

**MEMORANDUM**

TO: THE HONORABLE MAYOR AND  
MEMBERS OF CITY COUNCIL

FROM: IGNACIO B. PESSOA   
CITY ATTORNEY

DATE: MARCH 19, 2004

SUBJECT: ACQUISITION OF STORM WATER UTILITY AND CONSTRUCTION  
EASEMENTS IN THE EISENHOWER VALLEY

ISSUE: Adoption of a Resolution to authorize the City to acquire by purchase or condemnation certain permanent, public storm water utility and temporary construction easements in furtherance of the Eisenhower East Small Area Plan and Mill Race SUP approval.

RECOMMENDATION: That City Council adopt the attached Resolution.

DISCUSSION: On September 14, 2002, City Council approved CDD Concept Plan No. 2002-0001, and Development Special Use Permits Nos. 2002-0002 and 2002-003, for the Mill Race commercial, residential and retail mixed use project, at the northwest corner of Eisenhower Avenue and Mill Road. See Attachment 1. As shown on Attachment 1, these approvals required the construction of an urban block "grid system" of new streets within the project area. Subsequently, on April 12, 2003, Council approved the new Eisenhower East Small Area Plan as part of the City's Master Plan. The Small Area Plan incorporated the Mill Race approvals, including the new urban block street system requirement, and expanded the grid system of streets throughout the plan area. See Attachment 2. As stated in the Plan, creation of this "interconnected urban grid of streets is essential to providing vehicular movement alternatives and mitigating traffic." See Attachment 3-8.

Development in an urban block pattern, including construction of this new street grid system requires the realignment of an existing City storm sewer in the Mill Race project area, and the Mill Race developer is responsible for construction of the storm sewer in its new location. Upon completion, the new storm sewer will be dedicated to the City as a public facility. Construction of this new storm sewer requires that a permanent easement be acquired from the abutting property owner south of Eisenhower Avenue, Hoffman Family, L.L.C., in order for the new sewer to discharge into the Hoof's Run channel. This area is shown as "Area III" on Attachment 4-2. In addition, temporary construction easements in the vicinity of this discharge, and beneath the overhead Metro tracks, will be required, as shown as "Areas I, II and III" on Attachment 4-1.

The Mill Race developer, responsible for this new storm sewer, Paradigm Development Co., has endeavored to acquire the necessary easements from the abutting owner without success. Accordingly, since the storm sewer is a public storm sewer and realignment is required by the City, and is necessary in order to implement the "urban grid of streets" envisioned by the Eisenhower East Small Area Plan, it is appropriate that the City step in to acquire the necessary

easements, either by purchase, or, as a last resort, by condemnation. The Mill Race developer will be responsible for the purchase price and all other acquisition costs, including, if necessary, litigation costs.

Accordingly, I recommend that City Council adopt the Resolution, Attachment 5, to authorize the City to proceed to acquire these easements by purchase, or if necessary, by eminent domain.

**ATTACHMENTS:**

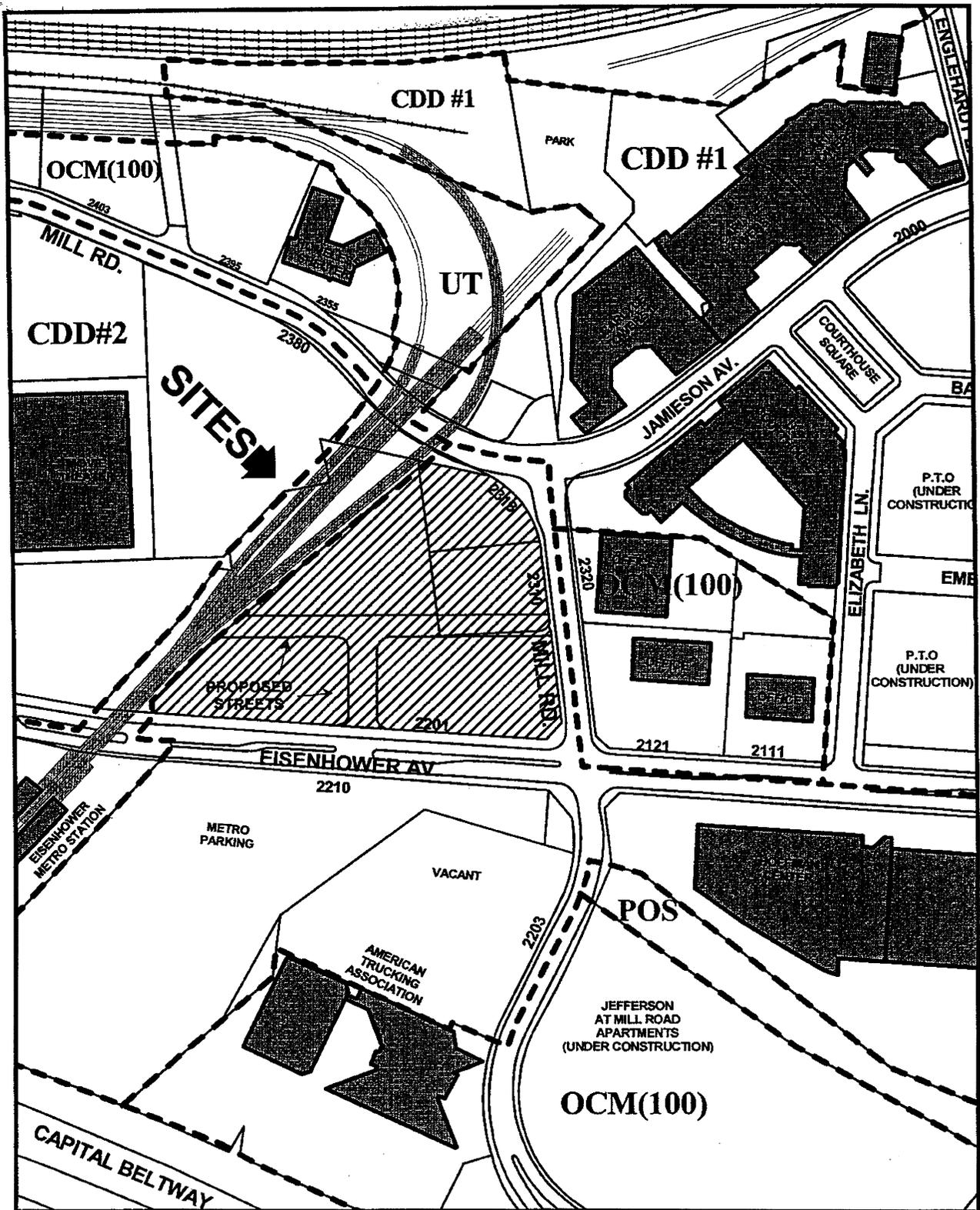
Attachment 1 Mill Race Location and Street Plan

