streetscape issue, and that the garages do not have to be removed or moved into a different location. Councilwoman Eberwein also stressed that the slope that Transportation and Environmental Services Director Baier mentioned as being problematic is an issue.

WHEREUPON, Councilwoman Woodson offered a substitute motion, seconded by Councilman Euille, to accept the recommendation of the Planning Commission.

THEREUPON, at this time, Council voted on whether to consider the substitute motion to the motion that was on the floor; which carried on an a vote of 6-to-1. The voting was as follows:

Woodson	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Pepper	"aye"
		Speck	"no"

WHEREUPON, Council returned to the substitute motion by Councilwoman Woodson, seconded by Councilman Euille, to approve the recommendation of the Planning Commission.

A friendly amendment was offered by Mayor Donley to add a Condition #12 that the applicant shall work with staff concerning the grade of the driveway and the operation of the garages. Additionally, the applicant shall work with staff to ensure a proper drainage system is constructed pertaining to the driveway aprons; which friendly amendment was acceptable to the maker and seconder of the substitute motion.

A friendly amendment was then offered by Councilman Speck to delete Condition #11 because it is unenforceable; which friendly amendment was not acceptable to either the maker or seconder of the motion.

THEREUPON, City Council returned to the motion, as amended, made by Councilwoman Woodson, seconded by Councilman Euille and carried on a vote of 6-to-1, to approve the recommendation of the Planning Commission, as amended to add Condition #12: **"12. That the applicant shall work with staff concerning the grade of the driveway and the operation of the garages. Additionally, the applicant shall work with staff to ensure a proper drainage system is constructed pertaining to the driveway aprons."** The voting was as follows:

Woodson	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Pepper	"aye"
	Speck		"no"

11. SPECIAL USE PERMIT #2001-0088 -- 710-714 KING ST -- LAS TAPAS RESTAURANT -- Public Hearing and Consideration of a request for a special use permit to amend the hours of operation and the duration of live entertainment for a restaurant; zoned CD/Commercial Downtown. Applicant: 710 King St., LLC, by Robert J. Test, attorney.

COMMISSION ACTION: Recommend Denial 6-0

(A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 10/13/01, and is incorporated herewith as part of this record by reference.)

Jay Test, 710 King Street, attorney for the applicant, explained that the only change to the special use permit is Condition #5(B), to have that changed to "cease at closing" instead of by 11:00 p.m.

Planning and Zoning Deputy Director Ross stated that staff has no objection to this change.

WHEREUPON, upon motion by Councilman Speck, seconded by Councilwoman Pepper and carried unanimously, City Council reversed the Planning Commission recommendation, struck Condition #5(A)(2), amended Condition #5(B) to read: **"5(B) All dancing and amplified music must cease at closing."**, and changed Condition 18(b) to use the standard language regarding violations. The voting was as follows:

Speck	"aye"	Cleveland	"aye"
Pepper	"aye"	Eberwein	"aye"
Donley	"aye"	Euille	"aye"
	Woodson		"aye"

12. SPECIAL USE PERMIT #2001-0092 -- 1001 KING ST -- SECOND GENESIS -- Public Hearing and Consideration of a request for a special use permit amendment to increase the number of beds for a Social Service use with a reduction of off-street parking; zoned CD/Commercial Downtown. Applicant: Second Genesis, Inc., by William C. Thomas, Jr., attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated October 2, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 10/13/01, and is incorporated herewith as part of this record by reference.)

The following persons participated in the public discussion on this item:

John Fagelson, 11320 Random Hills Road, Suite 600, Fairfax, VA, attorney for the applicant, reported that they are fully in agreement and can conform to the staff recommendations and the Planning Commission action as written;

Bob Montague, 1007 King Street, testified that he cannot endorse expansion of the facility on the site as it is already taxing the neighborhood to the limit; and

Tom Call, 116 North Patrick Street, on behalf of an unorganized group of North Patrick Street neighbors, reported that they can live with Second Genesis as is proposed and are supportive of the conditions.

Mr. Fagelson represented that his client will remove the tree on its property as part of the renovation, and that he or the applicant will reach an accommodation with Mr. Montague regarding the fence repairs.

