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1-14-03

# CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting  
Saturday, December 14, 2002 - - 9:30 a.m.

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

Absent: None.

Also Present: Mr. Sunderland, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Assistant City Manager; Mr. Jinks, Assistant City Manager; Mr. Baier, Director of Transportation and Environmental Services; Ms. Fogarty, Director of Planning and Zoning; Ms. Ross, Deputy Director of Planning and Zoning; Ms. Johnson, Development Division Chief, Planning and Zoning; Ms. Davis, Director of Housing; Mr. Miller, ARHA Chair; Ms. Steele, Interim Director of Human Services; Ms. Whitmore, Director of Recreation, Parks and Cultural Activities; Mr. Dahlberg, Director of Code Enforcement; Mr. Culpepper, Deputy Director of Transportation and Environmental Services; Mr. Howard, Director of Personnel Services; Urban Planners Peterson, Hashemi, McLeod and Farner; Chief of Surveys Martin; Budget Analyst Taylor; and Police Lieutenant Uzzell.

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

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## 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, with Councilwoman Pepper arriving at 9:35 a.m.

Mayor Donley wished everyone a very Happy Holiday Season, a Merry Christmas and a Prosperous and Happy New Year, and he reminded everyone to attend First Night Alexandria on December 31.

### 2. Public Discussion Period.

(a) Jonathan Wilbor, 310 South Lee Street, spoke of his concern about the cost of Council's amended plan for Windmill Hill Park. He asked that we get together on implementing the 90% on which we all agree, and set aside the 10% on which we disagree, and go forward.

(b) Joe Oliva, 11 Keith's Lane, president of Ford's Landing Homeowners Association, expressed his concern about the Windmill Hill Park process. He requested a copy of the actual detailed implementation plan and documents which identify funding sources and amounts for the park improvements so that the community is aware of what is going on.

At this time, 9:35 a.m., Councilwoman Pepper arrived.

Mayor Donley asked Recreation, Parks and Cultural Activities Director Whitmore to provide the documents which Mr. Oliva requested.

Councilman Euille reported that he met with some citizens on Windmill Hill Park, and he had suggested to them that he would take their comments to a meeting already scheduled with the City Manager, to include Director Whitmore, in order to allow citizens to raise their concerns, issues and for questions to be addressed. This meeting will take place on Monday, December 16, and he hopes the meeting will have a positive outcome.

(c) Frances T.H. (Terry) Hallihan, 104 Pommander Walk, thanked Councilman Euille for his facilitation of the meeting with the City Manager and Director Whitmore and staff so that those people who met with Councilman Euille can see the final plans and eliminate their concerns.

(d) Sarita Schotta, 104 Prince Street, brought up a procurement contract signed in June 2000, which talks about the Windmill Hill Park work and was a year old before the Task Force was organized. She voiced her concern about the waste of the Task Force's many hours spent when there was already a procurement contract in place.

(e) Teresa Miller, 808 South Lee Street, president of Yates Gardens, spoke in opposition to the proposed dog park at Lee Street Park and reported on her experience with Animal Control.

Assistant City Manager Evans advised that when Animal Control officers are not available, the Alexandria Police Department is the backup, but she will check to see what she can learn about this. Director Whitmore reported that Council gave the Recreation Department the ability to ticket in the park along with Animal Control.

(f) Julie Crenshaw, 816 Queen Street, expressed her disappointment that the work started in Windmill Hill Park couldn't be stopped before the meeting with the City Manager and Old Town Civic Association, and she addressed the contract which was let.

Director Whitmore and the City Manager explained the contract for playground improvements, which is competitively bid. As Council directs, and the budget allows, improvements are made at different parks and playgrounds. That is where the money is coming from for these improvements. These are general contracts, not let two years ago for the specific purpose of improving Windmill Hill Park, but for improvements for all our parks. The monies are coming from our general operational budget as well as the budget for the improvement of dog exercise areas.

(g) Van Van Fleet, 26 Wolfe Street, reinforced the testimony of the other speakers opposed to the Windmill Hill Park improvements.

(h) Bob Bisson, 206 South Lee Street, spoke to the natural attributes of the current dog park versus the topography of the other park which make its current location the perfect site for a dog park.

(i) Carolyn Merck, 324 North Royal Street, president of Old Town Civic Association, reported on the findings of the formal survey of their membership on Windmill Hill Park, and she urged Council to hold a public hearing to hear the views of all its residents.

(j) James McCall, 537 South Fairfax Street, a resident of the Windmill Hill area, explained that the reason this keeps coming up is that the system Council set in place broke down when the Task Force's work was set aside. He raised his concern about whether Council was fully informed of all the aspects of the park and urged that it be reopened for a hearing.

City Council participated in an in-depth discussion on the Windmill Hill Park plan.

Councilwoman Woodson declared that we need to move on. If there is still no agreement following the two meetings scheduled for next week, in January, she will ask that there be a public hearing in order to bring discussion on this subject to a close.

Councilwoman Pepper asked for the consensus of Council to direct the City Manager to stop all the work that he is doing now in the park until we can get some things settled. Councilman Speck responded that the Mayor polled everyone on this two weeks ago, and it was quite clear that the Council did not want to stop the work process. What is going forward is what we approved and agreed to, and there is nothing that anyone has said so far that suggests we should not.

(k) Brittany M. Walker, 611 South Alfred Street, representing Unity child-care providers, spoke about the need to provide health insurance for child-care providers.

The Unity Children presented an oversized Christmas card to Council, and it will be displayed in the City Clerk's office this holiday season.

(l) Ruth Walker, 611 South Alfred Street, representing Unity child-care providers, spoke to the need for health insurance for child care providers.

(m) Markevia Washington Bell, 910 Gibbons Street, the daughter of child-care provider Cheryl Bell, spoke of the need for health insurance coverage for child-care providers.

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**New Business Item No. 1.** Vice Mayor Cleveland announced that at the Council of Governments' annual meeting, Mayor Donley received the prestigious Elizabeth and David Scull 2002 Metropolitan Public Service Award. This is the highest award COG can give, for all the work he's been doing regionally in the way of housing and transportation, and he congratulated the Mayor.

Councilwoman Pepper congratulated Mayor Donley for a well-deserved honor, and she asked the Mayor's Aide to bring this award to the first legislative meeting in January so that the public can see it.

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## REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

### ACTION CONSENT CALENDAR (3-7)

#### Planning Commission

3. SPECIAL USE PERMIT #2002-0095 -- 1800 DUKE ST -- SUBWAY SANDWICH SHOP -- Public Hearing and Consideration of a request for a special use permit for a restaurant; zoned CDD-1/Coordinated Development District, Duke Street. Applicant: Subway Real Estate Corporation, by Christopher Decre.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 12/14/02, and is incorporated herewith as part of this record by reference.)

4. SPECIAL USE PERMIT #2002-0098 -- 5400-5432 EISENHOWER AV -- Public Hearing and Consideration of a review of a special use permit for a variety of uses with a reduction of required off-street parking, and request for change of ownership of the permit; zoned OCH/Office Commercial High. Applicant: Unity, LLC, by M. Catharine Puskar, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 12/14/02, and is incorporated herewith as part of this record by reference.)

5. SPECIAL USE PERMIT #2002-0102 -- 100 S PATRICK ST -- Public Hearing and Consideration of a request for a special use permit to operate a commercial school (yoga studio); zoned CD/Commercial Downtown. Applicant: Keith Moore.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 12/14/02, and is incorporated herewith as part of this record by reference.)

6. SPECIAL USE PERMIT #2002-0105 -- 1725 DUKE ST -- STELLA'S RESTAURANT -- Public Hearing and Consideration of a request for a special use permit amendment to expand and intensify an existing restaurant; zoned OCH/Office Commercial High. Applicant: Retro Restaurants Inc., by Duncan W. Blair, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 12/14/02, and is incorporated herewith as part of this record by reference.)

7. DEVELOPMENT SPECIAL USE PERMIT #2002-0036 -- 200 S PICKETT ST -- MERCEDES-BENZ DEALERSHIP -- Public Hearing and Consideration of a request for a development special use permit, with site plan, for renovation and expansion of the existing automobile dealership facility; zoned CG/Commercial General. Applicant: American Service Center Associates, by Lonnie C. Rich, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 12/14/02, and is incorporated herewith as part of this record by reference.

A copy of a letter dated December 11, 2002, from Lonnie C. Rich, attorney for the applicant, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 7; 12/14/02, and is incorporated herewith as part of this record by reference.