Attachment 2 Eisenhower East SAP Street Plan

Attachment 3 Eisenhower East SAP Executive Summary

Attachment 4 Easement Plats

Attachment 5 Resolution

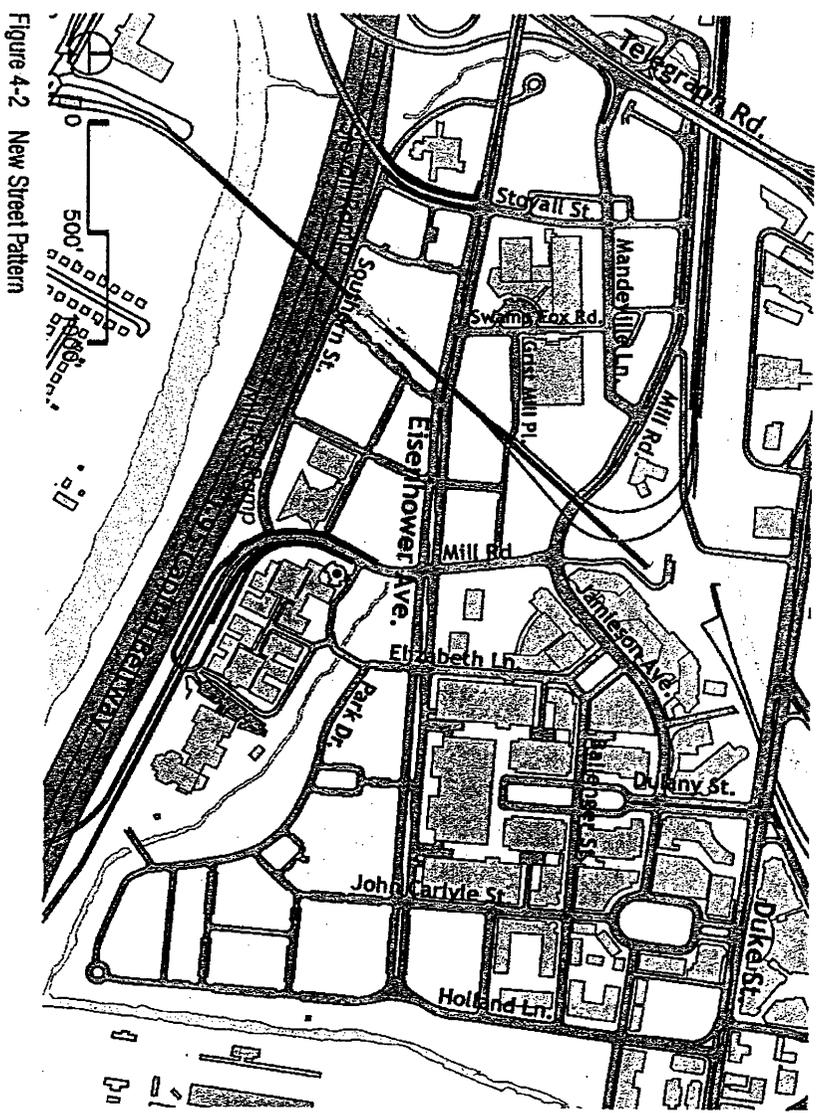


**DSUP #2002-0002**  
**DSUP #2002-0003**

**09/03/02**



3 - 4.1 Attachment 1



**EISENHOWER AVENUE**

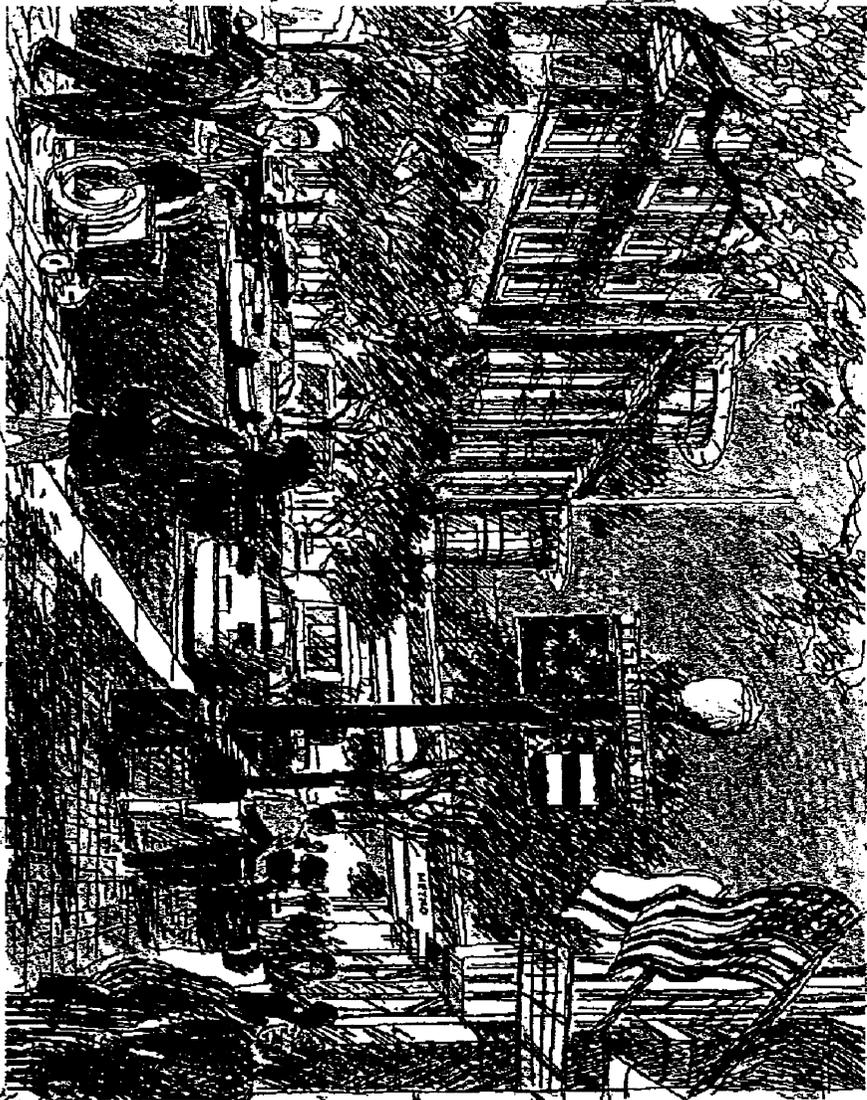
The Eisenhower East Plan calls for Eisenhower Avenue to become a major urban boulevard.

The vision is for a proud, landscaped urban boulevard with wide landscaped sidewalks and a thirty-foot wide landscaped median. (See Figure 4-3, View West Along Eisenhower Avenue on the following page.) The road section will accommodate three lanes of traffic in each direction with the curb lanes accommodating parallel parking. (See the Transportation chapter for further discussion of on-street parking.)

Single left turn harbors and pedestrian crossings with special paving are provided at each break in the median, however sufficient width exists in the median to provide two left turn lanes from Eisenhower Avenue to Mill Road and the Capital Beltway ramps if the alternative Elizabeth Lane extension is not constructed (see later discussion). The intent is to create a beautiful urban boulevard where the pedestrian will feel equally at home with the vehicles.