WHEREUPON, upon motion by Councilman Speck, seconded by Councilman Euille and carried on a vote of 6-to-0, City Council approved the Planning Commission recommendation. The voting was as follows:

Speck	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Pepper	"aye"
		Woodson	out of room

ORDINANCES AND RESOLUTIONS

13. Public Hearing, Second Reading and Final Passage of an Ordinance to designate the Alexandria Woodrow Wilson Bridge Neighborhood Task Force as a standing committee under Title 2, Chapter 4 of the Alexandria City Code. (#15 10/9/01) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated October 5, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 10/13/01, and is incorporated herewith as part of this record by reference.)

The Deputy City Clerk read the docket item.

The following person participated in the public hearing on this item:

Julie Crenshaw, 816 Queen Street, spoke in support of the ordinance but suggested that someone from Ford's Landing be added to the committee.

Councilman Euille agreed that the task force will work to incorporate a representative from Ford's Landing as a member of the task force at the appropriate time.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried on a ROLL-CALL vote of 5-to-0, City Council finally passed the Ordinance on its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	out of room
Donley	"aye"	Speck	out of room
	Woodson	"aye"	

The ordinance finally passed reads as follows:

ORDINANCE NO. 4220

AN ORDINANCE to amend Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS), of Title 2 (GENERAL GOVERNMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Article Q (WOODROW WILSON BRIDGE NEIGHBORHOOD TASK FORCE).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 4 of Title 2 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended by adding thereto an new Article Q to read as follows:

ARTICLE Q

Woodrow Wilson Bridge Neighborhood Task Force

Sec. 2-4-120 Creation, composition, organization and term.

(a) The Woodrow Wilson Bridge Neighborhood Task Force initially established by Resolution No. 1976, and as subsequently increased in membership by Resolution No. 1982, is hereby established and designated as a standing committee known as the Woodrow Wilson Bridge Neighborhood Task Force.

(b) The task force shall consist of ten members as follows:

(1) two members of city council, who shall serve as co-chairs, and

(2) eight representatives from civic associations impacted by the Woodrow Wilson Bridge construction.

(c) The members of council serving on the task force on September 15, 2001 shall continue to serve until their resignation from the task force, or the expiration of their term of office. The representatives from civic associations serving on the task force on September 15, 2001 shall continue to serve until October 10, 2003, their resignation from the task force or disqualification to serve. After the termination of such service, members of council shall be appointed by the mayor, for a term coincident with their term of office, and representatives from civic associations shall be appointed by the council, in the manner provided in this chapter. Appointments of the representatives from civic associations shall be for the unexpired portion of the term of the member whose service terminated. From and after October 10, 2003, appointments of the representatives from civic associations shall be for a term of two years, unless the council specifies a different term at the time of appointment.

(d) The task force shall continue in existence until the completion of the Woodrow Wilson Bridge construction project and of all remediation actions associated therewith, as determined by the mayor.

Sec. 2-4-121 Functions and duties; staff assistance.

(a) The functions and duties of the task force shall be to:

(1) assess construction impacts associated with the Woodrow Wilson Bridge project and advocate mitigation efforts on behalf of affected neighborhoods and residents;

(2) make recommendations to the Woodrow Wilson Bridge project team on how to minimize construction-related neighborhood impacts caused by trucks, automobiles and other construction vehicles by restricting on-street parking by such vehicles and restricting routes to and from construction areas;

(3) make recommendations to the Woodrow Wilson Bridge project team as to ways it can assist property owners in documenting pre-construction base conditions of their properties and in assessing property damage caused by project construction activities;

(4) act as liaison between neighborhoods/property owners and the Woodrow Wilson Bridge project team in cases of property damage caused by construction activities, and work to assist owners in the effort to remediate damage caused by construction activities;

(5) act as liaison between neighborhoods/residents and the Woodrow Wilson Bridge project team in cases of excessive noise, dust, air quality deterioration and any other harmful impacts resulting from construction activities, and work to assist neighborhoods/residents in the effort to eliminate or mitigate such impacts to the maximum degree feasible.

(b) The task force may adopt rules and regulations in regard to procedure and other matters for the conduct of its business, so long as the same are not inconsistent with the city code, including, but not limited to, the establishment of committees through which it may carry on its functions and purpose.

(c) Staff assistance to the task force shall be provided by the department of transportation and environmental services.

