

3A  
11-13-02

# CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting  
Saturday, October 19, 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: Philip Sunderland, City Manager; Ms. Evans, Assistant City Manager; Mr. Jinks, Assistant City Manager; Mr. Rosenberg, Assistant City Attorney; Ms. Fogarty, Director of Planning and Zoning; Ms. Ross, Deputy Director of Planning and Zoning; Ms. Smith-Page, Director of Real Estate Assessments; Mr. Dahlberg, Director of Code Enforcement; Mr. Culpepper, Deputy Director of Transportation and Environmental Services; Mr. Howard, Director of Personnel Services; Ms. Gordon, Public Information Officer; Mr. Tate, Urban Planner; 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.

### 2. Public Discussion Period.

(a) Jonathan Wilbor, 310 South Lee Street, speaking on behalf of Old Town Civic Association, urged Council to hold a public hearing on the proposed plan to improve Windmill Hill Park and the exchange in location of the dog exercise area and volleyball court.

Councilwoman Eberwein addressed some of Mr. Wilbor's comments and explained that scientific documents and environmental studies are available which detail why dog parks should not be located near the water. Ms. Eberwein stated many members of Old Town Civic are very happy with the current plan and that Mr. Wilbor does not speak for the whole area.

(b) Van Van Fleet, 26 Wolfe Street, echoed Mr. Wilbor's statement that the park should stay right where it is now. Mr. Van Fleet stated that due to the contentious nature of this issue, there should be a public hearing, and due to current fiscal restraints, no funds should be expended.

(c) Alice Wilkes, 113 Pommander Walk, questioned the relocation of the dog walk at Windmill Hill Park and stated her opposition.

(d) Frances T.H. (Terry) Hallihan, 104 Pommander Walk, encouraged Council to leave Windmill Hill Park as it is, with some changes. She requested that a public hearing be held, that moving the dog exercise area be reconsidered, and she raised her concern about the safety of the children.

Councilwoman Eberwein explained many of the safety features incorporated into the new plan which will make the park much better than before.

(e) David Fromm, 2307 East Randolph Avenue, reported on Del Ray's recent *Art on the Avenue* and expressed the volunteers' gratitude for all the City employees who were key in making this a very successful event.

(f) Bill Dickinson, 805 Quaker Lane, speaking as a private citizen of Seminary Hill, stated that he will be unable to attend the public hearing on the Connector. He expressed his concern about the north-south through traffic on City streets which would have a profound effect on the area.

(g) Tom Parry, 317 Skyhill Road, distributed his letter on the Connector so that Council could focus on the issues prior to their work session next week. He stressed his point that the City has a tremendous burden of proof to assure citizens that there is no impact on these neighborhoods; a copy of Mr. Parry's letter dated October 19, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Public Discussion (g); and is incorporated herewith as part of this record by reference.

(h) Sheryl Bell, 910 Gibbon Street, related her recent hospitalization and her opinion that since the health clinic is not taking new patients, the City needs to provide health services for people who need care but can't afford it.

(i) Sheila Bell-Clifford, 910 Gibbon Street, asked for assistance in providing health care for day care providers.

(j) Ayesha Rahman, 921 Van Dorn Street, spoke to the need for health care for day care providers and others who cannot afford medical insurance.

(k) Alice Barfield, 3635 Edison Street, reiterated the previous speaker's statement about the need for health care for day care providers.

Mayor Donley explained that during last year's budget deliberations, the Budget and Fiscal Affairs Advisory Commission was asked to study this issue and bring back an analysis and recommendations to City Council, and this matter will be taken up during Council's budget deliberations this spring.

(l) John Scales, 102 Pommander Walk, did not wish to speak but submitted a speakers form expressing his opposition to the incursion on a natural area [Windmill Hill Park].

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES**

### **ACTION CONSENT CALENDAR (3-15)**

#### **Planning Commission**

**Without Objection**, City Council removed docket item no. 13 from the Action Consent Calendar and considered it under a separate motion.

3. SPECIAL USE PERMIT #2002-0041 -- 300 N LEE ST -- CENTRAL PARKING -- Public Hearing and Consideration of a request for a special use permit to change the ownership of a parking facility; zoned CD/Commercial Downtown. Applicant: Central Parking System of VA, Inc., by Art Alabin.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 10/19/02, and is incorporated herewith as part of this record by reference.)

4. SPECIAL USE PERMIT #2002-0062 -- 301 N FAIRFAX ST- CENTRAL PARKING -- Public Hearing and Consideration of a request for a special use permit to change the ownership of a parking facility; zoned CD/Commercial Downtown. Applicant: Central Parking System of VA, Inc., by Art Alabin.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 10/19/02, and is incorporated herewith as part of this record by reference.)

5. SPECIAL USE PERMIT #2002-0063 -- 333 N FAIRFAX ST -- CENTRAL PARKING -- Public Hearing and Consideration of a request for a special use permit to change the ownership of a parking facility; zoned CD/Commercial Downtown. Applicant: Central Parking System of VA, Inc., by Art Alabin

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 10/19/02, and is incorporated herewith as part of this record by reference.)

6. SPECIAL USE PERMIT #2002-0078 -- 611 S ALFRED ST -- Public Hearing and Consideration of a request for a special use permit to operate a child care home; zoned RB/Residential. Applicant: Ruth Walker.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 10/19/02, and is incorporated herewith as part of this record by reference.)

7. ENCROACHMENT #2002-0005 -- 480 KING ST -- HOLIDAY INN OLD TOWN -- Public Hearing and Consideration of a request for encroachment into the public sidewalk right-of-way for relocation of an entrance canopy; zoned CD/Commercial Downtown. Applicant: Gadsby Lodging Associates, LLC, by Stephen Kulinski.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 10/19/02, and is incorporated herewith as part of this record by reference.)

8. SPECIAL USE PERMIT #2002-0061 -- 500 N COLUMBUS ST -- Public Hearing and Consideration of a request for a special use permit for a reduction of off-street parking; zoned CL/Commercial Low. Applicant: Maurice and Christine Flynn, by Mary Catherine Gibbs, attorney.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 10/19/02, and is incorporated herewith as part of this record by reference.)

9. DEVELOPMENT SPECIAL USE PERMIT #2002-0024 -- 1605 CAMERON ST -- DURANT RECREATION CENTER -- Public Hearing and Consideration of a request for extension of a development special use permit for construction of an addition to a recreation center and elementary school connector; zoned RB/Residential and POS/Public Open Space. Applicant: City of Alexandria, Department of Recreation, Parks and Cultural Activities, Kirk Kincannon, Deputy Director.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 10/19/02, and is incorporated herewith as part of this record by reference.)

10. TEXT AMENDMENT #2002-0005 -- DEVELOPMENT APPROVALS AND PROCEDURES -- Public Hearing and Consideration of amendments to Articles V and XI of the Zoning Ordinance to revise procedures related to the processing of applications for development plans.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 10/19/02, and is incorporated herewith as part of this record by reference.)

11. SPECIAL USE PERMIT #2002-0054 -- 611 KING ST -- BREAD and CHOCOLATE -- Public Hearing and Consideration of a request for a special use permit to intensify an existing restaurant; zoned CD/Commercial Downtown. Applicant: Bread and Chocolate, Inc., by Ernst Moser.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 10/19/02, and is incorporated herewith as part of this record by reference.)

12. SPECIAL USE PERMIT #2002-0068 -- 210 N LEE ST -- Public Hearing and Consideration of a request for a special use permit to operate a yoga studio (commercial school); zoned CD/Commercial Downtown. Applicant: Valerie Ianieri.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 10/19/02, and is incorporated herewith as part of this record by reference.)