Eisenhower Avenue (See Figure 4-2, New Street Pattern) accommodates both local and through-city traffic. The new boulevard will distribute through-city traffic from the Capital Beltway via new express ramps. These new ramps, which land on the

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**EISENHOWER EAST**  
SMALL AREA PLAN

Alexandria, Virginia

February 2003

DRAFT

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Attachment 3-1

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A C K N O W L E D G E M E N T S

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Councilwoman Redella S. Pepper  
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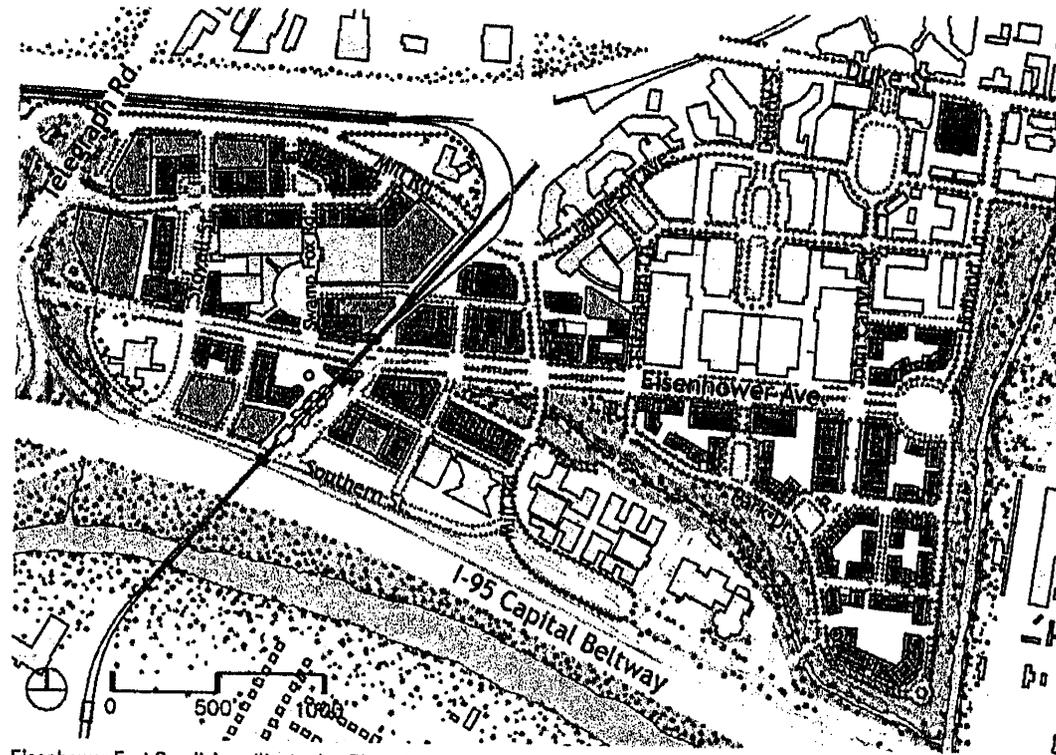
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### EXECUTIVE SUMMARY

The Eisenhower East planning process is a unique opportunity to create a shared community-wide vision for a vibrant, new, urban, mixed-use community centered on the Eisenhower Avenue Metro Station. This new transit-focused neighborhood will include a variety of natural and urban open spaces and parks, a balance of jobs and housing and a retail/entertainment center, serving both a local and regional market to capitalize on the existing theater complex.

In economic terms, Eisenhower East is a resource of great importance to the City of Alexandria as it provides the foundation for the City's near and long-term commercial and residential growth. The Plan represents the opportunity to create additional value outside the Alexandria historic core by defining a new sense of place where people will be attracted to visit, to shop, to work and to live.

The Eisenhower East Plan will create a new "city within a city," with distinctive architecture, a mix of businesses, residences and retail spaces, grand boulevards, and parks and gardens, creating a location and an address complementary to and compatible with Old Town and the surrounding residential neighborhoods.



Eisenhower East Small Area Illustrative Plan (Building footprints are illustrative only)

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The planning for Eisenhower East echoes the 18<sup>th</sup> century challenge that faced Alexandria's forefathers in designing the blueprint for the City's origins at the edge of the Potomac River. The City founders wisely chose to carefully lay out a harmonious street grid system adjacent to the waterfront providing room for the growth of commerce and domicile. Today, in the current planning effort, the City looks back to these sound urban design principles as the basis for the forward looking approach encompassed in this Plan.

Eisenhower East represents transportation opportunities and challenges. In terms of opportunities, the area is at the confluence of major regional thoroughfares and is serviced by two Metro lines and rail service.

In terms of challenges, large undeveloped parcels of land must be configured to take advantage of the location of the Metro stations, incorporate pedestrian-friendly amenities, and minimize the impacts of traffic and parking. A major focus of this planning effort is to ensure that the combination of transit services, highway access, and local streets will be adequate to support the anticipated level of development, while mitigating the traffic on the streets and minimizing the impact on the surrounding neighborhoods.

## NEIGHBORHOOD CONTEXT

Eisenhower East includes about 230 acres bounded on the north by Duke Street and the Metro rail yard, on the east by Holland Lane and the African-American Heritage Park, on the south by the Capital Beltway (I-95/I-495) and on the west by Telegraph Road. The planning area includes the 83-acre planned Carlyle community, (including the 17-acre, 2.5 million square foot U.S. Patent and Trademark Office complex) and the Eisenhower Avenue Metro Station.

The area suffers from limited points of vehicular ingress and egress; however, improvements to the Capital Beltway will connect the area to the east at Mill Road and the west at Stovall Street.

## Historical Context

The Eisenhower East area is integral with the City's history. The area was the location of the 18<sup>th</sup> Century Village of Cameron (which included a grist mill, and later the West End Village was created as the City's first "suburb."

The Orange and Alexandria Railroad came to the area in the 1850s, setting the stage for the industrial activity that would occupy the area for the next 140 years. Much of the southeastern portion of Eisenhower East was marshland that has since been filled; first, with sediment and later, with soil from the construction of the Capital Beltway. Portions of the area were in the Cameron Run flood plain and as

recently as the 1940s, small boats could navigate part of the marsh area.

In the 1980s, the Washington Metropolitan Area Transit Authority (WMATA) constructed the Eisenhower Avenue Metro station as part of the "Yellow Line" of the region's heavy rail transit system. Proximity and exposure to the Beltway, the availability of large vacant sites, buildings with ample parking and less expensive rents compared to downtown Alexandria locations, are factors that attracted relatively low density, back office space, flex space, government office users and warehousing to Eisenhower East.

Eisenhower East is unusual in that the land is held by very few ownership entities. As parcels within Carlyle are sold, more ownership parcels are created, but the undeveloped land is generally held by fewer than ten parties.

## Infrastructure

Water, sanitary sewer and storm water systems are generally in place to serve Eisenhower East; however, some are aging and need to be relocated to reflect the pattern of ownership and the proposed road system.

The City's Public Safety Center, constructed in the 1980s along Mill Road, houses the City's Police Department, and serves the entire City. The Department has raised concerns about the size and location of their facility. The Alexandria Fire

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# EXECUTIVE SUMMARY

Department has also expressed the need for an additional fire station to handle the amount of calls they are receiving in a timely, responsive manner.

## REAL ESTATE MARKET

The Plan assessed the Eisenhower East office and retail market over the next twenty years. Given the strong location in the residential market and the proximity to the Arlington corridor and Washington, DC via Metro, it was assumed that the residential market remains strong if interest rates remain within reasonable ranges over the Plan's horizon.

### Office

Eisenhower East's office potential was analyzed relative to the regional trends in office construction. Alexandria is part of the Washington, DC regional market of which Northern Virginia comprises 44% of the region's 325 million square feet (SF) of office space.