(d) The Federal Highway Administration, the Virginia Department of Transportation and the Woodrow Wilson Bridge project team shall be invited to designate persons to assist the task force.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Introduction: 10/09/01
First Reading: 10/09/01
Publication: 10/11/01
Public Hearing: 10/13/01
Second Reading: 10/13/01
Final Passage: 10/13/01

14. Public Hearing, Second Reading and Final Passage of an Ordinance to make supplemental appropriations for the support of the government of the City of Alexandria for FY 2002. (#16 10/9/01) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated October 3, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 10/13/01, and is incorporated herewith as part of this record by reference.)

The Deputy City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried on a ROLL-CALL vote of 5-to-0, City Council finally passed the Ordinance on its Second Reading and Final Passage. The voting was as follows:

Euille	"aye"	Cleveland	"aye"
Pepper	"aye"	Eberwein	out of room
Donley	"aye"	Speck	out of room
		Woodson	"aye"

The ordinance finally passed reads as follows:

ORDINANCE NO. 4221

AN ORDINANCE making provision for the support of the government of the City of Alexandria, Virginia, and for the payment of municipal expenditures by providing supplemental appropriations of amounts required to defray certain expenditures and liabilities of the city for fiscal year 2002, which began on the first day of July 2001 and ends on the thirteenth day of June 2002.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the funds hereafter named the amounts required to defray the expenditures and liabilities of the city for which commitments were established in the form of encumbrances or otherwise on or before June 30, 2001, but which are payable in fiscal year 2002, and for which amounts were appropriated but not expended in fiscal year 2001, and further that the council does hereby allot the amounts so appropriated to the several city departments for fiscal year 2002, as follows:

GENERAL FUND

Office on Women	\$ 4,541
Citizen Assistance	85,738
Management and Budget	12,188
18th Circuit Court	2,222
Clerk of Courts	142,612
18th General District Court	4,474
Juvenile and Domestic Relations District Court	10,045
Sheriff	36,809
Information and Technology Services	752,972

Finance	457,290
City Clerk and Clerk of Council	2,200
Personnel	33,570
City Manager	25,000
Planning and Zoning	276,111
City Attorney	700
Registrar of Voters	17,439
General Services	126,602
Transportation and Environmental Services	657,228
Fire	16,443
Police	362,586
Health	12,286
Human Services	\$ 191,060
Human Services Contributions	350
Office of Historic Alexandria	59,910
Recreation and Cultural Activities	55,197
Non-Departmental	384,181
Total General Fund	\$ 3,729,754

EQUIPMENT REPLACEMENT RESERVE FUND

Sheriff	\$ 4,360
Court Services Unit	17,605
Transportation and Environmental Services	159,022
Fire	985,511
Police	1,300
Recreation and Cultural Activities	241,824
Total Equipment Replacement Reserve Fund	\$ 1,409,622

COMPONENT UNIT

Alexandria Transit Company	\$ 140,954
Total Component Unit	\$ 140,954

Section 2. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2002, the source of such amount being external grant awards for which the proceeds were received or accepted prior to June 30, 2001, but which were not expended by such date, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2002, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$ 107,338
Commonwealth's Attorney	239,508
Clerk of the Court	40,324
Human Rights	84,519
Transportation and Environmental Services	588,135
Fire	69,907
Police	37,277
Housing	9,314,060
Mental Health/Mental Retardation/Substance Abuse	\$ 917,589
Human Services	2,129,205
Office of Historic Alexandria	56,221
Recreation	24,174
Total Appropriation	<u>\$13,608,257</u>

SPECIAL REVENUE FUND

APPROPRIATION:

Office on Women	\$ 107,338
Commonwealth's Attorney	239,508
Clerk of the Court	40,324
Human Rights	84,519
Transportation and Environmental Services	588,135
Fire	69,907
Police	37,277
Housing	9,314,060
Mental Health/Mental Retardation/Substance Abuse	917,589
Human Service	2,129,205
Office of Historic Alexandria	56,221
Recreation	24,174
Total Estimated Revenue	<u>\$13,608,257</u>

Section 3. That the Council of the City of Alexandria, Virginia, does hereby make provision and appropriate to the Special Revenue Fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2002, the source of such amount being external grant awards for which the proceeds were authorized and adjusted after July 1, 2001, but not appropriated, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2002 as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$ (7,902)
Commonwealth's Attorney	(54,356)
Court Service Unit	(816)
Sheriff	26,008
Transportation and Environmental Services	12,500
Police	157,135
Housing	77,586
Mental Health/Mental Retardation/Substance Abuse	\$ 313,551
Health	(129,656)
Human Services	583,594
Office of Historic Alexandria	<u>51,775</u>
Total Estimated Revenue	<u>\$ 1,029,419</u>