14. SPECIAL USE PERMIT #2002-0076 -- 3830 MT VERNON AV -- Public Hearing and Consideration of a request for a special use permit to operate a restaurant with a reduction of off-street parking; zoned CL/Commercial Low. Applicant: Ymo Mai Chen.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 10/19/02, and is incorporated herewith as part of this record by reference.)

15. SPECIAL USE PERMIT #2002-0083 -- 2320 JEFFERSON DAVIS HY -- EXXON STATION -- Public Hearing and Consideration of a review of a special use permit for an automobile service station with convenience store and restaurant; zoned I/Industrial. Applicant: Exxon Corporation, by M. Catharine Puskar, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 10/19/02, and is incorporated herewith as part of this record by reference.)

A memorandum from Del Ray Citizens Association dated October 18, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 15; 10/19/02, and is incorporated herewith as part of this record by reference.)

#### **END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Euille and carried unanimously, City Council approved the Action Consent Calendar as presented with the exception of docket item no. 13 which was considered under a separate motion. 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.
8. City Council approved the Planning Commission recommendation.
9. City Council approved the Planning Commission recommendation.

10. Councilwoman Eberwein did not remove docket item no. 10 from Action Consent but wished to comment on it. Ms. Eberwein complimented both the Planning staff and City Manager in moving forward with Council's effort to streamline the process of approving land use applications in order to provide a more cooperative effort between the neighborhoods and those who are proposing the applications in the City.

City Council approved the Planning Commission recommendation.

11. City Council approved the Planning Commission recommendation.

- 12. City Council approved the Planning Commission recommendation.
- 14. City Council approved the Planning Commission recommendation.
- 15. City Council approved the Planning Commission recommendation.

**END OF ACTION CONSENT CALENDAR**

The voting was as follows:

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

13. SPECIAL USE PERMIT #2002-0086 -- 108 QUEEN ST -- Public Hearing and Consideration of a request for a special use permit to operate a tire and rim mounting business (intensification of noncomplying use); zoned CD/Commercial Downtown. Applicant: Jules K. Mahi.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 10/19/02, and is incorporated herewith as part of this record by reference.)

Councilman Speck removed this item from Action Consent to question staff about the Planning Commission's thinking due to the intensification of this automobile-related use. He directed questions to Planning and Zoning Deputy Director Ross, and Members of City Council participated in the discussion.

**WHEREUPON**, upon motion by Councilman Euille, seconded by Councilwoman Eberwein and carried on a vote of 6-to-1, City Council approved the Planning Commission recommendation with the addition of Condition #17 to read: **"17. The applicant shall clear the property of trash and debris within 60 days of issuance of the SUP, and Code Enforcement shall inspect the property within the 60 days to ensure that everything is in compliance and that the property is cleared of the debris."** The voting was as follows:

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

**REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

16. Public Hearing on and Consideration of Report from the Citizen Committee Appointed to Review Council Compensation. (#20 9/24/02)

(A copy of the City Manager's memorandum dated September 19, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 10/19/02, 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. 2 of Item No. 16; 10/19/02, and is incorporated herewith as part of this record by reference.)

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

Susan Kellom, 719 South Fairfax Street, representing the Alexandria Democratic Committee, spoke in support of pay raises and the increase in expense accounts for the Mayor and City Council, and expressed the Committee's opinion that the amount of the proposed raises should be increased so they are high enough to allow ordinary citizens to serve; a copy of her statement is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 16; 10/19/02, and is incorporated herewith as part of this record by reference; and

Carmen Gonzales, 4914 Gardner Drive, co-president, League of Women Voters of Alexandria, spoke in support of increasing City Council salaries and expense accounts and in support of a review of Council salaries and expenses every three years. The League does suggest that the Council-appointed committee should include civic leaders who understand the time-consuming nature of Council service; a copy of her statement is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 4 of Item No. 16; 10/19/02, and is incorporated herewith as part of this record by reference.

Mayor Donley requested a report from staff, or at least an assessment, of what the fiscal impact is, plus Council's eligibility for benefits, to come forward with the proposed ordinance. The City Manager explained that Council is not eligible for retirement benefits under VRS but will be eligible for the City's supplemental retirement plan.

City Council participated in the discussion of this item.

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Euille and carried on a vote of 6-to-0-to-1, City Council requested that the salary for Mayor be raised to \$30,500, commensurate with Arlington County; that the salary of the City Council Members be raised to \$27,500; the staff component of one full-time staff member for the Mayor and part-time Aides for City Council Members would remain the same; Council would also be eligible, as are Arlington officials, for fringe benefits, those being health insurance, life insurance, disability, retirement and deferred compensation, as we so elect. There will be no change in the overall expense accounts; no change in the travel allowance; and, also in line with Arlington County, COLAs will be automatically applied to the salary. The voting was as follows:

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

17. VACATION #2002-0003 -- ONE W GLENDALE AV -- Public Hearing and Consideration of a request for vacation of a public alley right-of-way; zoned R-5/Residential. Applicant: Joseph and Jean Hodges, and appointment of viewers for same.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 10/19/02, and is incorporated herewith as part of this record by reference.)

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

Joe and Jeannie Hodges, One West Glendale Avenue, the applicants, stated their opinion that the purchase price of \$3500 for this parcel of land is a little extreme under the circumstances and asked that it be reduced to \$1 per square foot. They expressed their belief that this land is of no value to the city; and

Christopher L. Turner, 1204 Commonwealth Avenue, spoke in support of the applicants' request for reduction of the sales price because of the tax revenues to be generated by the vacation of the land.

Real Estate Assessments Director Smith-Page responded to questions from Councilwoman Pepper about the value of the alley. Members of Council and Planning and Zoning Deputy Director Ross participated in the discussion of the property's value and the actual valuation process.

**WHEREUPON**, a motion was made by Councilwoman Eberwein and seconded by Councilwoman Pepper to adopt the recommendation of the Planning Commission as it stands before us.

Mayor Donley offered a friendly amendment to adjust the amount in Condition #2 to reflect \$2 per square foot, for a total of \$1500; which amendment was not accepted by the maker and seconder of the motion.

**THEREUPON**, City Council returned to the motion made by Councilwoman Eberwein, seconded by Councilwoman Pepper and carried unanimously, to adopt the recommendation of the Planning Commission. Ross Bell, chair, Gila Harris, and John Hines were appointed as viewers. The voting was as follows:

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

18. DEVELOPMENT SPECIAL USE PERMIT #2002-0018 -- 1200 FIRST ST; 950 N FAYETTE ST -- POTOMAC CLUB RESIDENCES -- Public Hearing and Consideration of a request for a development special use permit amendment to allow parking garage user fees; zoned OCH/Office Commercial High. Applicant: Potomac Club Residences LP, c/o Paradigm Development Company, by Harry P. Hart, attorney.

**COMMISSION ACTION:** Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 18; 10/19/02, and is incorporated herewith as part of this record by reference.

A copy of a letter from Harry P. Hart, attorney for the applicant, dated October 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 18; 10/19/02, and is incorporated herewith as part of this record by reference.)

Harry P. Hart, 307 North Washington Street, attorney for the applicant, was available to answer questions.

**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"

19. TEXT AMENDMENT #2002-0006 -- BIG BOX RETAIL -- Public Hearing and Consideration of amendments to the commercial zones to require a special use permit for retail space over 30,000 square feet.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 19; 10/19/02, and is incorporated herewith as part of this record by reference.

A copy of the City Manager's memorandum dated October 18, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 19; 10/19/02, 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. 19; 10/19/02, and is incorporated herewith as part of this record by reference.)

Planning and Zoning Director Fogarty gave a PowerPoint presentation. Mayor Donley stated he agrees with the recommendation that a special use permit should be required for intensive retail, and he expressed the need for additional controls on this type of retail development. Planning & Zoning Director Fogarty responded to questions on the issues raised by Council.