Alexandria's inventory of 13.0 million square feet of office space has grown by an average of 418,000 SF per year between 1970 and 2004 (including the U.S. Patent and Trademark Office (PTO) complex) and captures 5.2% of the regional market.

Alexandria currently enjoys an office occupancy rate of 91%; the City has not been severely impacted by the recent collapse of the "dot.com" industries. Given its strategic position, Alexandria should be able to capture a four to five percent market share of the regional office demand, or 250,000 to 350,000 square feet per year, for the next 10 to 15 years (in addition to the space that is currently committed for development at PTO). Eisenhower East should be able to capture between 200,000 and 250,000 square feet annually.

### Retail

Eisenhower East includes the potential for a "town center" retail experience offering a diverse mix of retail, restaurant and services that meet the needs of the larger regional population, and the area can also support a convenience retail and service center that provides for the needs of residents and employees.

The analysis indicates that Eisenhower East, with the assistance of an experienced retail developer, could support a Town Center retail development of 400,000+ square feet and an additional 100,000 square feet of retail supporting the needs of the residents.

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## LAND USE & CIRCULATION

### Circulation

The vision for Eisenhower East is for a dynamic urban mixed-use community, a true "urban village" that encourages the use of transit as an alternative to the automobile and creates a quality Alexandria neighborhood incorporating living, working, shopping, entertainment and recreation.

#### Eisenhower Avenue

The vision for Eisenhower Avenue is for a proud, landscaped urban boulevard with wide landscaped sidewalks and a thirty-foot wide landscaped median. The intent is to create a beautiful urban boulevard where the pedestrian will feel equally at home with the vehicles. Eisenhower Avenue will include three traffic lanes in each direction with the curb lanes accommodating parallel parking.

New ramps from the Capital Beltway will provide ingress and egress to Mill Road from the express lanes that serve Maryland and Washington, DC origins and a future ramp is also projected at Stovall Street from the Capital Beltway to serve the Eisenhower Valley area. To maximize the use of the Metro, the existing station platform will be extended northward over Eisenhower Avenue to allow direct pedestrian access from the north side of the street.

#### The Urban Street Grid

The Plan extends an urban street grid throughout Eisenhower East and creates development blocks approximating the size of those found in the original plan for Carlyle and Old Town. Creating an interconnected urban grid of streets is essential to providing vehicular movement alternatives and mitigating traffic. The streets will include generous sidewalks paved with brick, street trees, pedestrian scaled street furniture and classic street lighting to enhance the pedestrian experience.

#### Land Use/Circulation Strategy

To accomplish the vision for Eisenhower East, the Plan creates a true mixed-use neighborhood with a balance between jobs and housing at a density that will support and be served by the transit system. Seven traffic strategies were identified that will mitigate the impacts of traffic and enhance the quality of life:

- *Create an urban grid of interconnected streets*  
The street grid reduces traffic congestion by providing alternative routes and turning options, while creating a sense of "openness" throughout the neighborhood.
- *Concentrate the greatest development at the Metro*  
The Plan locates 73% of the new office area, 66% of the new residential and 82% of the new retail/entertainment uses within 1500 feet of the Metro.

- *Achieve a balance between jobs and housing*  
The Plan calls for a balance of office, residential, hotel and retail/entertainment uses, and a 50/50 distribution of the residential and office square footage, or two jobs for every resident. Balancing the residential and office use has a more positive effect upon traffic impacts than reducing the intensity of overall development.
- *Provide a modest reduction in development intensity*  
A modest reduction in overall development intensity (from the existing maximum zoning) is incorporated into the Plan. To achieve the reduction, the Plan's allowable square footage is based on the gross floor area footage rather than the net square footage. This change provides a better reflection of the actual size of buildings, and results in better buildings as the incentive to construct occupied floor area with ceilings heights less than 7'-6" is eliminated.
- *Extend the neighborhood activity over a 16 hour per day / 7 day per week period*  
The Plan incorporates a regional serving retail/entertainment complex and a neighborhood serving area to provide for the needs of the workforce and residents of Eisenhower East. Office workers and residents will remain within the neighborhood during the workday, thus reducing the overall number of vehicular trips.

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# EXECUTIVE SUMMARY

- *Minimize the overall amount of parking/optimize the short-term parking*  
The Eisenhower East Plan parking strategy establishes a limitation on the amount of parking to encourage the use of transit and limit the number of single occupancy vehicles on the street.
- *Maximize the use of the transit facilities with a Transportation Management Plan*  
The Plan includes the formation of a district-wide transportation management program to ensure a coordinated plan of policies and incentives to maximize the utilization of the existing and proposed transit infrastructure.

The synergy gained through the integration of the seven strategies into the Plan results in substantial improvements in the traffic performance. Compared to an early analysis of the traffic under the current zoning, the Plan's estimated traffic has 25% fewer trips in the PM peak hour and 29% fewer trips in the AM peak hour. The overall reduction in average daily traffic (ADT) is 17%. Perhaps of more importance is that the projected performance of the major intersections is significantly improved.

## Land Use Concept

The Plan identifies the recommended principal land uses and the maximum allowable gross development utilizing a block-by-block approach. The primary use, the allowable gross square footage (AGSF), the maximum building height, retail

locations and size, and the other general development controls are outlined in the Plan for each of the undeveloped or partially developed blocks.

The Plan optimizes the location of land uses based upon an analysis of the proximity to Metro, relationship to major roadways, adjacency to parks and open space, and distance from noise and other environmental hazards. The amount of development was determined through an analysis of the square footage allowed (including converting net areas to gross areas) under current zoning, a factor for above grade parking, the ability of the site to accommodate the development, the distance to transit and the appropriateness for large or tall buildings. The allowable gross floor area for each block includes a factor to accommodate the above grade parking that cannot be incorporated in two levels of underground parking.

The primary uses within the Plan are office and residential; however, the Plan also envisions retail/entertainment as important uses to create a vibrant mixed-use community. The Plan envisions a modern, cohesive urban retail environment rather than just accommodating retail in the ground floor of buildings along street frontages.

A major regional retail/restaurant/entertainment center of some 300,000 to 400,000 SF is planned as an integral part of the Hoffman Town Center, and a neighborhood retail center is planned for the foot

of John Carlyle Street to serve the retail and service needs of the immediate residential neighborhood. An Illustrative Plan has been prepared to provide a graphic illustration of one scenario of the implementation of Eisenhower East as developed under the Plan.