A copy of Mr. Guiffre's letter dated November 26, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 7; 12/14/02, and is incorporated herewith as part of this record by reference.)

**END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Cleveland and carried unanimously, City Council approved the Action Consent Calendar as presented. The action of City Council 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.
- 6. City Council approved the Planning Commission recommendation.
- 7. City Council approved the Planning Commission recommendation.

**END OF ACTION CONSENT CALENDAR**

The voting was as follows:

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

**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

**Planning Commission (continued)**

8. DEVELOPMENT SITE PLAN #2002-0004 -- 1708-1710 PRINCE STREET -- Public Hearing and Consideration of an appeal of the Planning Commission approval for a request for a development site plan extension for construction of an office building; zoned OCH/Office Commercial High. Applicant and Appellant: Duke Enterprises, Inc., by Robert L. Calhoun, attorney.

COMMISSION ACTION: Approved 7-0 (on 09/05/02)

(A copy of a memorandum requesting deferral, dated December 13, 2002, from Planning and Zoning Director Fogarty, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 12/14/02, and is incorporated herewith as part of this record by reference.

A copy of Mr. Calhoun's letter requesting deferral dated October 23, 2002, together with a copy of the appeal, is on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 2 of Item No. 8; 12/14/02, and is incorporated herewith as part of this record by reference.

A copy of the Planning Commission report dated September 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 8; 12/14/02, and is incorporated herewith as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Euille, seconded by Vice Mayor Cleveland and carried unanimously, City Council deferred this item, and the applicant will continue to work with staff on some design features. The voting was as follows:

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

9. SPECIAL USE PERMIT #2002-0099 -- 106 S UNION ST -- OLSSON'S BOOK STORE, MOCHA CAFE -- Public Hearing and Consideration of a request for a special use permit for expansion and change of ownership of a restaurant; zoned CD/Commercial Downtown. Applicant: Arman N. Foroughi.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 12/14/02, and is incorporated herewith as part of this record by reference.)

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

Carolyn Merck, 324 North Royal Street, representing Old Town Civic Association, spoke in opposition to any expansion due to concern about the slow expansion of retail into a restaurant use.

Transportation and Environmental Services Director Baier and Planning and Zoning Deputy Director Ross responded to questions and participated in the discussion with Members of Council regarding the loading dock and access to the public right-of-way. The applicant, Arman N. Foroughi, responded to questions from Council as well.

**WHEREUPON**, a motion was made by Councilwoman Woodson and seconded by Councilman Speck, to approve the Planning Commission recommendation, as amended with the deletion of Condition #21, and Condition #20 was amended to read: **"20. Delivery vehicles shall not block the public right-of-way and will utilize the existing loading dock."**

City Council clarified, at the City Attorney's request, that it is understood the applicant can use the loading dock even though it is in The Strand and in the public right-of-way.

An amendment, acceptable to both the maker and seconder of the motion, was suggested by the City Manager to amend Condition #20 to read: **"20. Delivery vehicles may only load and unload from The Strand, and when they do, they may not at any point block more than one travel lane."**

**WHEREUPON**, Council returned to the motion on the floor, as amended, made by Councilwoman Woodson, seconded by Councilman Speck and carried unanimously, City Council approved the Planning Commission recommendation with the deletion of Condition #21, and amended Condition #20 to read: **"20. Delivery vehicles may only load and unload from The Strand, and when they do, they may not at any point block more than one travel lane."** The voting was as follows:

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

10. SPECIAL USE PERMIT #2002-0080 -- 801 BASHFORD LA -- LEE'S MARKET -- Public Hearing and Consideration of a request for a special use permit to operate a restaurant at the existing retail market and for a reduction of off-street parking; zoned RB/Residential. Applicant: Quetae Kim.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 12/14/02, and is incorporated herewith as part of this record by reference.)

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

Kim Quetae, 801 Bashford Lane, the applicant, was available to answer questions;

Poul Hertel, 1217 Michigan Court, endorsed the application and requested a condition that there be outside trash receptacles for customers to use on a daily basis;

Mariella Posey, 915 Second Street, spoke in support of the indoor seating but not the outdoor seating; and

David LeDuc, 1121 Powhatan Street, president of North East Citizens Association, spoke in support of the application and for indoor seating, but not outside seating.

**WHEREUPON**, a motion was made by Councilwoman Eberwein, and seconded by Councilwoman Woodson, to approve the recommendation of the Planning Commission with a change to Condition #22 to request a six-month review regarding the outdoor seating only. After clarification of the motion, Councilwoman Woodson withdrew her second, and the motion DIED for lack of a second.

**THEREUPON**, a motion was made by Councilwoman Woodson, and seconded by Councilwoman Pepper, to have a change to Condition #22 to request a six-month review for the indoor seating and then bring on the outdoor seating; which motion FAILED on a vote of 2-to-5. The voting was as follows:

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

Planning and Zoning Deputy Director Ross and staff responded to questions directed to them by Council regarding the timing of the approval of the outdoor seating, and about the employee parking condition.

**WHEREUPON**, upon motion by Vice Mayor Cleveland, seconded by Councilman Euille and carried on a vote of 4-to-3, City Council approved the Planning Commission recommendation, with the exception of outdoor seating. The voting was as follows:

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

Docket item nos. 11 and 12 were heard together but were considered under separate motions.

11. MASTER PLAN AMENDMENT #2002-0004 -- REZONING #2002-0003 -- 409 N PITT ST -- Block bounded by N PITT, N ROYAL, PRINCESS, PENDLETON STS -- SAMUEL MADDEN HOMES -- Public Hearing and Consideration of a request for amendment to the Old Town and Old Town North Small Area Plan Chapter of the 1992 Master Plan and the Zoning Map to change the land use designation of the subject property from RM/Residential to CRMU-X/Commercial Residential Mixed Use. Applicant: Eakin/Youngentob Associates Inc., by Jonathan P. Rak, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 12/14/02, and is incorporated herewith as part of this record by reference.

A copy of the proffer statement of ARHA Executive Director Dearman dated December 13, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 11; 12/14/02, and is incorporated herewith as part of this record by reference.)

12. DEVELOPMENT SPECIAL USE PERMIT #2002-0029 -- 409 N PITT ST -- Block bounded by N PITT, N ROYAL, PRINCESS, PENDLETON -- STS -- SAMUEL MADDEN HOMES -- Public Hearing and Consideration of a request for a development special use permit, with site plan, to construct residential townhouses; zoned RM/Residential. Applicant: Eakin/Youngentob Associates Inc., by Jonathan P. Rak, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A letter dated December 13, 2002, from Mr. Rak, together with a list of the revised conditions agreed to by staff, is on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 1 of Item No. 12; 12/14/02, and is incorporated herewith as part of this record by reference.

A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 12; 12/14/02, and is incorporated herewith as part of this record by reference.)

Planning and Zoning Director Fogarty gave a PowerPoint presentation on the Samuel Madden Redevelopment.

(A copy of the PowerPoint presentation is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item Nos. 11 and 12; 12/14/02, and is incorporated herewith as part of this record by reference.)

City Council, Director Fogarty and staff participated in the extensive discussion on articulation of the buildings and the affect of the loss of three linear feet from the front yard.

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

Jonathan Rak, 1750 Tysons Boulevard, McLean, attorney for the applicant, spoke in support;

Bob Youngentob, 1000 Wilson Boulevard, Arlington, president of Eakin/Youngentob, the applicant, gave a PowerPoint presentation. He responded to questions and participated in the discussion with City Council on the articulation of the buildings and on the placement of the ARHA units;

A. Melvin Miller, 3928 Colonel Ellis Avenue, ARHA chair, expressed his concern that in moving the buildings back that it not decrease the space of the ARHA units. He reported that ARHA has no concern with the units being located inside versus outside. It is a well-dispersed project, and all the units will have the same space. Chair Miller stressed that what it lives like is more important in the long run than what it looks like;

Chair Miller responded to questions from Mayor Donley and participated in a discussion with Councilwoman Woodson about the placement of the units.

Jeremy Flachs, 1521 Oronoco Street, representing the Affordable Housing Advisory Committee, reported that the committee unanimously supports the redevelopment, with the focus on the affordability component, and it strongly endorses the one-for-one replacement for the residents of Samuel Madden Homes;

Marilee Menard, 418 North Pitt Street, representing Bulfinch Square Homeowners Association, stated that Eakin/Youngentob has done an outstanding design, and it supports the recommendations of the Planning staff. She spoke of the need for handicap accessibility, and since most public housing residents own one car, there is a need for visitor spaces;

City Council Members participated in the discussion with the City Attorney, City Manager and Planning and Zoning Director Fogarty and staff about the fact that there will be no parking permits for the development, and how to ensure that future homeowners will be aware of this fact prior to purchase and will know they are not eligible for permits.