(A copy of the PowerPoint presentation is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 4 of Item No. 19; 10/19/02, and is incorporated herewith as part of this record by reference.)

Councilman Euille questioned the process and asked why this text amendment process didn't follow the preferred friendlier, collaborative process involving business, citizens and others. Planning and Zoning Deputy Director Ross explained the steps that were taken to notify people of the proposed text amendment.

Councilman Speck asked about possible consequences of deferring this item long enough to look at the threshold issues, and Deputy Director Ross responded to his questions. Members of Council, Assistant City Attorney Rosenberg and City Manager Sunderland participated in the discussion of issues related to the timing of Council's action.

Deputy Director Ross addressed questions from Councilwoman Woodson on the grandfathering process and the Planning Commission's amendment to the threshold size from 30,000 square feet to 20,000 square feet. The Mayor and Members of Council participated in the discussion, as did the City Manager and Assistant City Attorney.

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

Mariella Posey, 915 Second Street, spoke in support, with the threshold of 20,000 square feet;

Katy Cannady, 20 East Oak Street, speaking on behalf of the Rosemont Civic Association, reported its support of the big box retail amendment as passed by Planning Commission. She urged Council not to defer, to act today and approve the text amendment requiring a special use permit for any retail store over 20,000 square feet;

Ken Moore, 416 Stanton Place, Executive Director of the Alexandria Chamber of Commerce, asked for deferral of the amendment since there was not much opportunity to have any input to give the Chamber the opportunity for further discussion on the effect this ordinance would have on economic development in Alexandria;

David Fromm, 2307 East Randolph Avenue, representing Del Ray Citizens Association, reported that it supports the text amendment and recommends approval;

Councilman Speck and Mayor Donley discussed with Mr. Fromm his statement about requiring a special use permit for all retail uses and on other impact issues.

James T. Butler, 406 Skyhill Road, on behalf of Clover-College Park Neighborhood Association Board of Directors, requested Council to take action today and focus on the actual need for close examination by the Planning Commission and Council of any such application because of its long-term impact on the community;

Paul Smedberg, 975 Powhatan Street, expressed his support of the proposed text amendment and that it seems perfectly reasonable that the City should have a sensible policy in place to encourage development and redevelopment proposals that reflect the City's vision and special circumstances;

Jason Todd, 1700 North Moore Street, Arlington, manager of government affairs for the International Mass Retail Association, requested deferral of the text amendment for further study and to allow discussion with City officials;

Carolyn Merck, 324 North Royal Street, representing Old Town Civic Association, spoke in support of the requirement for a special use permit for big box retail stores and for a 20,000-square-foot limit;

Tom Gallagher, 351 Preswick Way, Severna Park, MD, real estate manager for Home Depot, spoke to request deferral for a thorough evaluation of this legislation, particularly its impact on future economic development;

Members of Council participated in the discussion with Mr. Gallagher regarding retail size and design guidelines in urban areas.

M. Catherine Puskar, 2200 Clarendon Boulevard, Suite 1300, Arlington, representing Washington Real Estate Investment Trust, asked for deferral of this matter to allow discussion on issues of concern;

M. Catherine Puskar, 2200 Clarendon Boulevard, Suite 1300, Arlington, representing Giant Food, read a letter for the record; a copy of Giant Food's letter dated October 18, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 5 of Item No. 19; 10/19/02, and is incorporated herewith as part of this record by reference;

Councilwoman Eberwein asked questions of Planning and Zoning Deputy Director Ross about grandfathering in the context of teardown and rebuilding of an existing store, and Mayor Donley participated in the discussion.

Marilyn Doherty, 12 West Mount Ida Avenue, Del Ray Civic Association, reported the Association's unanimous support of this text amendment, and she requested Council to move ahead today;

Poul Hertel, 1217 Michigan Court, stated his support of incorporating urban guidelines into the zoning regulations, which this text amendment provides, and urged Council's approval today;

Joseph S. Bennett, 5022B Barbour Drive, speaking on behalf of Cameron Station Civic Association, asked that Council enact today the amendment as presented and then take the time to perfect something that everybody can live with;

Brad Cederthal, 6100 Boulevard, Rockville, MD, director of property management for Washington Real Estate Investment Trust, asked that Council consider deferral on this matter to address all the issues that would affect current property owners; and

Pat Miller, 1806 North Cliff Street, speaking on behalf of Mount Jefferson Civic Association, read its letter of support for this proposal to require special use permits for big box retail stores.

The Mayor asked staff to develop some guidelines, not that it come back with the ordinance, and to undertake a formal study group and come up with some discussions about grandfathering. He suggested reviewing the definition to see if there is a better way to define exactly what we're talking about in terms of big box retail. This gets to the intensity as opposed to just the overall square footage. Let's look at the possibility of using overlay zones as an incentive. It is much easier to use our Zoning Code to say where we want things and not where they want them, and the use of overlay zones can be an important tool here.

Councilman Speck suggested that staff explore the impact consequences of large, but not really large, retail operations and be sure we didn't create any loopholes.

Councilman Euille noted the absence of any reference to economic impact and/or design criteria, and these should be addressed by staff as well.

**WHEREUPON**, a motion was made by Councilwoman Woodson and seconded by Vice Mayor Cleveland to accept the Planning Commission recommendation.

Councilwoman Eberwein offered the following friendly amendments: "Staff is to address the following issues regarding grandfathering to ensure that the language includes the following issues: That regardless of the change of use, the building would be grandfathered. That regardless of the change of ownership, the building would be grandfathered as was stated by staff. Further, that if it is an expansion below 20,000 square feet, it would be grandfathered, but above that it would not. And, additionally, that with regard to a teardown, if the new store is no larger than the square footage of the existing store, plus 20,000 square feet, it would be grandfathered. Beyond that, it would require the full process."; which amendments were accepted by the maker and seconder of the motion.

**WHEREUPON**, Council returned to the main motion, as amended, which motion was made by Councilwoman Woodson, seconded by Vice Mayor Cleveland and carried unanimously, City Council accepted the Planning Commission recommendation with the following amendments. **"Staff is to address the following issues regarding grandfathering to ensure that the language includes the following issues: That regardless of the change of use, the building would be grandfathered. That regardless of the change of ownership, the building would be grandfathered as was stated by staff. Further, that if it is an expansion below 20,000 square feet, it would be grandfathered, but above that it would not. And, additionally, that with regard to a teardown, if the new store is no larger than the square footage of the existing store, plus 20,000 square feet, it would be grandfathered. Beyond that, it would require the full process."** The voting was as follows:

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

20. SPECIAL USE PERMIT #2002-0026 -- 4111 DUKE ST -- DANCING PEPPERS RESTAURANT -- Public Hearing and Consideration of review of a special use permit for a restaurant; zoned CC/Commercial Community. Applicant: Grupo Dos Chiles, LLC, by Alfred W. Shriver, III. Staff: Department of Planning and Zoning.

COMMISSION ACTION: Recommend Approval 6-1

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 20; 10/19/02, and is incorporated herewith as part of this record by reference.

A copy of the City Manager's memorandum dated October 18, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 20; 10/19/02, and is incorporated herewith as part of this record by reference.)

Alfred W. Shriver, applicant, provided Council with photographs showing other locations with unscreened dumpsters and requested that the condition requiring screening around the dumpster be eliminated; a copy of Mr. Shriver's letter dated October 12, 2002, with the photographs, are on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 3 of Item No. 20; and is incorporated herewith as part of this record by reference.

In regard to the photographs submitted by the applicant, Councilwoman Pepper requested of staff that if there are problems with unscreened dumpsters elsewhere in the City, we need to get these pictures and make sure the same rules apply to these people too.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Woodson and carried unanimously, City Council approved the Planning Commission recommendation with the requirement that there be a gate and fence around the dumpster. The voting was as follows:

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

21. SPECIAL USE PERMIT #2002-0081 -- 3400 COMMONWEALTH AV -- Public Hearing and Consideration of a request for a special use permit to operate a private club (known as Stepping Stones); zoned CSL/Commercial Service Low. Applicant: Stepping Stones, Inc., by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated October 1, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 21; 10/19/02, and is incorporated herewith as part of this record by reference.