## Open Space

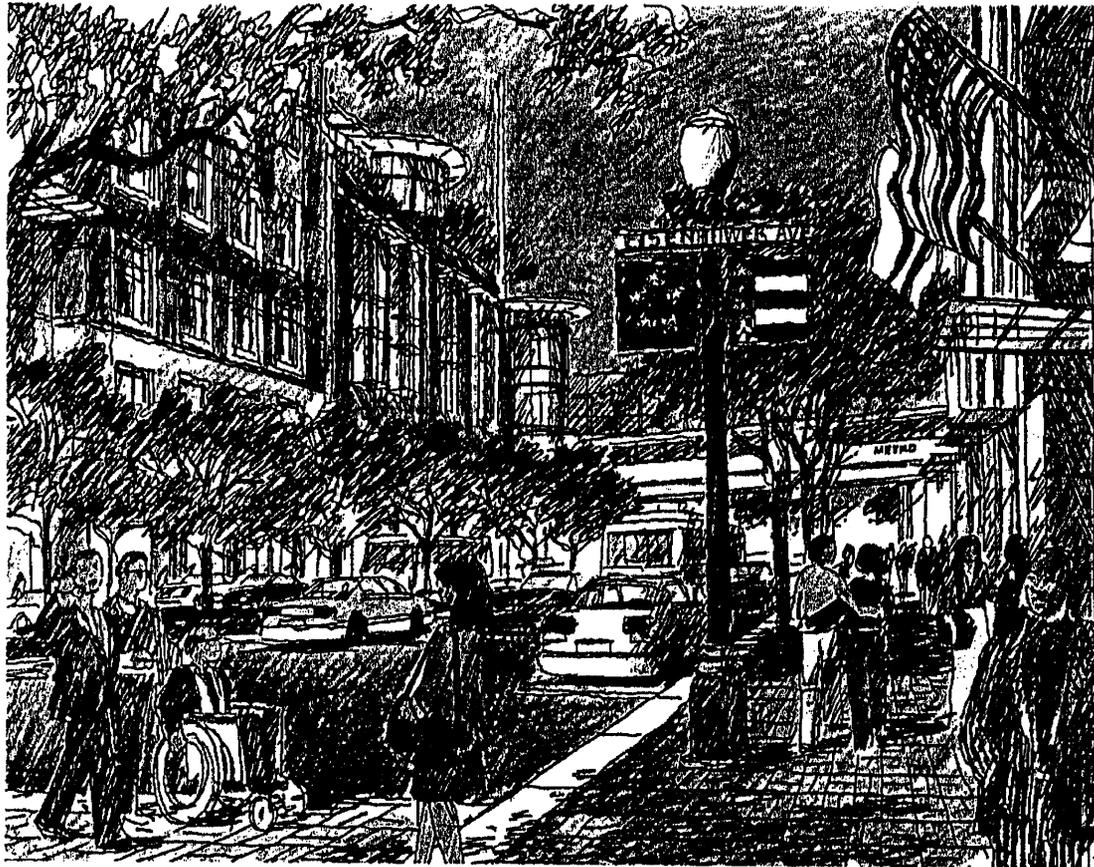
The Plan includes a comprehensive system of integrated and interconnected conservation areas, passive and active parks, neighborhood and urban squares to meet the needs of the residents and visitors to the area.

The Plan includes four types of open space and parks:

- *Parks and Resource Protection Areas*  
The Parks and Resource Protection Areas (RPA) are related in form and location to natural amenities such as stream valleys, watersheds and resource protection areas. The Plan creates a major Community Park along the Mill Run RPA. The north side of the RPA is expanded and enhanced to create a new active/passive park, The Meadow. This park also assists in meeting the City's requirement to create a security radius northward from the police facility and jail.

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View West Along Eisenhower Avenue

- *Neighborhood Squares*  
Neighborhood squares of green grass surrounded by shade trees are located within the residential neighborhoods to provide for informal and formal activities and a green oasis within the urban fabric.
- *Urban Squares*  
Urban squares are centrally located throughout the higher density areas. These squares are generally paved with enhanced materials and defined by trees that provide shade at the edges. Facilities are provided for sitting, small concerts, outdoor markets, and restaurant and café dining.
- *Boulevard Park Space*  
Eisenhower Avenue is designed as a boulevard/linear park with a landscaped median, wide brick sidewalks, street trees, seating areas, ample crosswalks and distinctive lighting. The Eisenhower Linear Park extends the length of the planning area and unifies the Avenue

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### **Affordable Housing**

Affordable housing within Eisenhower East meets the policy of the City to provide housing to meet the income levels of a broad segment of the community. The Plan calls for all developers of new residential or commercial development to provide a contribution to the City's Housing Trust Fund (currently in the amount of \$1.00 per gross square foot), or to provide on-site affordable units.

### **TRANSPORTATION**

Transportation is a determining factor to the amount and type of development and future character of the area. To ensure that Eisenhower East develops into a lively, mixed-use environment, the Plan provides adequate transportation capacity, while minimizing the impacts of traffic.

In 2001, a City study indicated that under the then current zoning the major intersections along Eisenhower Avenue failed or required a number of multiple turning lanes that the community found unacceptable. The failure of the current transportation infrastructure to support the zoning driven land uses was a major impetus for the City to undertake the Eisenhower East planning process.

The Plan recommends a balance between housing and office uses to reduce the number of auto trips, a reduction in the intensity of development, a grid of urban streets, a limited supply of parking, improved local transit alternatives, an improved pedestrian circulation system, an expansion of the Metro platform to the north side of Eisenhower Avenue and a district wide Transportation Management Program (TMP).

### **Transit and Supportive Design Principles**

A high level of transit use is needed to minimize traffic impacts and support the anticipated levels of development. Transit trips almost always involve a pedestrian trip at one or both ends of the transit portion of the trip; thus, an attractive pedestrian experience is critical to increasing the use of transit. The Plan establishes pedestrian supportive design principles that will make every trip attractive, direct and safe.

### **Streets and Regional Access**

The Plan integrates a combination of highway access, local grid streets, and transit services to support the existing and proposed development. Significant through traffic pressures are created as the State connects the Capital Beltway express ramps directly to Mill Road. The Plan recommends the construction of a new Southern Street (with associated connection streets) extending from Mill Road westward on the southern side of the study area to provide alternative access to the Hoffman lands.

11-3  
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Another roadway providing further distribution options connects Mill Road, south of Eisenhower, to Elizabeth Lane. These new roads will alleviate significant congestion on Eisenhower Avenue, provide additional Metro access, and reduce turning volumes on Eisenhower Avenue. At the Eisenhower Avenue/Mill Road intersection the left turn lanes could be reduced from two to one, and the right-turn lanes eliminated.

**Parking**

The Plan imposes a maximum parking ratio by land use type. Also, the Plan calls for short-term parking for office visitors, and retail and restaurant uses to be managed to maintain an adequate supply. The Plan provides a significant number of on-street parking spaces that are also maximized for short-term use.

Achieving the reduced parking ratios requires programs to maximize the use of transit and minimize the use of the single occupant vehicles (SOV). Within 1500 feet of the Metro station approximately 43 percent of the workers will have to commute in non-single occupancy vehicles, e.g., will arrive on transit, foot, bicycle, car or vanpool. These non-SOV rates are achievable with a strong Transit Management Plan as demonstrated in Arlington County, which is achieving rates as high as 55%.

**Transit**

The Eisenhower East area is well served by high-capacity transit. The Plan builds upon the availability of transit, encouraging a very high level of use through transit incentives such as employee transit subsidies, shuttle transit systems, improved information, etc., and through automobile use disincentives, included in the parking policies.

**URBAN DESIGN**

The Plan's Urban Design component outlines policies and principles to ensure the implementation of the Plan's vision for Eisenhower East. Integral to the Plan are principles for the design of the urban street network, the system of parks, open spaces, plazas and squares, the height and massing of buildings, and architectural design principles.

The principles are intended to ensure high quality and establish character without prescribing an exact architectural expression or form, where thoughtful solutions to design problems are encouraged in the spirit of creating the best possible public environment for Eisenhower East.

Following the adoption of the Plan, more detailed architectural design guidelines will be prepared by the Department of Planning and Zoning and adopted by the Planning Commission.