Susan Brita, 420 Princess Street, was unable to attend, but Carolyn Merck read Ms. Brita's statement on behalf of her neighbors, which supports the Planning Commission recommendation;

Carolyn Merck, 324 North Royal Street, on behalf of the Old Town Civic Association, recommended approval of the rezoning and the special use permit with the proffer by the developer that this property be used only for residential purposes;

Poul Hertel, 1217 Michigan Court, spoke in support of the proposal. He stated that articulation is important, he opposed the no parking permits, and he felt that the tot lot should remain on site;

Sally Ann Greer, 1168 North Pitt Street, president of North Old Town Independent Citizens Civic Association, spoke in support of the redevelopment and requested a written inventory of standing trees on the site, especially the perimeter;

(A copy of Ms. Greer's letter dated December 14, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 4 of Item Nos. 11 and 12; 12/14/02, and is incorporated herewith as part of this record by reference.)

Carlyle C. Ring, Jr., 308 Monticello Boulevard, ARHA vice-chair, endorsed the redevelopment and addressed two issues: (1) Articulation is a valid point, but it is the living that is the more important, and (2) It is very important to have the play area for children fully incorporated in the units;

Ruby Tucker, 254 Lynhaven Drive, ARHA commissioner, spoke in support of the redevelopment and to the fact that three feet of space does make a difference to the people who will live there, and the tot lot should be with the development; and

Julie Crenshaw, 816 Queen Street, brought up her concern about saving some of the on-site trees and the need to replace them with trees of an appropriate size, placed so that they will thrive.

The public hearing was closed.

City Council participated in a discussion with and directed questions to Applicant Youngentob about articulation, green space, and placement of the units. Planning and Zoning Director Fogarty and staff responded to Council inquiries and participated in the discussion.

Councilman Euille and Attorney Rak discussed the applicant's proposed Options A and B as compared to staff condition #5 relating to articulation of the buildings.

Councilwoman Eberwein addressed concerns raised about the trees now on the property. Attorney Rak referred Council to the list he distributed on the agreed-upon conditions which includes a revised landscape plan in condition #15(a)-(p) and addresses trees in great detail.

11. **WHEREUPON**, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

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

12. **THEREUPON**, a motion was made by Councilman Euille and seconded by Councilman Speck, to approve the Planning Commission recommendation with the deletion of Condition #5 and to amend Conditions #13, 15, 66 and 68 [as set out in Attorney Rak's list], which the staff has already agreed to. After clarification of the motion, Councilman Speck withdrew his second of the motion, and the motion was subsequently seconded by Vice Mayor Cleveland.

Council participated in the discussion with Director Fogarty and Mr. Youngentob about the differences between Option A and Option B.

**WHEREUPON**, upon motion by Councilman Speck, seconded by Councilwoman Pepper and carried on a vote of 4-to-3, City Council amended the motion on the floor by substituting the deleted language [Option A] in Condition #5 with a new Condition #5 [Option B], as described in Attorney Rak's December 13, 2002 letter, so that Condition #5 now reads: **"5. The widths of townhouses located on lots #1, 12, 44, 56, 57, 68, 100 & 112 shall be extended one foot into the sideyard setbacks for the entire length of the side facade. Townhouses located on lots #14, 25, 32, 43, 81, 88 and 99 shall extend into the front yard by a maximum of 18 inches along the length of the front facade."**; and amended Conditions #13, 15, 66 and 68 [as set out in Attorney Rak's list], which the staff has already agreed to. The voting was as follows:

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

**THEREUPON**, Council returned to the main motion on the floor, as amended, made by Councilman Euille, seconded by Vice Mayor Cleveland, and carried unanimously, City Council approved the Planning Commission recommendation with the change now to Condition #5, as amended, to read: **"5. The widths of townhouses located on lots #1, 12, 44, 56, 57, 68, 100 & 112 shall be extended one foot into the sideyard setbacks for the entire length of the side facade. Townhouses located on lots #14, 25, 32, 43, 81, 88 and 99 shall extend into the front yard by a maximum of 18 inches along the length of the front facade."**, and to amend Conditions #13, 15, 66 and 68 [as set out in Attorney Rak's letter], as agreed to by the applicant and staff. The voting was as follows:

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

13. DEVELOPMENT SPECIAL USE PERMIT #2002-0033 -- 1608-1706 W BRADDOCK ROAD & RADFORD ST -- ARHA SCATTERED HOUSING - W BRADDOCK RD -- Public Hearing and Consideration of a request for a development special use permit, with site plan, for construction of residential townhouses as affordable housing; zoned RB/Residential. Applicant: Alexandria Redevelopment and Housing Authority, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 12/14/02, and is incorporated herewith as part of this record by reference.)

A copy of staff's PowerPoint presentation (which was not made) is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 13; 12/14/02, and is incorporated herewith as part of this record by reference.)

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

Mary Catherine Gibbs, 307 North Washington Street, attorney for the applicant, addressed the letter of agreement setting out the agreed-upon special use permit conditions; and

(A copy of Ms. Gibbs' letter dated December 13, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 13; 12/14/02, and is incorporated herewith as part of this record by reference.)

A. Melvin Miller, ARHA chair, was available to answer questions.

The public hearing was closed.

Mayor Donley offered guidance to Attorney Gibbs, the applicant and staff as they go forward in their negotiations on the use of brick versus cementitious siding. He stated that cost is an important consideration, and he doesn't want to lose sight of that. We want to have a good quality project and to maximize the building materials, but cost is an important aspect.

Attorney Gibbs assured Council that ARHA is constantly looking at financial issues, and they will always keep that in mind. They have the same intents and understanding that Council does.

**WHEREUPON**, upon motion by Councilman Euille, seconded by Councilman Speck and carried unanimously, City Council approved the Planning Commission recommendation with the changes in conditions as noted [in Attorney Hart's letter dated December 13, 2002] to read: Condition #1c: "**1c. The facade for the unit on Lot 11 shall be a combination of brick and cementitious siding to the satisfaction of the Director of P&Z.**"; Condition #1d: "**1d. The units shall provide varied rooflines as generally depicted on the preliminary plans.**"; Condition #1e: "**1e. The roof material and color shall be done to the satisfaction of the Director of P&Z.**"; Condition #5: "**5. Fencing shall be constructed as indicated on the preliminary plan and maintained in good condition. Type A fencing shall be white, Type B fencing shall be aluminum or steel with a black factory-applied finish. The section of fence at the end unit, adjacent to W. Braddock Road, shall be a brick wall with the same overall dimensions as the fence shown, to the satisfaction of the Director of P&Z.**"; and Condition #38: "**38. The applicant shall be allowed to make minor adjustments if the changes do not result in a loss of parking or landscaping or an increase in impervious area except for architectural**

**embellishments and screening of solid waste containers to the satisfaction of the Director of P&Z.** The voting was as follows:

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

14. VACATION #2002-0004 -- 1600-1706 W BRADDOCK ROAD; RADFORD ST; KING ST -- ARHA SCATTERED HOUSING - W BRADDOCK RD, RADFORD, KING -- Public Hearing and Consideration of a request for vacation of a portion of the public street right-of-way; zoned RB/Residential. Applicant: Alexandria Redevelopment and Housing Authority, by Harry P. Hart, attorney, and appointment of viewers for same.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 12/14/02, and is incorporated herewith as part of this record by reference.)

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

Mary Catherine Gibbs, 307 North Washington Street, attorney for the applicant, was available to answer questions.

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Euille and carried unanimously, City Council approved the Planning Commission recommendation and authorized the appointment of viewers. Judy Lowe, chair, and Ross Bell and Lee Roy Steele were appointed as viewers. The voting was as follows:

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

15. DEVELOPMENT SPECIAL USE PERMIT #2002-0034 -- 423 S REYNOLDS ST -- ARHA SCATTERED HOUSING - S REYNOLDS ST -- Public Hearing and Consideration of a request for a development special use permit, with site plan, for construction of residential townhouses as affordable housing; zoned CRMU-M/Commercial Residential Mixed Use, Medium. Applicant: Alexandria Redevelopment and Housing Authority, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 12/14/02, and is incorporated herewith as part of this record by reference.)