SPECIAL REVENUE FUND

APPROPRIATION:

Office on Women	\$ (7,902)
Commonwealth's Attorney	(54,356)
Court Service Unit	(816)
Sheriff	26,008
Transportation and Environmental Services	12,500
Police	157,135
Housing	77,586
Mental Health/Mental Retardation/Substance Abuse	313,551
Health	(129,656)
Human Services	583,594
Office of Historic Alexandria	<u>51,775</u>
Total Estimated Revenue	<u>\$ 1,029,419</u>

Section 4. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter state that is required to defray certain expenditures and liabilities of the city in fiscal year 2002, the source of such amount being the residual balances accumulated as of June 30, 2001, in accounts for donations and activities, and further that the council does hereby allot the amount so appropriated to the several city departments for fiscal year 2002, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Office on Women	\$ 57,289
Citizen Assistance	20,101
Commonwealth's Attorney	30,133
Sheriff	84,079
Clerk of the Court	67,776
Court Service Unit	32,468
Finance	24,210
Personnel	99,432
Transportation and Environmental Services	\$ 47,128
Fire	2,200
Police	635,696
Mental Health/Mental Retardation/Substance Abuse	17,606
Health	47,839
Human Services	233,389
Office of Historic Alexandria	220,159
Recreation	90,275
Alexandria Library Donations	<u>2,446</u>
Total Estimated Revenue	\$ <u>1,712,226</u>

SPECIAL REVENUE FUND

APPROPRIATION:

Office on Women	\$ 57,289
Citizen Assistance	20,101
Commonwealth's Attorney	30,133
Sheriff	84,079
Clerk of Courts	67,776
Court Service Unit	32,468
Finance	24,210
Personnel	99,432
Transportation and Environmental Services	47,128
Fire	2,200
Police	635,696
Mental Health/Mental Retardation/Substance Abuse	17,606
Health	47,839
Human Services	233,389
Office of Historic Alexandria	220,159
Recreation	90,275
Alexandria Library Donations	<u>2,446</u>
Total Appropriation	<u>\$ 1,712,226</u>

Section 5. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the General Fund the amount hereafter stated that is required to defray certain expenditures of the city for fiscal year 2002, the source of such amount being undesignated General Fund Balance, and further that the Council does hereby allot the amount so appropriated to the several city departments, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Undesignated General Fund Balance	\$ 16,431
Total Estimated Revenue	<u>\$ 16,431</u>

APPROPRIATION:

City Clerk and Clerk of Council	\$ 3,957
Office of Historic Alexandria	<u>12,474</u>
Total Appropriation	<u>\$ 16,431</u>

Section 6. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2002, the source of such amount being intergovernmental revenue, and further, that the council does hereby allot the amount so appropriated for fiscal year 2002 as follows:

COMPONENT UNIT

ESTIMATED REVENUE:

Intergovernmental Revenues	\$ 18,634
Total Estimated Revenues	<u>\$ 18,634</u>

APPROPRIATION:

Component Unit Library	\$ 18,634
Total Appropriation	<u>\$ 18,634</u>

Section 7. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2002, the source of such amount being Equipment Replacement Fund Retained Earnings and further, that the council does hereby allot the amount so appropriated to the various city departments for fiscal year 2002 as follows:

EQUIPMENT REPLACEMENT FUND

ESTIMATED REVENUE:

Retained Earnings-Equipment Replacement Fund	\$ 600,000
Total Estimated Revenue	<u>\$ 600,000</u>

APPROPRIATION:

Transportation and Environmental Services	\$ 600,000
Total Appropriation	<u>\$ 600,000</u>

Section 8. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2002, the source of such amount being Designated General Fund Balance, and further, that the council does hereby allot the amount so appropriated, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Designated General Fund Balance	\$ 890,895
Total Estimated Revenue	\$ 890,895

APPROPRIATION:

Citizens Assistance	\$ 60,000
Planning and Zoning	10,700
Transportation and Environmental Services	530,000
Police	106,000
Office of Housing	72,225
Human Services	31,000
Non-Departmental	80,970
Total Appropriation	\$ 890,895

Section 9. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city of fiscal year 2002, the source of such amount being Use of Money and Property, and further, that the council does hereby allot the amount so appropriated for fiscal year 2002 as follows:

GENERAL FUND

ESTIMATED REVENUE:

Use of Money & Property	\$ 813,730
Total Estimated Revenue	\$ 813,730

APPROPRIATION:

Non Departmental	\$ 813,730
Total Appropriation	\$ 813,730

Section 10. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city of fiscal year 2002, the source of such amount being Use of Money and Property, and further, that the council does hereby allot the amount so appropriated for fiscal year 2002 as follows:

CAPITAL PROJECTS FUND

ESTIMATED REVENUE:

Donations	\$ 250,000
Developers Contribution	50,000
Transfer in From General Fund	<u>109,000</u>
Total Estimated Revenue	<u>\$ 409,000</u>

APPROPRIATION:

Capital Projects	\$ 409,000
Total Appropriation	<u>\$ 409,000</u>

Section 11. That this ordinance shall be effective on the time and upon the date of its enactment.

KERRY J. DONLEY
Mayor

Introduction: 10/09/01
 First Reading: 10/09/01
 Publication: 10/11/01
 Public Hearing: 10/13/01
 Second Reading: 10/13/01
 Final Passage: 10/13/01

15. Public Hearing, Second Reading and Final Passage of an Ordinance to authorize an encroachment into the public sidewalk right-of-way at 829 South Washington Street, for outdoor seating for the Perk-Up Coffee Shop. (#17 10/9/01) **[ROLL-CALL VOTE]**

The Deputy City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried on a unanimous ROLL-CALL vote, City Council finally passed the Ordinance on its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Speck	"aye"
	Woodson	"aye"	

The ordinance finally passed reads as follows:

ORDINANCE NO. 4222

AN ORDINANCE authorizing the lessee of the property at 829 South Washington Street to establish and maintain an encroachment for restaurant seating into the public sidewalk right-of-way of 829 South Washington Street, in the City of Alexandria, Virginia.

WHEREAS, Thomas Lally, trading as Perk-Up Coffee Shop ("Lessee") is the lessee of the commercial property located at 829 South Washington Street, in the City of Alexandria, Virginia; and

WHEREAS, Lessee desires to establish and maintain nine seats at three tables for outdoor seating which will encroach into the public sidewalk right-of-way at 829 South Washington Street; and

WHEREAS, the public right-of-way at that point on 829 South Washington Street; will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Lessee be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way of 829 South Washington Street, in the City of Alexandria, said encroachment consisting of nine seats at three tables, as generally shown on the Encroachment Plan attached hereto, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Lessee of liability for any negligence on his part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Lessee maintaining, at all times and at his own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Lessee as named insureds and shall provide for the indemnification of the City of Alexandria and Lessee against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Lessee shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Lessee. Nothing in this section shall relieve Lessee of his obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Lessee, at his own expense, delineating the outdoor seating area with a wrought iron railing and planters similar to the railing and planters used around the outdoor seating areas at Southside 815 and Faccia Luna restaurants; provided, however, that a minimum pedestrian pathway of five feet shall be maintained between the railing and planters and the curb.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Lessee shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Lessee's maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That Lessee shall timely pay to the City of Alexandria for the encroachment authorized herein the annual charge established in § 3-2-85 of The Code of the City of Alexandria, Virginia, 1981, as amended.

Section 8. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Lessee the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Lessee without cost to the city. If Lessee cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Lessee, and shall not be liable to Lessee for any loss or damage to the structure of the encroachment caused by the removal.

Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Introduction: 10/09/01
First Reading: 10/09/01
Publication: 10/11/01
Public Hearing: 10/13/01
Second Reading: 10/13/01
Final Passage: 10/13/01

Attachment: Encroachment Plan

* * * * *

16. Public Hearing, Second Reading and Final Passage of an Ordinance to authorize an encroachment into the public sidewalk right-of-way at 307 Wolfe Street, for window wells at a residence. (#18 10/9/01) **[ROLL-CALL VOTE]**

The Deputy City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Cleveland and carried on a unanimous ROLL-CALL vote, City Council finally passed the Ordinance on its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Eberwein	"aye"
Cleveland	"aye"	Euille	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

The ordinance finally passed reads as follows:

ORDINANCE NO. 4223

AN ORDINANCE authorizing the owners of the property at 307 Wolfe Street to establish and maintain an encroachment for window wells into the public sidewalk right-of-way of 307 Wolfe Street, in the City of Alexandria, Virginia.