A copy of a letter from Harry P. Hart, 307 North Washington Street, attorney for the applicant, dated October 18, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 21; 10/19/02, 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. 21; 10/19/02, and is incorporated herewith as part of this record by reference.)

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

David Fromm, 2307 East Randolph Avenue, on behalf of Del Ray Citizens Association, spoke in support of the application;

Thomas Shimkin, 2205 Ticer Lane, stated that Stepping Stones has been part of the improvement of Mount Vernon Avenue, and he supports this application;

Michael Hart, 43 Herbert Street, had to leave the meeting and his statement of support was read for the record;

Sharon Edwards, 113B East Windsor Avenue, Stepping Stones Board Member, spoke in support;

Allen Johnson, 1225 Martha Custis Drive, president of Stepping Stones Club, spoke in support of Council's approval of the application;

Bill North-Rudin, 500 East Alexandria Avenue, a Stepping Stones Board Member, had to leave the meeting, and Peter Williams read the text of his comments, which he wholeheartedly supports;

Richard Kain, 12 Arell Court, spoke in support;

David Rijos, 25 West Glebe Road, manager of Stepping Stones Club, spoke in support with the original hours of operation;

Kelly Cox, 204 Gentry Avenue, the Club's coordinator for community relations, spoke in support, addressed some of the concerns of the new neighbors and read a letter in support of the application from Missy McGraw, a neighbor at the former Stepping Stones location; a copy of Ms. McGraw's letter dated October 9, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 4 of Item No. 21; 10/19/02, and is incorporated herewith as part of this record by reference;

Jewel Plummer, 2507-D South Walter Reed Drive, Stepping Stones Club Board Member, spoke in support;

Brent Davis, 3301 Commonwealth Avenue, Apt. A, representing Auburn Village Community Association, asked Council to support the Planning staff's recommendation for denial, or at least the Planning Commission's recommendation on hours;

Debbie Hodnett read the statement of Craig Schiele, One Herbert Street, a board member at the Herbert Street Station Homeowners Association, which voiced its opposition to the application for the intensified use at this location and suggested that an alternate site be located;

Nicole Uzzle, 3350 Commonwealth Avenue, representing the Homeowners of Land of Herbert on Commonwealth Avenue, requested that Council limit the hours of operation;

Debbie Hodnett, 2 West Glebe Road, speaking as president of Commonwealth Crossings HOA, expressed her preference that this application be denied, but in compromise, requested certain limitations to be placed on Stepping Stones to minimize its effect on this primarily residential area;

Barbara A. Boenheim, 8 West Glebe Road, addressed the issues of compromise that were made by the community to be good neighbors and work out conditions to balance the needs of the Stepping Stones program with the needs of the residents already in place; and

Code Enforcement Director Dahlberg responded to Councilwoman Eberwein's inquiry that there is nothing in the code about inside smoking room ventilation; however, regulations could be developed to ensure the design of the mechanical system to accommodate the removal of smoke products so it does not migrate to the adjoining community.

Attorney Hart assured Councilwoman Eberwein that the applicant will accept a condition that the smoking room be vented appropriately.

Susan Hannum, 921 Vicar Lane, a Stepping Stones director, had to leave the meeting so Mr. Hart conveyed her full support;

Harry P. Hart, 307 North Washington Street, attorney for the applicant, spoke to Stepping Stones' agreement to ten additional conditions from Del Ray Civic Association, and to eliminate the morning meetings on Sunday. Mr. Hart addressed the concerns raised today and reviewed the applicant's request for changes to some of the special use permit conditions.

Mr. Allen Johnson assured Councilman Speck that the people who now go to the 8:30 p.m. meetings will be referred to Grace Episcopal, the men's home or the Robinson House, which are all close by. The Club can live with the 8:00 p.m. closing. If parking during fundraising becomes a problem, Stepping Stones will try to make some arrangements with the church to provide overflow parking.

**WHEREUPON**, a motion was made by Councilman Speck to approve the Planning Commission recommendation with the following changes: In Condition #2 change the hours during Monday through Friday from 7:00 a.m. to 9:00 p.m., Saturday from 8:15 a.m. to 9:00 p.m., and Sunday from Noon to 7:00 p.m. so that Condition #2 now reads: **"2. The hours of operation for meetings shall be limited to 7:00 a.m. to 9:00 p.m. Monday through Friday, 8:15 a.m. to 9:00 p.m. Saturday, and from Noon to 7:00 p.m. Sunday."**; Condition #4 would read: **"4. Social events, not including dances, shall be allowed once a month and shall end no later than 10:00 p.m. on the day the function is held, and capacity shall not exceed 75 persons."**; and add a condition that reads: **"A neighborhood advisory committee be established with Stepping Stones that meets on a regular basis to discuss issues related to the operation of the Club."**; which motion **FAILED** for lack of a second.

**THEREUPON**, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried unanimously, City Council approved the Planning Commission recommendation with the following changes: Condition #2 was changed to read: **"2. The hours of operation for meetings shall be limited to 7:00 a.m. to 8:00 p.m., Monday through Friday, 8:15 a.m. to 8:00 p.m. on Saturday, and from Noon to 7:00 p.m. on Sunday."**; Condition #4 shall read: **"4. Social functions, not including dances, shall be allowed twice a month and shall end no later than 10:00 p.m. on the day the function is held."**; Condition #18 is amended to now read: **"18. The maximum number of patrons permitted on-site at any time shall not consistently exceed 45, except for fundraising events permitted twice a month, as per condition #4, not to exceed 75 people."**; Modify Condition #21 to add the language: **"with proper care given to ventilation and the location of exhaust systems away from the adjacent homes"** so that it now reads: **"21. The applicant shall provide indoor space for smoking with proper care given to ventilation and the location of exhaust systems away from the adjacent homes."**; An additional condition is to be added to read: **"24. A neighborhood advisory commission is to be established to hold regular meetings with nearby neighbors or neighborhood associations relative to the operation of the club."** The voting was as follows:

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

## **ORDINANCES AND RESOLUTIONS**

22. Public Hearing, Second Reading and Final Passage of an Ordinance to approve an encroachment into the public sidewalk right-of-way at 815 King Street for two store fronts. (#20 10/8/02) **[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 unanimous ROLL-CALL vote, City Council finally passed the Ordinance upon 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. 4268

AN ORDINANCE authorizing the owner of the property at 815 King Street to establish and maintain an encroachment for two shop windows into the public sidewalk right-of-way at 815 King Street, in the City of Alexandria, Virginia.

WHEREAS, Rob Kaufman ("Owner") is the owner of the commercial property located at 815 King Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain two shop windows which will encroach into the public sidewalk right-of-way at 815 King Street; and

WHEREAS, the public right-of-way at that point on 815 King 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 Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way of 815 King Street, in the City of Alexandria, said encroachment consisting of two shop windows, 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 Owner 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 Owner 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 Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner 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, Owner 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 Owner. Nothing in this section shall relieve Owner of his obligations and undertakings required under this ordinance.

Section 3. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner 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 4. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner'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 5. 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 6. That Owner shall timely pay to the City of Alexandria for the encroachment authorized herein the annual charge established in section 3-2-85 of The Code of the City of Alexandria, Virginia, 1981, as amended.

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 Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner 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 Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment caused by the removal.