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

Mary Catherine Gibbs, 307 North Washington Street, attorney for the applicant, addressed the letter of agreement setting out the special use permit conditions; and

(A copy of Ms. Gibbs' letter dated December 13, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 15; 12/14/02, and is incorporated herewith as part of this record by reference.)

A. Melvin Miller, 3928 Colonel Ellis Avenue, ARHA chair, was available to answer questions.

The public hearing was closed.

T&ES, Parks and Recreation and ARHA were requested to get together and look at this particular site in terms of pedestrian access and the ability to get to the nearby park areas for safety and convenience of the residents not only of the ARHA units but Essex House as well.

**WHEREUPON**, upon motion by Councilman Euille, seconded by Vice Mayor Cleveland and carried unanimously, City Council approved the Planning Commission recommendation as amended to read as follows: Condition #5: **"5. The applicant shall continue to refine the elevations of the two townhouse units facing Reynolds Street to reinforce their appearance as the front of a residence by fenestration and door location to the satisfaction of the Director of P&Z. These architectural refinements shall be completed to the satisfaction of the Director of P&Z, prior to the release of final site plan."**; Condition #6: **"6c. The facade of the townhouse units facing S. Reynolds Street shall be a combination of brick and cementitious siding to the satisfaction of the Director of P&Z. Other facades shall be brick or cementitious siding."**; **"6d. The units shall provide varying roof lines as generally depicted on the preliminary plan."**; **"6e. Roof material and color shall be done to the satisfaction of the Director of P&Z."**; Condition #39: **"The applicant shall be allowed to make minor adjustments if the changes do not result in a loss of parking or landscaping or an increase in impervious area except for architectural embellishments and screening of solid waste containers to the satisfaction of the Director of P&Z."**; and Condition #45: **"45. Solid waste services for the site shall be provided by the City. The development must meet all the minimum street standards. The developer must provide adequate space to accommodate a City Standards super can and recycling container for each unit. The containers must be placed inside the units or within an enclosure that completely screens them from view to the satisfaction of the Director of P&Z and T&ES. The developer must purchase the standard containers from the City or provide containers that are compatible with City collection system and approved by the Director of T&ES." The voting was as follows:**

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

16. DEVELOPMENT SPECIAL USE PERMIT #2002-0035 -- 325 S WHITING ST -- ARHA SCATTERED HOUSING - S WHITING ST -- Public Hearing and Consideration of a request for a development special use permit, with site plan, for construction of residential multi-family dwellings as affordable housing; zoned RC/Residential. Applicant: Alexandria Redevelopment and Housing Authority, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 12/14/02, and is incorporated herewith as part of this record by reference.)

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

Mary Catherine Gibbs, 307 North Washington Street, attorney for the applicant, addressed the letter of agreement setting out the special use permit conditions;

(A copy of Ms. Gibbs' letter dated December 13, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 16; 12/14/02, and is incorporated herewith as part of this record by reference.)

Poul Hertel, 1217 Michigan Court, spoke in support of the Planning Commission recommendation;

Duncan W. Blair, 524 King Street, attorney speaking on behalf of the Wygul family of Wygul Automotive, stated it is important that this is looked at as one project, not three, and that the quality of materials should not be diminished at this site or any of the other sites. Mr. Blair explained that as a Hope VI project, the implementation of more than just housing into the community is required, and the Wyguls look forward to working with its new neighbors to fulfill the goals and objectives of Hope VI funding; and

A. Melvin Miller, 3928 Colonel Ellis Avenue, ARHA chair, thanked everyone for their hard work and remarked that everyone can be very proud of this.

The public hearing was closed.

Councilman Euille announced that Wygul Automotive Clinic will formalize the program to partner with ARHA in awarding automotive service and repair grants to all ARHA residents. These grants will be issued by ARHA for free vehicle service at any one of the Wygul Automobile Clinics and is a 10-year commitment, \$5,000 a year up to \$50,000, to be administered by ARHA for its residents.

Councilman Speck questioned staff about whether access to the emergency vehicle easement attached to the adjacent property would be limited in some fashion to prevent ingress and egress of cars to Whiting Street. He reiterated his understanding from a work group discussion that Council's intent was to limit traffic to emergency vehicles only, and Council confirmed its consensus. Attorney Gibbs, City Manager Sunderland and Planning and Zoning Deputy Director Ross participated in the discussion.

Councilman Speck mentioned that in talking to some of the businesses, concerns have been raised about parking, loitering, and vandalism occurring in the area now. He requested that if this area is not covered by a neighborhood association with a police liaison, that a community liaison be established to address some of these issues on a proactive basis.

**WHEREUPON**, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried unanimously, City Council approved the Planning Commission recommendation as amended with the following changes to read as follows: Condition #3a: **"3a. Each unit shall be predominantly brick or cementitious siding rather than a combination of the two materials except where water table, chimney appearances or other architectural features are accomplished by a combination of the two."**; Condition #3b: **"3b. Provide varying roof lines as generally depicted on the preliminary plan."**; Condition #3e: **"3e. Roof material and color shall be done to the satisfaction of the Director of P&Z."**; Condition #29: **"29. Solid waste services for the site shall be provided by the City. The development must meet all the minimum street standards. The developer must provide adequate space to accommodate a City Standards super can and recycling container for each unit. The containers must be placed inside the units or within an enclosure that completely screens them from view to the satisfaction of the Director of P&Z and T&ES. The developer must purchase the standard containers from the City or provide containers that are compatible with City collection system and approved by the Director of T&ES."**; Condition #32: **"32. Proposed sanitary sewer along southern property line is not acceptable. Extend existing sanitary sewer on South Whiting Street to site entrance and extend all sanitary laterals to South Whiting Street to the satisfaction of the Director of T&ES."**; Condition #34: **"34. The applicant shall be allowed to make minor adjustments if the changes do not result in a loss of parking or landscaping or an increase in impervious area except for architectural embellishments and screening of solid waste containers to the satisfaction of the Director of P&Z."**; deleted Condition #42 and replaced it with the same condition as Condition #29 above; and deleted Condition #44. The voting was as follows:

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

17. SPECIAL USE PERMIT #2002-0101 -- 701 KING ST -- CHINA KING RESTAURANT -- Public Hearing and Consideration of a request for a special use permit to allow dancing in an existing restaurant; zoned CD/Commercial Downtown. Applicant: China King Town Inc., by Sui Chen Chu Yao.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 12/14/02, and is incorporated herewith as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Eberwein and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

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

18. SPECIAL USE PERMIT #2002-0103 -- 304 CALVERT AV -- Public Hearing and Consideration of a request for a special use permit to operate a general automobile repair garage; zoned I/Industrial. Applicant: Benavides Auto Repair, by Julio Benavides.

COMMISSION ACTION: Recommend Denial 6-0

(A copy of the Planning Commission report dated December 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 18; 12/14/02, and is incorporated herewith as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Vice Mayor Cleveland and carried unanimously, City Council upheld the Planning Commission recommendation and denied the special use permit. The voting was as follows:

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

## ORDINANCES AND RESOLUTIONS

19. Public Hearing, Second Reading and Final Passage of an Ordinance to amend Section 3-2-102 of the City Code to increase the cigarette tax levied by the City from \$0.30 to \$0.50 per package. (#20 12/10/02) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 4, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 19; 12/14/02, and is incorporated herewith as part of this record by reference.)

A copy of a letter dated December 13, 2002, from BFAAC chair Chimento, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 19; 12/14/02, and is incorporated herewith as part of this record by reference.)

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

Mariella Posey, 915 Second Street, as a smoker, spoke in support of the ordinance.

**WHEREUPON**, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried on a ROLL-CALL vote of 6-to-1, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance finally passed reads as follows.

ORDINANCE NO. 4283

AN ORDINANCE to amend and reordain section 3-2-102 (LEVY AND RATE) of Article I (TAX ON SALE OF CIGARETTES), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT), of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That section 3-2-102 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is, amended and reordained to read as follows:

Sec. 3-2-102 Levy and rate.

In addition to all other taxes of every kind now or hereinafter imposed by law, there is hereby levied and imposed by the city, upon every person who sells or uses cigarettes within the city, an excise tax equivalent to \$0.50 for each package containing 20 cigarettes and 25 mills for each cigarette contained in packages of fewer or more than 20 cigarettes, sold or used within the city. The tax shall be paid and collected in the manner and at the time hereinafter prescribed; provided, that the tax payable for each cigarette or cigarette package sold or used within the city shall be paid but once. The tax hereby levied shall not apply to free distribution of sample cigarettes in packages containing five or fewer cigarettes.