**IMPLEMENTATION**

Adoption of the Plan is an important first step in outlining the future of Eisenhower East; however, given both the scale of the undertaking and the dynamics of the marketplace, successful implementation of the Eisenhower East Plan will require continuous involvement of the City of Alexandria to maintain the integrity of the longer term vision.

Given the number of stakeholders, the range and magnitude of the issues, a changing community and the likely length of the build-out of Eisenhower East, it is recommended that the City maintain a proactive role in directing and implementing the Eisenhower East Plan. This involvement can be structured in a number of different ways, including:

- Utilizing an existing City Department, with designated staff focused on the Plan implementation;
- Supporting the role of the City with assistance from existing organizations, such as the Eisenhower Partnership, building their capacity to take on a more active leadership role; and/or
- Establishing a public/private partnership, including City officials, community representatives and property owners, to provide on-going leadership and management.

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# EXECUTIVE SUMMARY

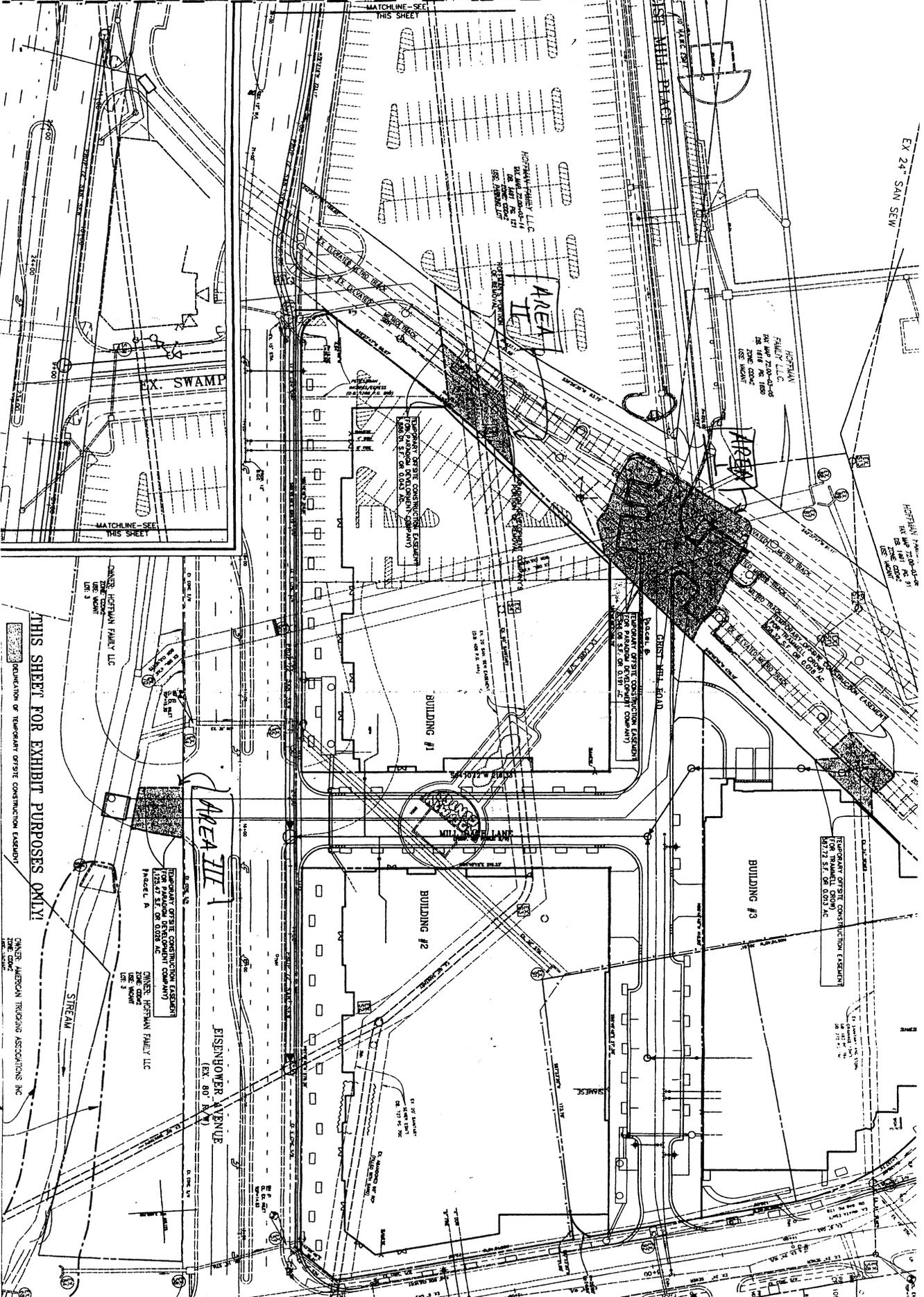
The process for implementing the Plan must be fair, reasonable and understandable. The City, the developers and the community need to understand the rules and the acceptable development parameters. To the degree that the Plan and plan-approval process are predictable, there is greater certainty about land values, development absorption, physical form, financial returns and the benefits to the greater community.

To equitably finance the community infrastructure elements, the City, working with the property owners and development community should explore funding mechanisms that will result in a fair allocation of costs relative to the resulting benefits.

Implementation of the Plan begins with the adoption of this Eisenhower Avenue Small Area Plan to modify the existing King Street/Eisenhower Avenue Metro Station Small Area Plan. The Plan recommends the creation of a new CDD 11 zone encompassing the land south of Eisenhower Avenue and east of Mill Road, and the modification of the existing CDD 2 zone.

To ensure the vision of a quality urban neighborhood, a Design Review Board will be established to implement architectural design guidelines that will be developed by the Department of Planning and Zoning and adopted by the Planning Commission.

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TEMPORARY OFFSITE CONSTRUCTION EASEMENTS

**18.**

**MILL RACE**  
CITY OF ALEXANDRIA  
ALEXANDRIA, VIRGINIA

SCALE: 1"=30'

CL. N/A

DATE: DEC. 2013

EXHIBIT

**URBAN ENGINEERING & ASSOC., INC.**

CIVIL ENGINEERS • LANDSCAPE ARCHITECTS • LAND SURVEYORS

7712 LITTLE RIVER TURNPIKE  
ANNANDALE, VIRGINIA 22003 (703) 642-0080

PLAN DATE	12-11-03		
NO.	DATE	DESCRIPTION	REVISION
			APPROVED BY DIVISION OF DESIGN

ATTACHMENT 4-1



**RESOLUTION NO. \_\_\_\_\_**

WHEREAS, the City of Alexandria, Virginia desires to acquire by purchase or eminent domain certain permanent, public storm water utility and temporary construction easements over real property located in the City at 2210 and 2299 Eisenhower Avenue; and

WHEREAS, the City is empowered by Chapter 13 of its charter to acquire by purchase or eminent domain private property for the purpose of carrying out its powers and duties; and

WHEREAS, the City Council finds and determines that the acquisition of the permanent, public storm water utility and temporary construction easements at this time is necessary and convenient (1) to implement the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, (2) to promote the orderly and proper development of the Eisenhower East Small Area Plan area, and (3) to permit the development of the Mill Race project as approved by CDD Concept Plan No. 2002-0001 and DSUP Nos. 2002-0002 and 2002-0003; and