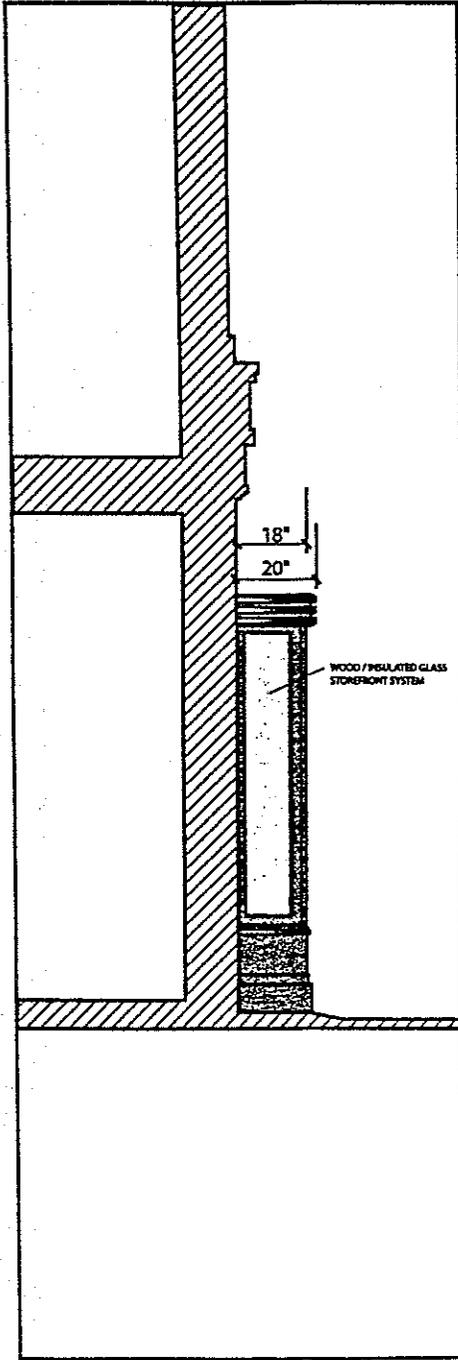
Section 8. That this ordinance shall be effective upon the date and at the time of its final passage; provided, however, that no building or structure shall be constructed within the encroachment area except as may be approved by the Old and Historic District Board of Architectural Review.

KERRY J. DONLEY  
Mayor

Attachment: Encroachment Plan

Introduction: 10/08/02  
First Reading: 10/08/02  
Publication: 10/10/02  
Public Hearing: 10/19/02  
Second Reading: 10/19/02  
Final Passage: 10/19/02

\* \* \* \* \*



**SIDE ELEVATION**  
1/4" = 1'-0"

**METES & BOUNDS:**

BEGINNING at a point on the Northern line of King Street, which said point is 101.62 feet West of the intersection of said line of King Street with the Western line of Columbus Street; thence running in a Westerly direction 42.56 feet to a point; thence running South 1.67 feet to a point; thence running in an Easterly direction 42.56 feet to a point; thence North 1.67 feet to the point of beginning.

815 KING STREET

EXISTING PROPERTY LINE

AREA OF ENCROACHMENT  
42.56' X 1.67' = 71.075 SQUARE FEET

SIDEWALK

**ENCROACHMENT DESCRIPTION**

1/4" = 1'-0"

**PROJECT**

**RENOVATIONS TO 815 KING ST.  
ALEXANDRIA, VIRGINIA 22314**

ROBERT J. KAUFMAN  
703-548-1810

**SHEET**

**E2**

**SET**

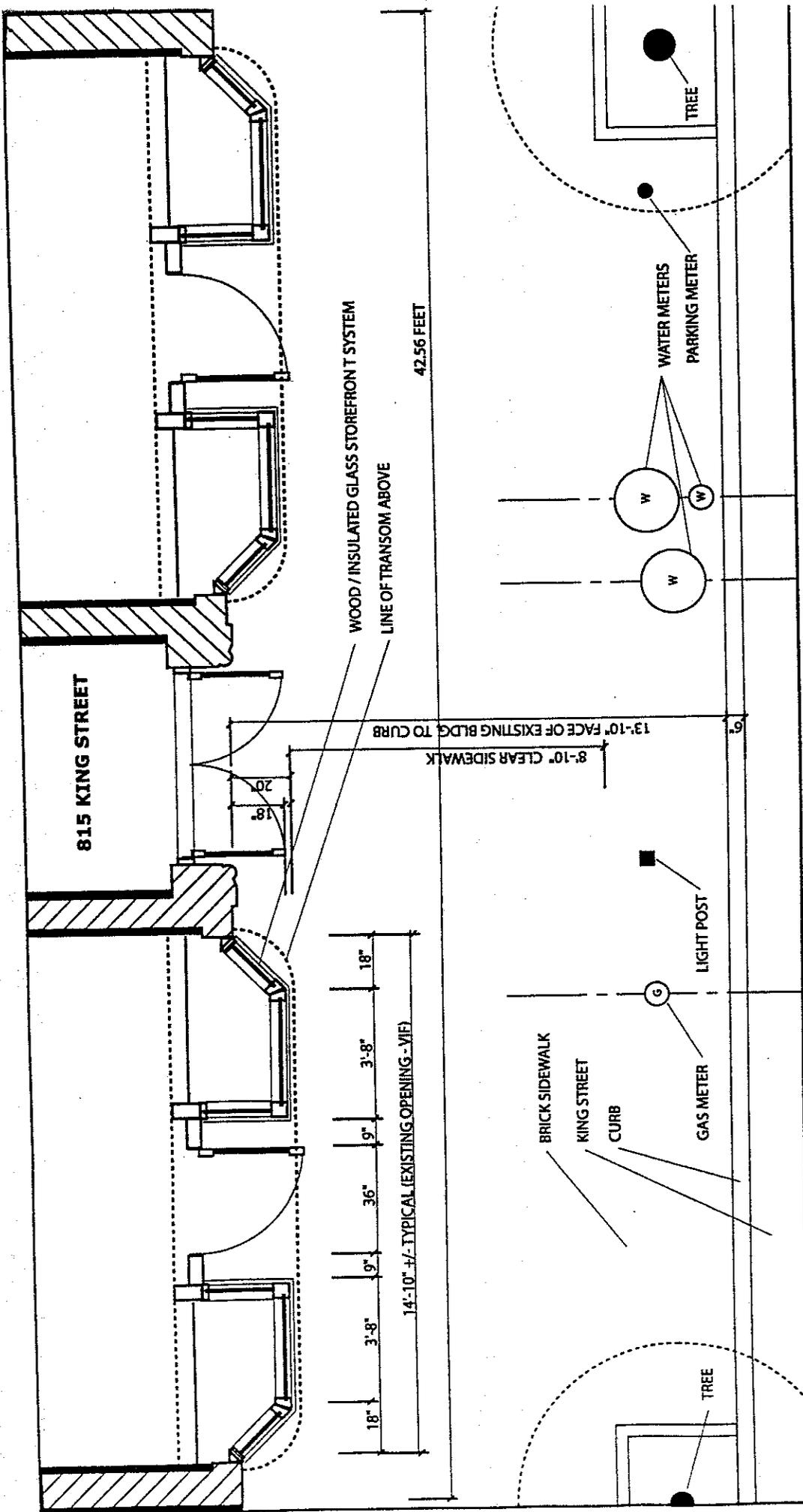
ENCROACHMENT

**DATE**

3/26/02

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ENC. 2002-0001



**PARTIAL SITE PLAN**  
1/4" = 1'-0"

COPYRIGHT © 2002

**DATE**  
3/25/02

**SET**  
ENCROACHMENT

**SHEET**  
**E1**

**PROJECT**  
**RENOVATIONS TO 815 KING ST.**  
**ALEXANDRIA, VIRGINIA 22314**  
ROBERT J. KAUFMAN  
703-548-1810

ENC. 2002-0001

23. Public Hearing, Second Reading and Final Passage of an Ordinance to approve an encroachment into the public sidewalk right-of-way at 220 - 228 North Payne Street for an iron fence. (#21 10/8/02) **[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 Councilwoman Woodson 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:

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

The ordinance finally passed reads as follows:

**ORDINANCE NO. 4269**

AN ORDINANCE authorizing the owner of the property at 220-228 North Payne Street to establish and maintain an encroachment for an iron fence into the public sidewalk right-of-way at 220-228 North Payne Street, in the City of Alexandria, Virginia.