Section 2. That this ordinance shall be effective upon the date and at the time of its final passage; provided, that the Northern Virginia Cigarette Board shall not be required to collect the increased tax until it shall have notified persons liable for the tax of such increase in accordance with the rules and regulations promulgated by the board.

KERRY J. DONLEY  
Mayor

Introduction:	12/10/02
First Reading:	12/10/02
Publication:	12/12/02
Public Hearing:	12/14/02
Second Reading:	12/14/02
Final Passage:	12/14/02

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20. Public Hearing, Second Reading and Final Passage of an Ordinance to amend Title 2, Chapter 5, Article D of the City Code to authorize certain amendments to the several employee retirement and disability income plans maintained by the City of Alexandria. (#21 12/10/02) **[ROLL-CALL VOTE]**

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 unanimous ROLL-CALL vote, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance finally passed reads as follows:

#### ORDINANCE NO. 4284

AN ORDINANCE to amend and reordain Article D (RETIREMENT AND INSURANCE), Chapter 5 (OFFICERS AND EMPLOYEES), Title 2 (GENERAL GOVERNMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

#### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article D, Chapter 5, Title 2 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is, amended and reordained to read as follows:

#### ARTICLE D Retirement and Insurance

Sec. 2-5-51 Retirement plan--adopted for police, fire department and sheriff personnel; effective date; signing of contracts, etc.

- (a) The "defined benefit" retirement and disability income plan known as the "City of Alexandria Pension Plan for Firefighters and Police Officers," as the same may be adopted and amended from time to time by resolution of the city council, is hereby adopted for the personnel of the police and fire departments of the city covered by such plan and first employed before February 13, 1979, unless prior to May 30, 1979, an employee covered under such plan has elected to convert to a "defined contribution" plan set forth below.
- (b) The "defined contribution" retirement plan known as the "City of Alexandria Retirement Income Plan for Firefighters and Police Officers," as the same may be adopted and amended from time to time by resolution of the city council, is hereby adopted for the personnel of the police and fire departments of the city first employed on and after February 13, 1979, and covered by such plan.
- (c) The "defined contribution" retirement plan known as the "City of Alexandria Retirement Income Plan for Deputy Sheriffs and Emergency Rescue Technicians," as the same may be adopted and amended from time to time by resolution of the city council, is hereby adopted for the personnel of the fire department and sheriff covered by such plan.
- (d) The "defined benefit" disability income plan known as the "City of Alexandria Firefighters and Police Officers Disability Income Plan," as the same may be adopted and amended from time to time by resolution of the city council, is hereby adopted for personnel of the police and fire departments of the city first employed on and after February 13, 1979, and covered by such plan.

- (e) The plans designated in this section shall be administered by the city manager or his designee, or by a board comprised of representatives of the city and the plan participants and appointed by the city council, as provided in the plan documents adopted and from time to time amended by resolution of the city council.
- (f) The city manager is authorized to sign all contracts and papers for and on behalf of the city in connection with the plans designated in this section.

Sec. 2-5-52 Same--adopted for employees other than policemen and firemen; effective date.

The Virginia Retirement System of the Commonwealth of Virginia, as provided by the General Laws of the Commonwealth, is hereby adopted for the eligible employees of the city other than policemen and firemen, to become effective on and after January 1, 1957.

Sec. 2-5-53 Same--when participation mandatory.

All employees on the payroll of the city on July 1, 1956 and January 1, 1957, shall have their choice as to whether or not they wish to participate in the plans adopted in the two (2) preceding sections. All persons employed in the police and fire departments after July 1, 1956, and all persons employed by other city departments after January 1, 1957, shall be required to join and participate in their respective plans.

Sec. 2-5-54 Same--supplemental plan.

- (a) The retirement plan known as the "City of Alexandria Supplemental Retirement Plan," as the same may be adopted and from time to time amended by resolution of the city council, is hereby adopted for the eligible employees of the city other than policemen and firemen. This plan shall be in addition to any other retirement plan now or hereafter adopted. The plan shall be effective August 1, 1970. The city manager is authorized to sign all contracts and papers for and on behalf of the city in connection with such plan.
- (b) Employees on the payroll of the city on the effective date of the plan shall have their choice as to whether or not they wish to participate in the plan. Persons employed by the city after the effective date of the plan shall be required to join in and participate in the plan.
- (c) The city manager, or his designee, shall administer the plan.

Sec. 2-5-55 Group life insurance plan--adopted for all employees; effective date; signing of contracts, etc.

The group life insurance plan, adopted and from time to time amended by or with the approval of the city council is hereby adopted as the life insurance plan for all employees of the city, to become effective July 25, 1956. The city manager is authorized to sign all contracts and papers for and on behalf of the city in connection with such plan. The city manager, or his designee, shall administer the plan.

Sec. 2-5-56 Same--participation.

Employees are not required to participate in the life insurance plan. Participation shall be entirely voluntary.

Sec. 2-5-57 Salary deductions and withholdings for retirement; deferred compensation and insurance plans; payment of city's share to maintain plans.

The director of finance is hereby authorized to deduct, withhold and remit employees' contributions, either voluntary or mandatory, for the plans adopted in this article and health insurance plans for city employees authorized by law. The director of finance is further authorized to expend the share of the city toward maintaining or contributing on its behalf or on behalf of its employees to these plans, subject to appropriation of necessary funds by the city council.

Sec. 2-5-58 Deferred compensation plan--adopted for city and for all employees; signing of agreements; voluntary participation.

The deferred compensation plan, known as the "ICMA Retirement Corporation 457 Plan," as the same may be adopted and from time to time amended by or with the approval of the city council, is hereby adopted for the City of Alexandria, Virginia, and for all employees thereof. The city manager is authorized and directed to execute on behalf of the city all necessary documents in connection with the said plan. No employee of the city shall be required or directed to participate in the plan.

Sec. 2-5-59 Same--administration; signing of joinder agreements; contributions by city.

The city manager or his designee is hereby authorized and directed to administer the deferred compensation plan adopted in section 2-5-58 of this code, to do all things necessary by way of supervision, administration and implementation of the plan, and to contract with private corporations or institutions for services in connection therewith. The director of personnel may execute on behalf of the city joinder agreements with any employee of the city and all other agreements necessary for the said person's participation in the plan; except, that any such agreement which provides for the participation in the plan of the director of personnel shall be executed on behalf of the city by the city manager. No funds shall be contributed by the city to the plan on behalf of any employee, except as and to the extent the city council shall direct.

Sec. 2-5-60 Same--Standards.

The plan shall at all times comply with the standards for the tax treatment of deferred compensation plans required by Section 51.1-604 of the Code of Virginia (1950), as amended.

Sec. 2-5-61 Reserved.

Sec. 2-5-62 Reserved.

Sec. 2-5-63 Same--city liability limited.

The city as employer shall make the deferred compensation plan established by section 2-5-58 of this code available to its employees as an employment benefit and shall make such payroll deductions as any individual employee shall direct, related to the plan. Beyond the administrative expense and responsibility for performing (a) deductions; (b) remittance of all funds to investment media selected

by the employees from the options made available by the plan administrator; and (c) benefit distributions in accordance with employee instructions, the city, its officers, agents and/or employees shall bear no other responsibility or liability. It shall further be understood and by appropriate documentation it shall be made clear and binding upon employee participants that the city does not make any warranties or guarantees with respect to the plan and the city will bear no liability for the program other than as set forth above. Thus, by this section, express disclaimer and otherwise, the city shall bear no liability, other than as set forth above, for any compensation deferred under the plan and/or any investment vehicle, product, security and/or the performance thereof under the plan.

Sec. 2-5-64 Same--other retirement, pension, etc., systems not affected.

The deferred compensation plan established by section 2-5-58 of this code shall exist and serve in addition to all other retirement, pension or other benefit systems available to any city employees and shall not supersede, make inoperative or reduce any benefits provided by any other retirement, pension or benefit program established by law.

Sec. 2-5-65 Alteration, amendment or repeal of plans.

The city council reserves the right to alter, amend or repeal any provision of the plans adopted and established by this article; provided, however, that the amount of benefits which at the time of such alteration, amendment or repeal shall have accrued for participants or beneficiaries shall not be affected thereby. If the city council repeals the plan, it shall continue to be administered in accordance with its terms and provisions and those of the aforesaid sections of this code for the sole benefit of the then participants, any beneficiaries then receiving retirement allowances or benefits and any future persons entitled to receive benefits in accordance therewith who are so designated by any of the said participants.