WHEREAS, Elizabeth and/or Robert Blue ("Owners") are the owners of the dwelling located at 307 Wolfe Street, in the City of Alexandria, Virginia; and

WHEREAS, Owners desires to establish and maintain two window wells which will encroach into the public sidewalk right-of-way at 307 Wolfe Street; and

WHEREAS, the public right-of-way at that point on 307 Wolfe Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owners be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way of 307 Wolfe Street, in the City of Alexandria, said encroachment consisting two window wells, as generally shown on the Encroachment Plan attached hereto, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owners of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owners maintaining, at all times and at their own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owners as named insureds and shall provide for the indemnification of the City of Alexandria and Owners against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event their policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owners shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owners. Nothing in this section shall relieve Owners of their obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owners, at their own expense, and at all times, covering the window wells to prevent people and animals from falling into the window wells.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owners' maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owners the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owners, and shall not be liable to Owners for any loss or damage to the structure of the encroachment caused by the removal.

Section 8. That this ordinance shall be effective upon the date and at the time of its final passage.

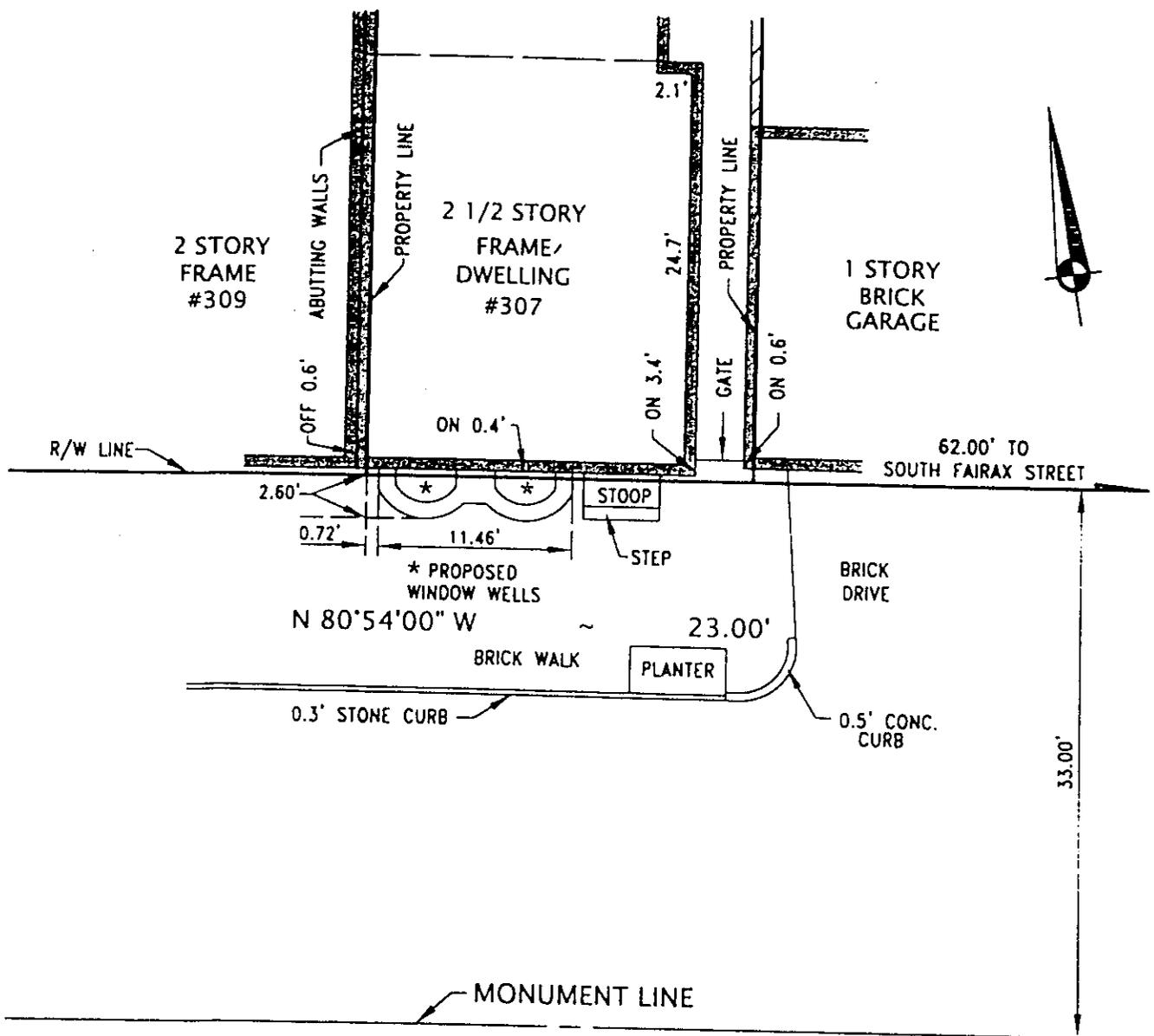
KERRY J. DONLEY
Mayor

Introduction: 10/09/01
First Reading: 10/09/01
Publication: 10/11/01
Public Hearing: 10/13/01
Second Reading: 10/13/01
Final Passage: 10/13/01

Attachment: Encroachment Plan

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WOLFE STREET

PLAT
 SHOWING PROPOSED WINDOW WELLS
 FOR THE PROPERTY LOCATED AT
#307 WOLFE STREET
 CITY OF ALEXANDRIA, VIRGINIA
 SCALE: 1" = 10' JUNE 4, 2001

4

17. Public Hearing, Second Reading and Final Passage of an Ordinance to amend Section 5-2-27 of the City Code to prohibit the hauling of building and construction materials and equipment on designated streets in the City. (#21 10/9/01) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated October 5, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 10/13/01, and is incorporated herewith as part of this record by reference.)

The Deputy City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