WHEREAS, Charles and/or Mildred Curtis ("Owner") are the owners of the residential properties located at 220-228 North Payne Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain an iron fence which will encroach into the public sidewalk right-of-way at 220-228 North Payne Street; and

WHEREAS, the public right-of-way at that point on 220-228 North Payne 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 Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way of 220-228 North Payne Street, in the City of Alexandria, said encroachment consisting of an iron fence, 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 Owner 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 Owner 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 Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner 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, Owner 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 Owner. Nothing in this section shall relieve Owner of his obligations and undertakings required under this ordinance.

Section 3. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner 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 4. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner'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 5. 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 6. 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 Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner 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 Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment caused by the removal.

Section 7. That in the event any buried structural remains (walls, foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during construction, the Owner shall cause Alexandria Archaeology to be notified immediately at 703-838-4399, and all work in the area of the discovery shall forthwith

cease until a City Archaeologist comes to the site and records the discovery, and, further, that the Owner shall cause verbatim notice of this provision to appear on the face of plans and construction drawings for the work authorized by this encroachment, such that on-site contractors are made aware of this provision.

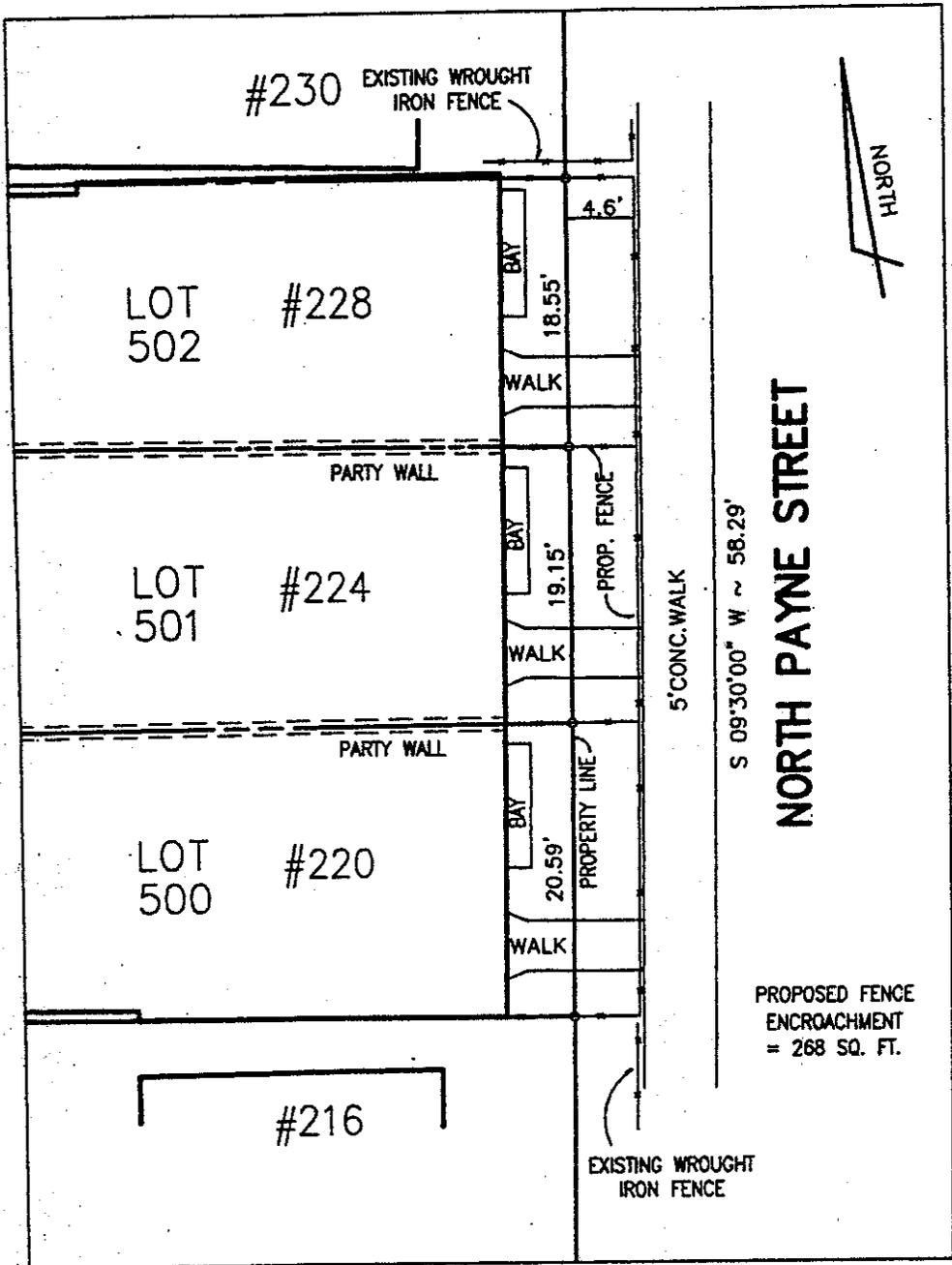
Section 8. That this ordinance shall be effective upon the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

Attachment: Encroachment Plan

Introduction:	10/08/02
First Reading:	10/08/02
Publication:	10/10/02
Public Hearing:	10/19/02
Second Reading:	10/19/02
Final Passage:	10/19/02

\* \* \* \* \*

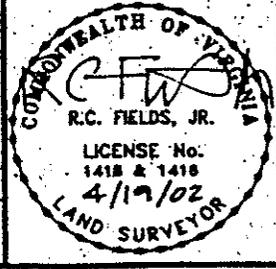


**PLAT**  
 SHOWING PROPOSED FENCE ENCROACHMENT  
 LOTS 500, 501 & 502  
 RESUBDIVISION OF  
**#218-228 NORTH PAYNE STREET**  
 CITY OF ALEXANDRIA, VIRGINIA

SCALE: 1" = 10'  
 DATE: APRIL 19, 2002

CASE NAME: CURTIS

**RC FIELDS, JR. & ASSOCIATES**  
 A PROFESSIONAL CORPORATION  
LAND SURVEYOR    SITE PLANNER    SUBDIVISION DESIGNER  
 718 JEFFERSON STREET    ALEXANDRIA, VIRGINIA 22314  
 TEL. (703) 549-8422    FAX (703) 549-6452



98-60

4

24. Public Hearing, Second Reading and Final Passage of an Ordinance to approve an encroachment into the public sidewalk right-of-way at 300 South Lee Street for two window wells and a front stoop. (#22 10/8/02) [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 ROLL-CALL vote of 6-to-0, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance finally passed reads as follows:

#### ORDINANCE NO. 4270

AN ORDINANCE authorizing the owner of the property at 300 South Lee Street to establish and maintain an encroachment for two window wells and a front stoop into the public sidewalk right-of-way at 300 South Lee Street, in the City of Alexandria, Virginia.

WHEREAS, Brian and/or Elizabeth Gibney ("Owner") are the owners of the residential property located at 300 South Lee Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain two window wells and a front stoop which will encroach into the public sidewalk right-of-way at 300 South Lee Street; and

WHEREAS, the public right-of-way at that point on 300 South Lee 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 Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way of 300 South Lee Street, in the City of Alexandria, said encroachment consisting of two window wells and a front stoop, 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 Owner 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 Owner 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 Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner 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, Owner 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 Owner. Nothing in this section shall relieve Owner of his obligations and undertakings required under this ordinance.