Sec. 2-5-66 Reserved.

Section 3. That any actions taken by the city counsel, city manager, director of finance, director of personnel services, or their designees, with respect to the adoption, amendment or administration of the several retirement, disability, insurance and deferred compensation plans described in Article D, Chapter 5, Title 2 of the Code of the City of Alexandria, 1981, as amended, prior to the effective date of this ordinance be, and the same hereby are, ratified, approved, confirmed and continued in force and effect as of and from the date any such actions were taken.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

Introduction:	12/10/02
First Reading:	12/10/02
Publication:	12/12/02
Public Hearing:	12/14/02
Second Reading:	12/14/02
Final Passage:	12/14/02

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21. Public Hearing, Second Reading and Final Passage of an Ordinance to approve a vacation of a portion of the public right-of-way of Mill Road. (#22 12/10/02) [ROLL-CALL VOTE]

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

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

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

The ordinance finally passed reads as follows:

#### ORDINANCE NO. 4285

AN ORDINANCE to vacate a portion of the public street right-of-way of Mill Road and Roberts Lane, in the City of Alexandria, Virginia.

WHEREAS, The City of Alexandria Department of Transportation and Environmental Services, has applied for the vacation of a portion of the public right-of-way of Mill Road and Roberts Lane, in connection with a land exchange with WMATA and the Hoffman Family, LLC, to accomplish the realignment of Mill Road in the Eisenhower Valley; and

WHEREAS, the Planning Commission of the City of Alexandria at one of its regular meetings recommended approval of the vacation such portion of the public right-of-way at this location; and

WHEREAS, the Council of the City of Alexandria has approved the recommendation of the Planning Commission; and

WHEREAS, viewers, Donald R. Allen, chair, Judy Lowe, and Rodger Digilio have been, and again by this ordinance are, duly appointed by the Council of the City of Alexandria, to make their report in conjunction with this vacation; and

WHEREAS, the procedures required by law, including the publication of notice in a newspaper of general circulation in the City of Alexandria, have been followed in conjunction with this vacation; and

WHEREAS, in consideration of the report of the viewers, of other evidence relative to this vacation and of compliance with the conditions set forth in this ordinance, the Council of the City of Alexandria, has determined that the public street right-of-way to be vacated is no longer needed for public use and that it is in the public interest that it be vacated; therefore,

#### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the vacation and dedication of public right-of-way to and from WMATA and the Hoffman Family, LLC, as shown on the plans of vacation/dedication attached hereto and incorporated herein by reference, be, and the same hereby are, approved.

Section 2. That the vacation made and provided by the preceding section of this ordinance be, and the same hereby is, subject the conditions set forth below:

(1) Each recipient shall prepare a plat of consolidation, showing the property vacated, and consolidating such property with the recipient's abutting property, and the plat of consolidation shall be filed with the director of planning and zoning and among the land records of the City.

(2) The areas vacated and dedicated may be adjusted to allow for the final alignment of Mill Road, as approved by the director of transportation and environmental services.

Section 3. That the city manager be, and hereby is, authorized to do on behalf of the City of Alexandria all things necessary or desirable to carry into effect this vacation, including the execution of documents.

Section 4. That the city clerk be, and hereby is, authorized to attest the execution by the city manager of all documents necessary or desirable to carry into effect this vacation, and to affix thereon the official seal of the City of Alexandria, Virginia.

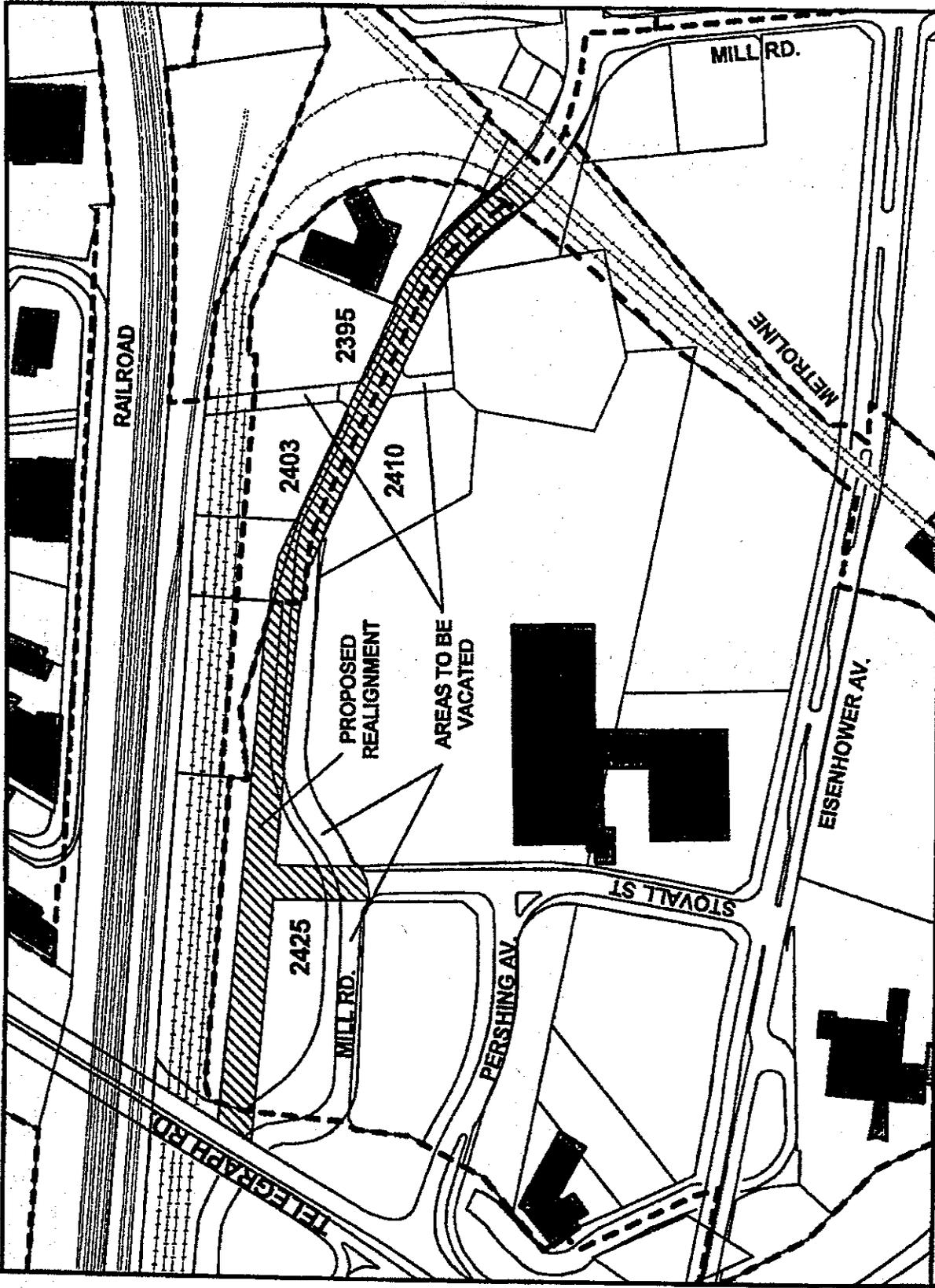
Section 5. That this ordinance shall be effective upon the date and at the time of its final passage; provided, however, that no recordation of this ordinance shall have any force or effect unless and to the extent annexed to a deed, executed by the city manager and attested by the city clerk, conveying the property vacated to each recipient. The execution of such deed shall constitute conclusive evidence of compliance with the provisions of this ordinance. Such deed shall be recorded and indexed in the name of the City of Alexandria, as grantor, and the recipient as grantee, and such recordation shall be done by the grantee at its own expense.