WHEREAS, the City Council further finds and determines that a public necessity exists for the acquisition of the easements for such aforesaid public uses and purposes; and

WHEREAS, the City Council wishes to authorize the City Manager and City Attorney to proceed with the acquisition of the easements;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL  
OF THE CITY OF ALEXANDRIA, VIRGINIA:**

1. That the City Manager and City Attorney be, and hereby are, authorized and directed to negotiate with and execute on behalf of the City a contract to acquire by purchase the permanent, public storm water utility and temporary construction easements over the real property located in the City at 2210 and 2299 Eisenhower Avenue, as shown as "Areas I, II and III" on the plats attached hereto and incorporated herein by reference, at a price reasonably related in their judgement to the fair market value of the easements, and on such terms and conditions as they deem advantageous to the City, and any such contract is hereby ratified and confirmed by the City Council; and

2. That in the event no such contract can be agreed upon, the City Manager and City Attorney be, and hereby are, authorized and directed to institute appropriate condemnation proceedings in the Circuit Court of the City of Alexandria for the acquisition of the said easements by eminent domain; and

3. That funding for the purchase price for the said easements and all other acquisition costs, including, if necessary litigation costs, is the responsibility of the permit holder or holders under CDD Concept Plan No. 2002-0001 and DSUP Nos. 2002-0002 and 2002-0003, and that

the contribution of such funds to the City or for the City's benefit be, and same hereby is, accepted and approved; and

4. That the expenditure of the funds so contributed to the City or for the City's benefit for the purchase of the easements as authorized pursuant to Paragraph 1, or to pay any condemnation award as may be entered in any proceeding authorized pursuant to Paragraph 2, and for all other acquisition costs, be, and the same hereby is, authorized and approved; and

5. That the City Manager and City Attorney be, and hereby are, authorized and directed to take such additional actions as may be necessary or convenient to accomplish the acquisition of the easements as required by this Resolution; and

6. That the City Clerk be, and hereby is, authorized and directed to affix the seal of the City to such documents as may be necessary or convenient to accomplish the acquisition of the property as required by this Resolution; and

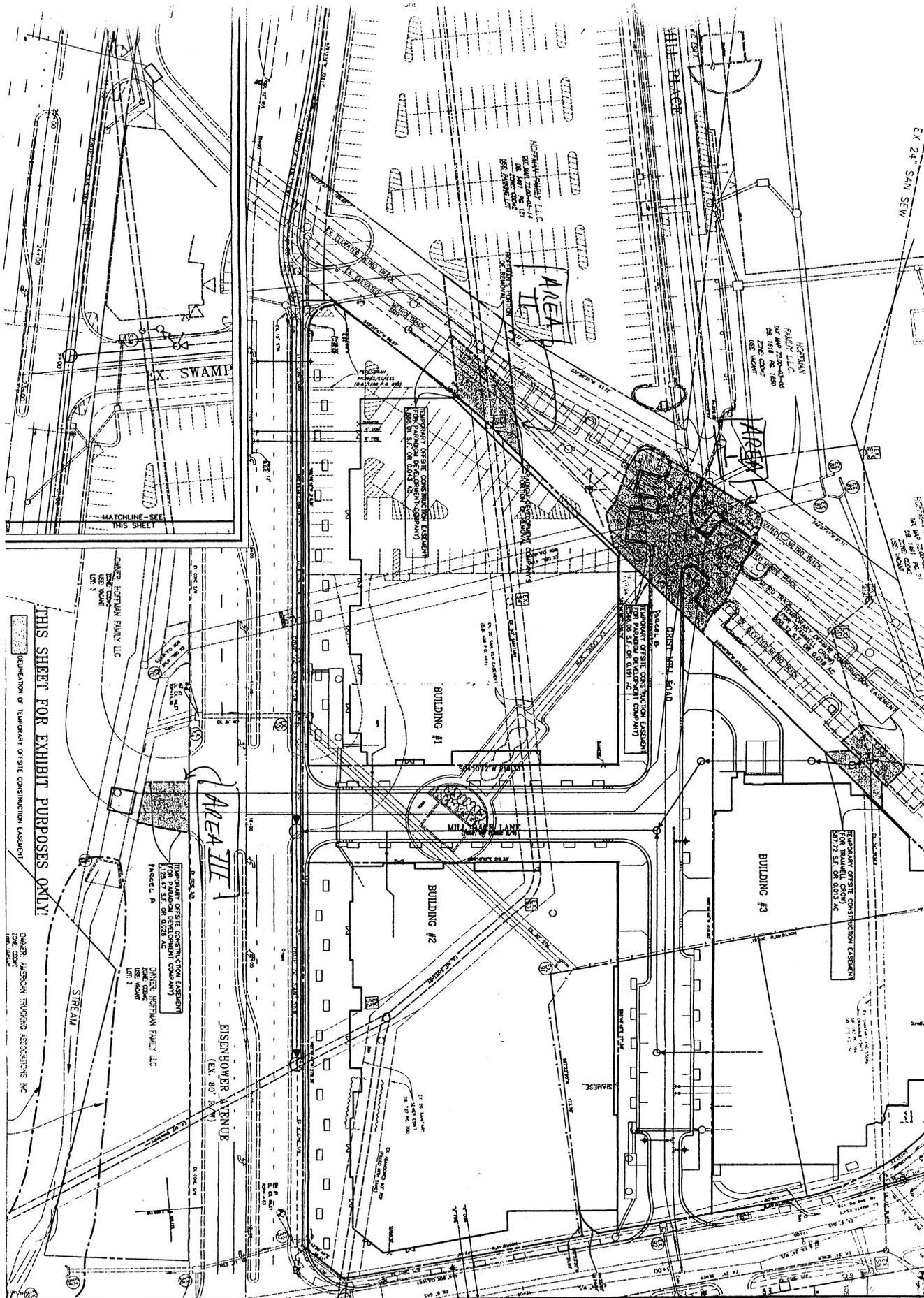
7. That this Resolution shall be effective immediately.

ADOPTED: \_\_\_\_\_

\_\_\_\_\_  
WILLIAM D. EUILLE, MAYOR

ATTEST:

\_\_\_\_\_  
Jacqueline M. Henderson, CMC, City Clerk



THIS SHEET FOR EXHIBIT PURPOSES ONLY!  
 INDICATION OF TEMPORARY OFFSITE CONSTRUCTION EASEMENT

SHEET 18 OF 2 FILE NO. MISC.1311-3	TEMPORARY OFFSITE CONSTRUCTION EASEMENTS		URBAN ENGINEERING & ASSOC., INC. CIVIL ENGINEERS • LANDSCAPE ARCHITECTS • LAND SURVEYORS 7712 LITTLE RIVER TURNPIKE ANNANDALE, VIRGINIA 22003 (703) 642-8080	PLAN DATE 12-11-03
	SCALE: 1"=50' CI. N/A	DATE: DEC. 2003		REVISION APPROVED BY DIVISION OF DESIGN

22



**RESOLUTION NO. 2100**

**WHEREAS**, the City of Alexandria, Virginia desires to acquire by purchase or eminent domain certain permanent, public storm water utility and temporary construction easements over real property located in the City at 2210 and 2299 Eisenhower Avenue; and

**WHEREAS**, the City is empowered by Chapter 13 of its charter to acquire by purchase or eminent domain private property for the purpose of carrying out its powers and duties; and