Transportation and Environmental Services Director Baier introduced Gene McCormick from the Potomac Crossing Corporation, Nick Nicholson, the VDOT project manager, Bucky Gross with the firm of Lamps International, one of the subcontractors, and James Brookshire from TKC who were present due to the importance of the ordinance for the City. At Councilman Speck's request, Director Baier will circulate throughout the neighborhood the new rules, the consequences of the new rules and the numbers to call to report violations.

Police Captain Butler addressed questions about ordinance enforcement posed by Councilman Speck and explained that a copy of the new ordinance will be sent to all the patrol shift commanders with specific instructions about this hauling permit that's in effect now for the Woodrow Wilson Bridge project.

Councilwoman Pepper requested that in addition to their normal patrol duties that the police perform random checks of trucks.

WHEREUPON, upon motion by Councilman Euille, seconded by Vice Mayor Cleveland and carried on a unanimous ROLL-CALL vote, City Council finally passed the Ordinance on its Second Reading and Final Passage. The voting was as follows:

Euille	"aye"	Eberwein	"aye"
Cleveland	"aye"	Pepper	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

The ordinance finally passed reads as follows:

ORDINANCE NO. 4224

AN ORDINANCE to amend and reordain Section 5-2-27 (DESIGNATION OF STREETS UPON WHICH HAULING OF WASTE MATERIALS, ETC., IS PROHIBITED) of Chapter 2 (STREETS AND SIDEWALKS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-2-27 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-2-27 Hauling of waste materials, construction materials, etc., prohibited.

(a) Hauling waste materials of any type, building or construction supplies, materials or equipment of any type, or dirt, debris or fill of any type is prohibited on all streets within the City, except pursuant to a permit issued under subsection (b) of this section, or pursuant to an exemption under subsection (e) of this section.

(b) The director of transportation and environmental services is hereby authorized to issue permits to haul such materials or equipment over the streets within the City, subject to such conditions and restrictions specifying the time and route for such hauling, and such additional conditions and restrictions, as the director may deem appropriate to promote traffic safety and to minimize disruption to established residential, commercial, institutional and other areas in the City.

(c) Any person who, as the owner, lessee, operator or driver of a motor vehicle or trailer, commits, permits, directs, assists in or attempts any violation of this section shall be guilty of a class two misdemeanor.

(d) Any person who, as the owner of any land, building or structure to or from which such materials or equipment are hauled, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, directs, assists in or attempts any violation of this section shall be guilty of a class two misdemeanor.