KERRY J. DONLEY  
Mayor

Attachment: Plans of vacation/dedication

Introduction:	12/10/02
First Reading:	12/10/02
Publication:	12/12/02
Public Hearing:	12/14/02
Second Reading:	12/14/02
Final Passage:	12/14/02

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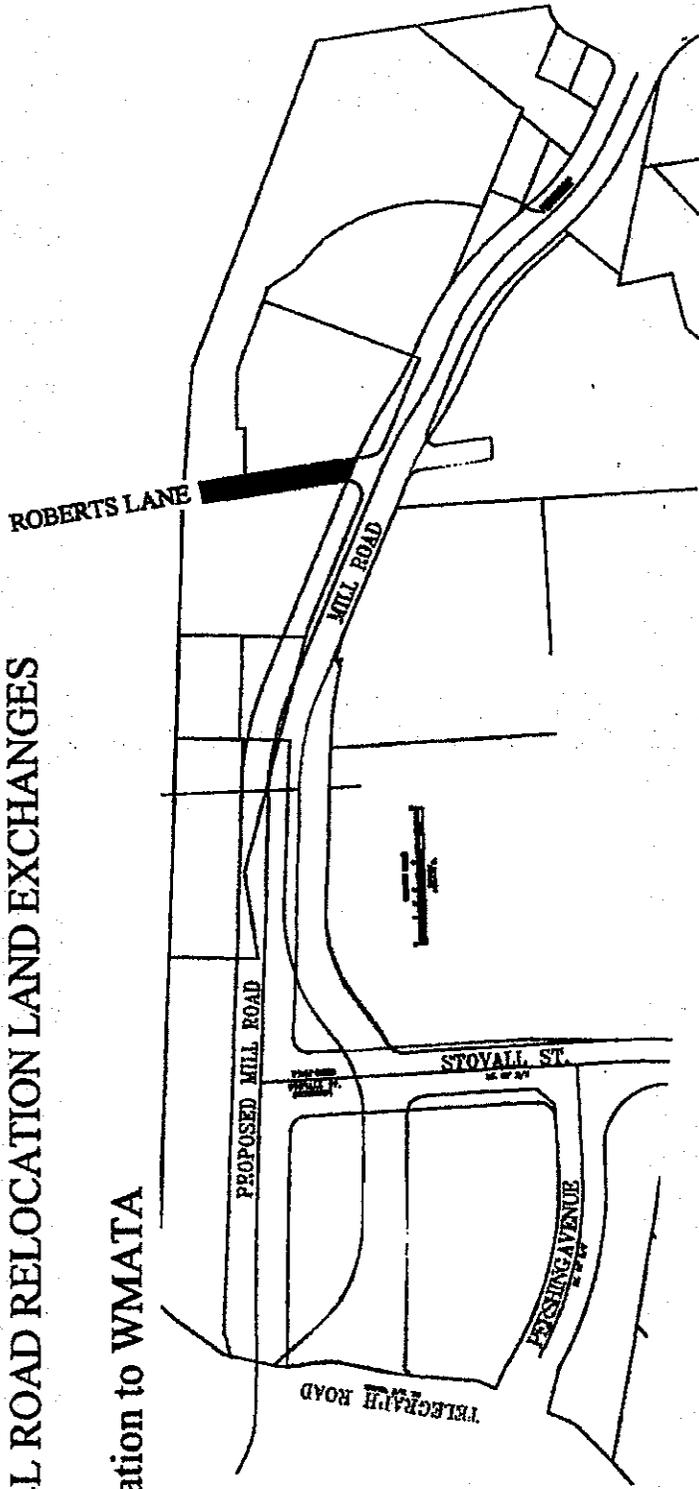
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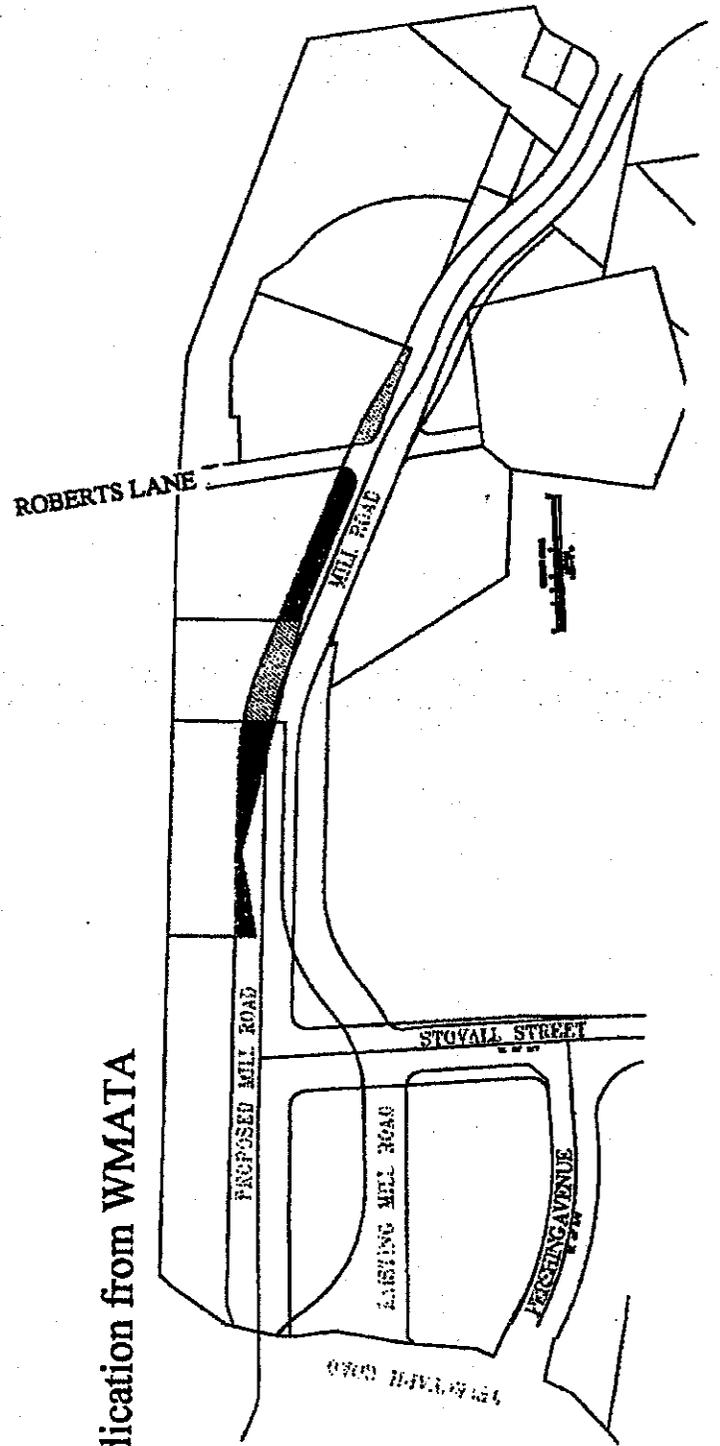