Section 3. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner 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 4. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner's maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter, and maintaining at all times covers or guards over the window wells sufficient to prevent pedestrians or animals from falling into the wells.

Section 5. 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 6. 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 Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner 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 Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment caused by the removal.

Section 7. That no structure shall be constructed within the encroachment area unless and until the Owner has: (1) caused a licensed structural engineer to perform a pre-construction survey of the adjacent property at 302 South Lee Street, but only if reasonable access to such adjacent property is afforded by the owner thereof,

said survey to be provided to the owner of the adjacent property for review, and to the Director of Code Enforcement for review and approval, (2) caused a licensed structural engineer to perform a full and detailed engineering study of the proposed construction, and construction methods and techniques designed to minimize the impact thereof on the adjacent property, said study to be provided to the owner of the adjacent property for review, and to the Director of Code Enforcement for review and approval, prior to construction, and (3) posted with the City Attorney a bond with surety from a licensed company, or such other form of security, approved by the City Attorney, in such reasonable amount as determined by the Director of Code Enforcement, and conditioned to secure the adjacent owner against any and all loss or damage to the adjacent property proximately caused by any construction work at 300 South Lee Street, such security to remain in force and effect during the period of construction and for a period of one year after the date of final completion of construction, as determined by the Director of Code Enforcement.

Section 8. That in the event any buried structural remains (walls, foundations, wells, privies, cisterns, etc.) or concentrations of artifacts are discovered during construction, the Owner shall cause Alexandria Archaeology to be notified immediately at 703-838-4399, and all work in the area of the discovery shall forthwith cease until a City Archaeologist comes to the site and records the discovery, and, further, that the Owner shall cause verbatim notice of this provision to appear on the face of plans and construction drawings for the work authorized by this encroachment, such that on-site contractors are made aware of this provision.

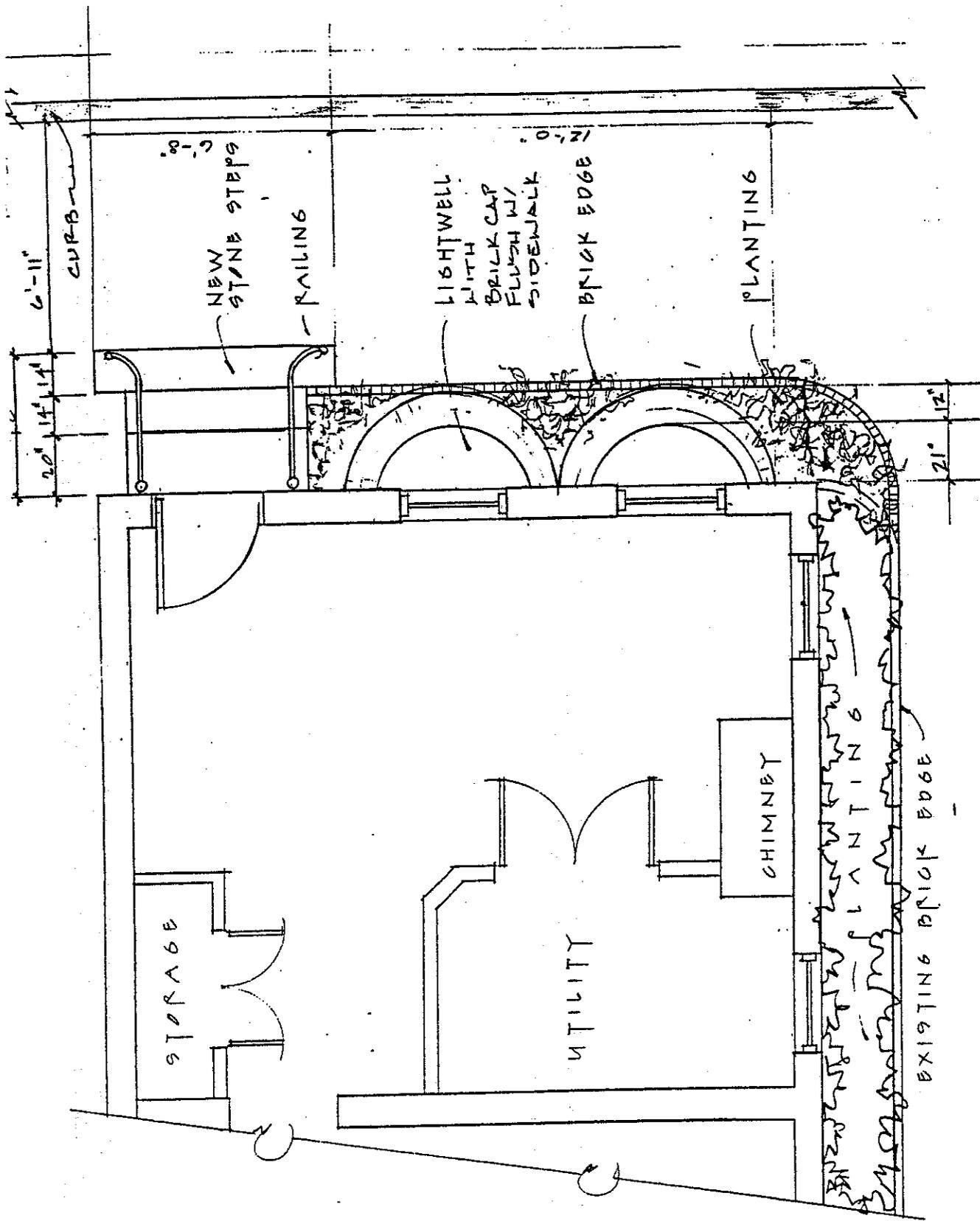
Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

Attachment: Encroachment Plan

Introduction:	10/08/02
First Reading:	10/08/02
Publication:	10/10/02
Public Hearing:	10/19/02
Second Reading:	10/19/02
Final Passage:	10/19/02

\* \* \* \* \*



SITE PLAN - 300 S. LEE ST.  
 SCALE = 1/4" = 1' - 0"

ENC. 2002-0002

25. Public Hearing, Second Reading and Final Passage of an Ordinance to amend Section 11-300 of the Zoning Ordinance to provide for additional notice of appeals to City Council in land use cases. (#23 10/8/02) [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 ROLL-CALL vote of 6-to-0, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance finally passed reads as follows:

#### ORDINANCE NO. 4271

AN ORDINANCE to amend and reordain Section 11-302 (NOTICE REQUIREMENTS FOR PARTICULAR HEARINGS), under Section 11-300 (NOTICE OF PUBLIC HEARINGS), of Division A (ADMINISTRATION AND ENFORCEMENT OF ORDINANCE AND NOTICE OF PUBLIC HEARINGS), Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance (TA NO. 2002-0001).

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

Section 1. That Section 11-302 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-302 *Notice requirements for particular hearings.* The following particular public hearings require only the following form of notice:

(A) Appeals to city council. Public hearings held on appeals to city council require that the city provide placard notice and newspaper notice of the hearing, as well as written notice to the applicant, the appellant, the recipients of written notice identified pursuant to paragraph (A)(1) of section 11-301 who were sent notice of the hearing before the board or commission from which the appeal was taken, and to persons who are subscribers pursuant to section 11-304. In the case of an appeal brought by a petition of property owners, the petitioners shall designate, in writing to the city clerk, one representative who shall be the recipient of written notice to the appellant. In the absence of such designation, the first name listed on the petition, as determined by the city clerk, shall be the recipient of such notice.

(B) Text amendments. Public hearings on zoning amendments to change, alter, modify or repeal the provisions of the text of this ordinance require that the city provide newspaper notice of the hearing.