(e) The prohibition set forth in subsection (a) of this section shall not apply to the hauling of such materials or equipment to or from any specific location or site at the rate of five or fewer trips for pickup or delivery of such materials or equipment in any consecutive thirty day period, nor to the non-commercial hauling of such materials or equipment to or from a dwelling unit, by a resident therein.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Introduction: 10/09/01
First Reading: 10/09/01
Publication: 10/11/01
Public Hearing: 10/13/01
Second Reading: 10/13/01
Final Passage: 10/13/01

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REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (18-25)

**Board of Architectural Review
Old and Historic District**

18. CASE BAR-2000-0081 -- 619 SOUTH SAINT ASAPH STREET -- Public Hearing and Consideration of an appeal of a decision of the Board of Architectural Review, Old and Historic Alexandria District, on March 21, 2001, denying a portion and deferring a portion for restudy, of a request for approval of driveway gates at 619 South Saint Asaph Street, zoned RM Residential, will be heard. APPLICANT AND APPELLANT: Linda White. (#30 5/12/01)

BOARD ACTION: Denied portion, deferred portion for restudy 4-1

(A copy of Ms. White-St. Pierre's faxed memorandum dated October 3, 2001, requesting deferral is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 18; 10/13/01, and is incorporated herewith as part of this record by reference.)

Note: Applicant has requested that this item be deferred to the Saturday, November 17, 2001 Public Hearing Meeting.

Planning Commission (continued)

19. SPECIAL USE PERMIT #2001-0090 -- 1320 BRADDOCK PLACE -- SACHERS CAFE -- Public Hearing and Consideration of a request for a special use permit to operate a restaurant; zoned CRMU-H/Commercial Residential Mixed Use, High. Applicant: Valleray Vandegrift and Steve Stylianoudis.

COMMISSION ACTION: Noted the withdrawal

20. DEVELOPMENT SPECIAL USE PERMIT #2001-0004 -- 1623 DUKE ST -- TABLE TALK RESTAURANT SITE -- Public Hearing and Consideration of a request for a development special use permit extension for construction of an office building with restaurant; zoned OCH/Office Commercial High. Applicant: Mostafa Movahed, by Harry P. Hart, attorney.

COMMISSION ACTION: Deferred (Applicant's Request)

21. SPECIAL USE PERMIT #2001-0061 -- 4111 DUKE ST -- DANCING PEPPERS -- Public Hearing and Consideration of a special use permit review of restaurant; zoned CC/Commercial Community. Applicant: Grupo Dos Chiles, LLC, by Alfred W. Shriver, III.

COMMISSION ACTION: Deferred (Inadequate Notice)

22. SPECIAL USE PERMIT #2001-0066 -- 518 E HOWELL AV -- Public Hearing and Consideration of a request for a special use permit for a reduction of off-street parking to allow tandem parking spaces and modifications of the side yard setback requirements in conjunction with the construction of a single-family dwelling; zoned RB/Residential. Applicant: Eric Peterson and Joan Peterson.

COMMISSION ACTION: Deferred 6-0

23. SPECIAL USE PERMIT #2001-0069 -- 315 MADISON ST -- FLATBREADS -- Public Hearing and Consideration of a request for a special use permit to increase the indoor seating, to add outdoor seating, and to expand the hours of operation of an existing restaurant; zoned CRMU-X/Commercial Residential Mixed Use. Applicant: Ahmad Amarlooi.

COMMISSION ACTION: Deferred (Inadequate Notice)

24. ENCROACHMENT #2001-0007 -- 315 MADISON ST -- FLATBREADS -- Public Hearing and Consideration of a request for encroachment into the public sidewalk right-of-way for restaurant seating; zoned CRMU-X/Commercial Residential Mixed Use. Applicant: Ahmad Amarlooi.

COMMISSION ACTION: Deferred (Inadequate Notice)

FOR INFORMATIONAL PURPOSES ONLY

25. CITY CHARTER, SECTION 9.06; CASE 9.06 #2001-0004 -- 401 E BRADDOCK RD (SE CORNER AT MT VERNON AV) -- Public Hearing and Consideration of a proposal by the City of Alexandria, pursuant to the provisions of Section 9.06 of the City Charter, for the possible sale and reuse of the property located at the southeast corner of East Braddock Road and Mt. Vernon Avenue.

COMMISSION ACTION: Approved 6-0

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Without objection, City Council noted the deferrals and withdrawal.

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Vice Mayor Cleveland, seconded by Councilman Euille and carried unanimously, at 2:50 p.m., the Saturday, October 13, 2001 Public Hearing Meeting was adjourned. The voting was as follows:

Cleveland	"aye"	Eberwein	"aye"
Euille	"aye"	Pepper	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

* * * * *

APPROVED BY:

KERRY J. DONLEY **MAYOR**

ATTEST:

Susan K. Seagroves, Deputy City Clerk