# MILL ROAD RELOCATION AND EXCHANGES

## Vacation to WMATA



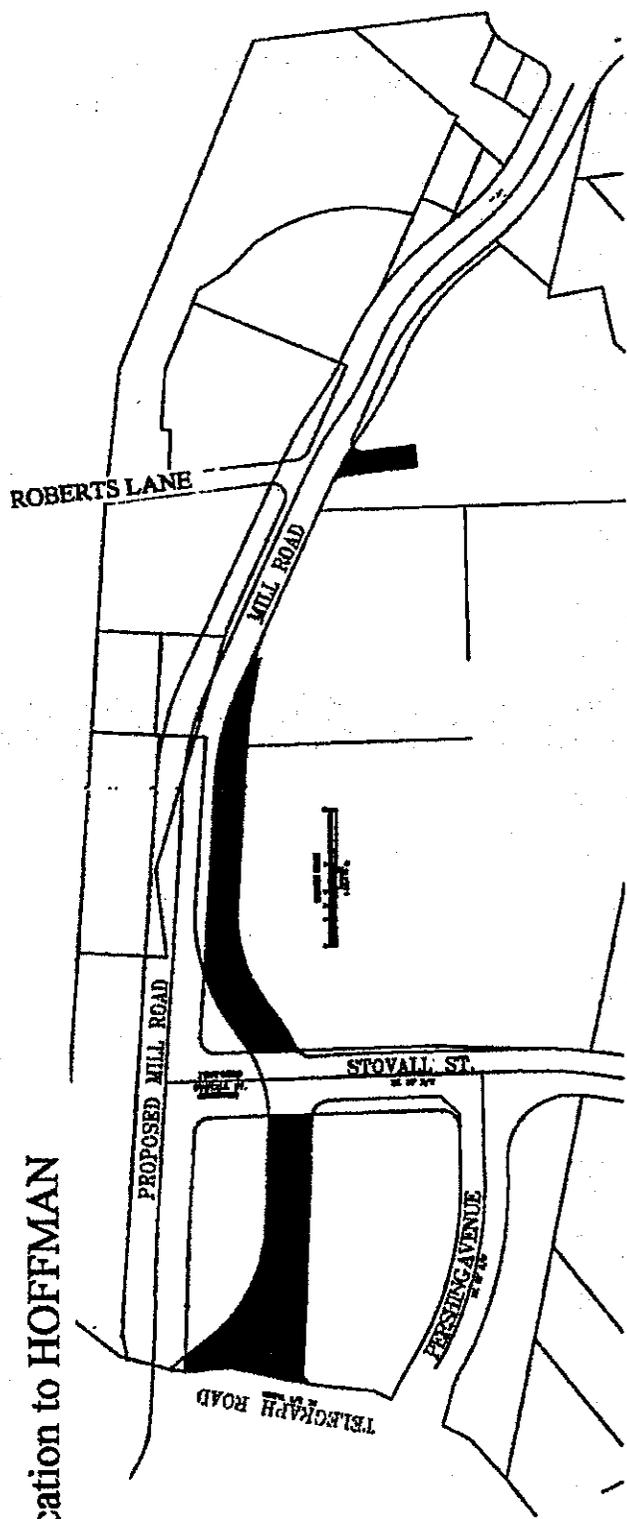
## Dedication from WMATA



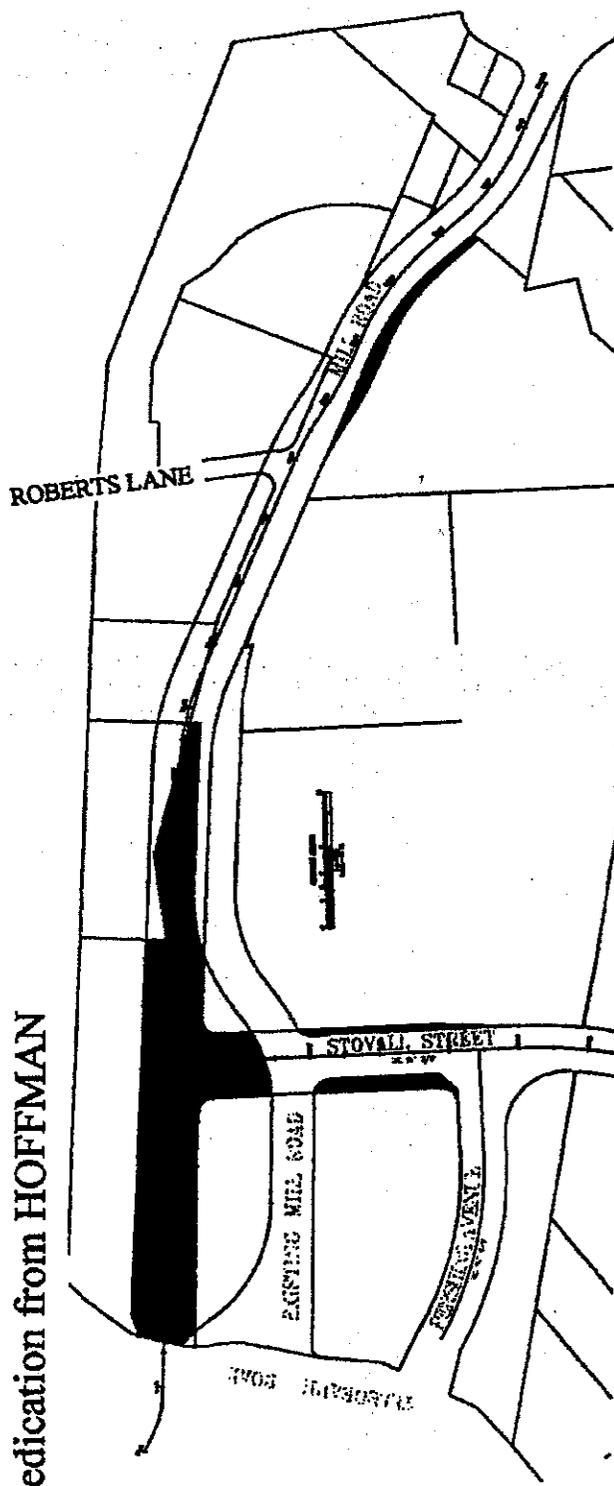
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# MILL ROAD RELOCATION AND LAND EXCHANGES

## Vacation to HOFFMAN



## Dedication from HOFFMAN



**REPORTS OF BOARDS COMMISSIONS AND COMMITTEES (continued)**

**DEFERRAL/WITHDRAWAL CONSENT CALENDAR (22-23)**

**Planning Commission (continued)**

22. SPECIAL USE PERMIT #2002-0082 -- 815 KING ST -- Public Hearing and Consideration of a request for a special use permit to add residential apartments to the existing retail and office uses, with a reduction of required off-street parking; zoned CD/Commercial Downtown. Applicant: Rob Kaufman.

COMMISSION ACTION: Recommend Approval 6-0

**In a letter dated December 6, 2002, the Applicant has requested that this item be deferred to the January 25, 2003 Public Hearing Meeting in order to meet further with staff.**

(A copy of a letter requesting deferral dated December 4, 2002, from Duncan W. Blair, attorney for the applicant, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 22; 12/14/02, and is incorporated herewith as part of this record by reference.)

23. SPECIAL USE PERMIT #2002-0066 -- 509 N HENRY ST -- Public Hearing and Consideration of a request for a special use permit to operate a group home facility for adolescent girls, with a reduction of off-street parking; zoned CSL/Commercial Service Low. Applicant: Potomac Community Development Corporation, by Wilburt Jenkins.

COMMISSION ACTION: Deferred (Improper notice)

**END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

**Without objection, City Council noted the deferrals.**

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**New Business Item No. 2. WHEREUPON**, upon motion by Councilman Euille, seconded by Councilwoman Eberwein and carried unanimously, City Council authorized the Mayor to send a letter to the National Capital Planning Commission, the Fine Arts Commission, the Design Review Working Group, and any other bodies involved, in support of the on-bridge noise barrier on the north side of the Woodrow Wilson Bridge which is being considered by these bodies in the next couple of weeks. The voting was as follows:

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

\*\*\*\*\*

**New Business Item No. 3. WHEREUPON**, upon motion of Councilwoman Woodson and seconded by Councilwoman Pepper, at 2:18 p.m., City Council convened in executive session at this time, pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, for the purpose of consulting with legal counsel and briefing by staff with respect to probable litigation involving the Department of Human Services.

The motion was amended by the City Attorney by adding the following language: "and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, for the purpose of discussing the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City"; which amendment was agreed to by the maker and seconder of the motion.

**THEREUPON**, City Council returned to the main motion, as amended, made by Councilwoman Woodson, seconded by Councilwoman Pepper, and carried unanimously, at 2:18 p.m., City Council convened in executive session at this time, pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, for the purpose of consulting with legal counsel and briefing by staff with respect to probable litigation involving the Department of Human Services, and pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, for the purpose of discussing the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the City. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Cleveland and carried unanimously, at 2:35 p.m., City Council reconvened the meeting. The voting was as follows:

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

**THEREUPON**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Cleveland and carried unanimously, City Council authorized the city attorney to settle the probable litigation which was the subject of the executive session along the lines discussed with council. The voting was as follows:

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

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Cleveland and carried on a unanimous ROLL-CALL vote, City Council adopted the resolution pertaining to the Executive Session. The voting was as follows:

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

The resolution reads as follows:

#### **RESOLUTION NO. 2056**

**WHEREAS**, the Alexandria City Council has this 14th day of December 2002, recessed into executive session pursuant to a motion made and adopted in accordance with the Virginia Freedom of Information Act; and

**WHEREAS** , Section 2.2-3712 of the Code of Virginia requires a certification by the city council that such executive session was conducted in accordance with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the city council does hereby certify that, to the best of each member's knowledge, only public business matters that were identified in the motion by which the executive session was convened, and that are lawfully exempted by the Freedom of Information Act from the Act's open meeting requirements, were heard, discussed or considered by council during the executive session.

\* \* \* \* \*

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Cleveland and carried unanimously, at 2:38 p.m., the Public Hearing Meeting of Saturday, December 14, 2002, was adjourned. The voting was as follows:

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

\* \* \* \* \*

**APPROVED BY:**

\_\_\_\_\_  
**KERRY J. DONLEY**                      **MAYOR**

ATTEST:

\_\_\_\_\_  
Susan K. Seagroves, Deputy City Clerk