(C) New zoning ordinance or map. Public hearings on the adoption of a new zoning map, a substantially revised zoning map (one which revises the zoning of 500 or more parcels of land), or new or substantially revised regulations for the city as a whole or for the territory included within a small area plan adopted as part of the official master plan of the city require that the city provide newspaper notice of the hearing.

(D) Master plan amendment. Public hearings on the adoption of a new or substantially revised official master plan for the city as a whole or for the territory included within a small area plan adopted as part of the official master plan of the city require that the city provide newspaper notice of the hearing.

(E) Rezoning of 25-500 parcels. Public hearings on a rezoning that involves more than 25 but fewer than 500 parcels of land require that written notice be sent by first class mail.

(F) City-initiated applications. Public hearings on a matter initiated by the city, for which the city sends written notice, require that written notice be sent by first class mail, provides that the responsible city employee shall make an affidavit that such mailing has been made, and file same with the papers in the case.

(G) City-provided written notice. The director shall be responsible for providing the written notice, in addition to the placard and newspaper notice, in the case of an appeal to the board of zoning appeals, the recommended revocation of a special use permit or an appeal to city council.

Section 2. That Section 11-302 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby is, ordained as part of the City of Alexandria Zoning Ordinance.

Section 3. That this ordinance shall become effective upon the date at the time of its final passage, and shall apply to all appeals to city council heard on or after November 1, 2002, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

KERRY J. DONLEY  
Mayor

Introduction:	10/08/02
First Reading:	10/08/02
Publication:	10/10/02
Public Hearing:	10/19/02
Second Reading:	10/19/02
Final Passage:	10/19/02

\* \* \* \* \*

26. Public Hearing, Second Reading and Final Passage of an Ordinance to amend Section 6-105 of the Zoning ordinance to allow recycling centers, as restrictively defined, in the POS Zone, with special use permit approval. (#24 10/8/02)  
**[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 ROLL-CALL vote of 6-to-0, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance finally passed reads as follows:

ORDINANCE NO. 4272

AN ORDINANCE to amend and reordain Section 2-100 (DEFINITIONS) of Article II (DEFINITIONS), by adding thereto a new Section 2-187.1 (PUBLIC RECYCLING CENTER), and to amend and reordain Section 6-105 (SPECIAL USES), under Section 6-100 (POS/PUBLIC OPEN SPACE ZONE), of Article VI (SPECIAL AND OVERLAY ZONES), by adding thereto a new Subsection (J) (Public Recycling Center), all of the City of Alexandria Zoning Ordinance (TA NO. 2002-0002).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-100 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Section 2-187.1 to read as follows:

2-187.1 *Public recycling center.* A collection site for acceptance by donation or redemption of recyclable materials from the public. Such center may not include permanent structures or buildings (other than fences and screens), but typically consist of portable containers which can be readily moved to be emptied or relocated.

Section 2. That Section 6-105 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Subsection (J) to read as follows:

(J) Public recycling center, provided that the director finds that the use does not interfere with an established active or passive recreation area; that no trees will be removed to accommodate the use, unless such removal is approved by the director of parks, recreation and cultural activities, and that uses adjacent to the recycling site are compatible with recycling activities.

Section 3. That Section 2-100 and Section 6-105 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective upon the date at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are on such date pending before any city department, agency or board, or before city council, or on judicial review, shall apply to all such applications which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

KERRY J. DONLEY  
Mayor

Introduction: 10/08/02  
 First Reading: 10/08/02  
 Publication: 10/10/02  
 Public Hearing: 10/19/02  
 Second Reading: 10/19/02  
 Final Passage: 10/19/02

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27. Public Hearing, Second Reading and Final Passage of an Ordinance to amend Section 12-102 of the Zoning Ordinance to allow noncomplying structures, on King Street in Old Town, to convert from commercial to residential use, with special use permit approval. (#25 10/8/02) **[ROLL-CALL VOTE]**

The Deputy City Clerk read the docket item.

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

Carolyn Merck, 324 North Royal Street, president of Old Town Civic Association, spoke in support of the ordinance.

**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. 4273

AN ORDINANCE to amend and reordain Section 12-102 (NONCOMPLYING STRUCTURES), under Section 12-100 (NONCOMPLYING STRUCTURES), of Article XII (NONCOMPLIANCE AND NONCONFORMITY) of the City of Alexandria Zoning Ordinance, by adding thereto a new Subsection (D) (RESIDENTIAL REUSE) (TA NO. 2002-0003).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 12-102 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Subsection (D) to read as follows:

- (D) *Residential reuse.* A building which faces the unit through 1500 block of King Street, and which is a noncomplying structure because it exceeds the floor area ratio of the CD zone, may be converted from nonresidential to residential use, notwithstanding any requirement of the CD zone applicable to residential uses, provided that a special use permit is approved to allow such conversion.

Section 2. That Section 12-102 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 3. That this ordinance shall become effective upon the date at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are on such date pending before any city department, agency or board, or before city council, or on judicial review; shall apply to all such applications which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

KERRY J. DONLEY  
Mayor

Introduction: 10/08/02  
First Reading: 10/08/02  
Publication: 10/10/02  
Public Hearing: 10/19/02  
Second Reading: 10/19/02  
Final Passage: 10/19/02

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

##### DEFERRAL/WITHDRAWAL CONSENT CALENDAR (28-32)

##### Planning Commission (continued)

28. DEVELOPMENT SPECIAL USE PERMIT #2001-0024 -- 5699 EISENHOWER AV -- KSI - VAN DORN METRO MIXED USE -- Public Hearing and Consideration of a request for a development special use permit, with site plan, for construction of a mixed use development with an increase in the floor area ratio for residential units, retail and personal service space with associated parking and Metro parking spaces, and for a temporary sales trailer; zoned OCH/Office Commercial High. Applicant: Van Dorn Metro II, LLC, by M. Catharine Puskar, attorney.

COMMISSION ACTION: Deferred

29. SPECIAL USE PERMIT #2001-0115 -- 5699 EISENHOWER AV -- KSI - VAN DORN METRO MIXED USE -- Public Hearing and Consideration of a request for a special use permit for a transportation management plan (TMP) for a proposed mixed use development; zoned OCH/Office Commercial High. Applicant: Van Dorn Metro II, LLC, by M. Catharine Puskar, attorney.

COMMISSION ACTION: Deferred

30. SPECIAL USE PERMIT #2002-0064 -- 222 N LEE ST -- Public Hearing and Consideration of a request for a special use permit to operate a children's learning center (commercial school); zoned CD/Commercial Downtown. Applicant: A Jump on Genius, LLC, by Abigail C. Romaine and Christopher D. Romaine.

COMMISSION ACTION: Deferred (improper notice)

31. SPECIAL USE PERMIT #2002-0077 -- 107 W GLEBE RD -- Public Hearing and Consideration of a request for a special use permit for automobile storage on a church site for an automobile dealership; zoned CSL/Commercial Service Low. Applicant: Alexandria VW, by Robert J. Test, attorney.

COMMISSION ACTION: Deferred (Applicant's request)

32. SPECIAL USE PERMIT #2002-0079 -- 1106 KING ST -- Public Hearing and Consideration of a request for a special use permit to change the hours of operation of a restaurant; zoned CD/Commercial Downtown. Applicant: Prince De Gaule, LC, by Robert J. Test, attorney.

COMMISSION ACTION: Deferred (Applicant's request)

**END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

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

\* \* \* \* \*

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilwoman Eberwein, seconded by Vice Mayor Cleveland and carried unanimously, at 3:18 p.m., the Public Hearing Meeting of Saturday, October 19, 2002, was adjourned. The voting was as follows:

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

\* \* \* \* \*

**APPROVED BY:**

KERRY J. DONLEY

**MAYOR**

ATTEST:

Susan K. Seagroves, Deputy City Clerk