**WHEREAS**, the City Council finds and determines that the acquisition of the permanent, public storm water utility and temporary construction easements at this time is necessary and convenient (1) to implement the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, (2) to promote the orderly and proper development of the Eisenhower East Small Area Plan area, and (3) to permit the development of the Mill Race project as approved by CDD Concept Plan No. 2002-0001 and DSUP Nos. 2002-0002 and 2002-0003; and

**WHEREAS**, the City Council further finds and determines that a public necessity exists for the acquisition of the easements for such aforesaid public uses and purposes; and

**WHEREAS**, the City Council wishes to authorize the City Manager and City Attorney to proceed with the acquisition of the easements;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL  
OF THE CITY OF ALEXANDRIA, VIRGINIA:**

1. That the City Manager and City Attorney be, and hereby are, authorized and directed to negotiate with and execute on behalf of the City a contract to acquire by purchase the permanent, public storm water utility and temporary construction easements over the real property located in the City at 2210 and 2299 Eisenhower Avenue, as shown as "Areas I, II and III" on the plats attached hereto and incorporated herein by reference, at a price reasonably related in their judgement to the fair market value of the easements, and on such terms and conditions as they deem advantageous to the City, and any such contract is hereby ratified and confirmed by the City Council; and

2. That in the event no such contract can be agreed upon, the City Manager and City Attorney be, and hereby are, authorized and directed to institute appropriate condemnation proceedings in the Circuit Court of the City of Alexandria for the acquisition of the said easements by eminent domain; and

3. That funding for the purchase price for the said easements and all other acquisition costs, including, if necessary litigation costs, is the responsibility of the permit holder or holders under CDD Concept Plan No. 2002-0001 and DSUP Nos. 2002-0002 and 2002-0003, and that the contribution of such funds to the City or for the City's benefit be, and same hereby is, accepted and approved; and

4. That the expenditure of the funds so contributed to the City or for the City's benefit for the purchase of the easements as authorized pursuant to Paragraph 1, or to pay any condemnation award as may be entered in any proceeding authorized pursuant to Paragraph 2, and for all other acquisition costs, be, and the same hereby is, authorized and approved; and

5. That the City Manager and City Attorney be, and hereby are, authorized and directed to take such additional actions as may be necessary or convenient to accomplish the acquisition of the easements as required by this Resolution; and

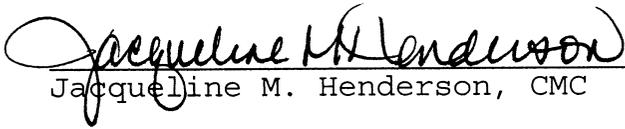
6. That the City Clerk be, and hereby is, authorized and directed to affix the seal of the City to such documents as may be necessary or convenient to accomplish the acquisition of the property as required by this Resolution; and

7. That this Resolution shall be effective immediately.

ADOPTED: March 23, 2004

  
WILLIAM D. EUILLE MAYOR

ATTEST:

  
Jacqueline M. Henderson, CMC City Clerk

25  
3-23-04

Ignacio Pessoa

03/23/04 03:40 PM

To: wmeuille@wdeuille.com, alexvamayor@aol.com,  
delpepper@aol.com, ludwig@gainwithgaines.com,  
Councilmangaines@aol.com, rob@krupicka.com,  
Ahmacdonald@his.com, smedbergpc@aol.com,  
council@joycewoodson.net

cc: Phil Sunderland/Alex@Alex, Eileen Fogarty/Alex@Alex, Rich  
Baier/Alex@Alex

Subject: Eisenhower Ave Easements

You will or have received today a letter from Paul Terpak, representing the Hoffman family interests, which asks that Council not authorize the City to acquire the necessary easements for the relocation of the public storm sewer in the vicinity of the Eisenhower Avenue/Mill Road intersection, and I would offer the following comments.

First let me say that using the City's condemnation authority to acquire easements for public infrastructure, such as the City-owned storm sewer at issue, is a classic use of that authority, and entirely legitimate and proper. The relocation of the existing storm sewer was required by the City, as an essential element of our Mill Race SUP and Eisenhower East Small Area Plan approvals. Without the relocation, the development parcels and urban block pattern envisioned by those approvals cannot be created. The urban block pattern was the City's initiative, not the affected landowners' or developers'. It is not reasonably possible to construct buildings over the existing sewer, which runs directly through the center of one of these new blocks, and the City would not approve such construction.

Second, it is not surprising that the Hoffman interests oppose implementation of the Mill Race SUP or new Eisenhower East Plan. The Mill Race developers, Paradigm and Trammell Crow, and their project are Hoffman's competitors. The Hoffman family, in spite of working with, and being accommodated by the planning department in the Eisenhower East planning process, was dissatisfied with Council's ultimate decision to approve the Plan, and has sued the City to invalidate the Plan. The Hoffmans appear unabashedly to prefer the *status quo ante*, including the existing utility locations which effectively preclude implementation of the City's plans.

Third, the City is not interceding on behalf of one owner or developer against another, but is acting to further its own planning interests. While the City was not privy to the negotiations between Hoffman and Paradigm, the facts are (1) that they failed to reach an accord, (2) that such failure prevents the relocation of the City's storm sewer and implementation of the Master Plan as approved by the City, and (3) that in the event of condemnation, the Hoffman family will receive fair market value, determined by the Court, for the easements. It will not be relevant that Paradigm may have attempted to pay less than fair market value for the easements, as Hoffman asserts, or that Hoffman may have demanded a

grossly excessive price for the easements, as Paradigm asserts.

I will be pleased to answer any additional questions this evening.



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3-23-04

**VIA FACSIMILE**

March 23, 2004

Mayor William D. Euille  
Members of City Council  
City of Alexandria  
301 King Street  
City Hall  
Alexandria, VA 22314

Re: Docket Item #25 of the Tuesday, March 23, 2004  
Regular Meeting of the City Council of Alexandria, Virginia

Dear Mayor Euille and Members of the City Council:

The following is our response to the assertions by Hoffman Family, LLC ("HFLC") in their letter of March 23, 2004.

1. The relocation of the box culvert as designed and approved by the City of Alexandria serves a "public purpose" in that it accommodates the additional storm water resulting from the installation of the new Mill Race Lane and Grist Mill Lane which are to be installed as a condition of the overall Mill Race Special Use Permit. Not only does the new box culvert relocation accommodate the additional storm water resulting from the new streets, it also accommodates the additional storm water resulting from the two new residential and one new commercial development under the existing Mill Race SUP and any future developments pursued by HFLC to the west of the Mill Race property. Ultimately, the new box culvert will be granted over to the City of Alexandria upon its completion by the Mill Race development.
2. HFLC asserts that a verbal agreement was "struck between the developers of the Mill Race project for the acquisition of all necessary permanent and temporary easements required by the Mill Race project." This is a complete fabrication. At no time, in any of our discussions with HFLC did the Mill Race development agree to any amounts of compensation under which they would acquire temporary and permanent easements from HFLC. An offer was made to HFLC for \$22,000 for temporary and permanent easements as stated in our letter to HFLC dated December 15, 2003 (copy attached) to which HFLC never responded.
3. With respect to HFLC's assertion regarding a redesign of the new box culvert to stay within the confines of the Mill Race property, this redesign would require a 30% use of the existing site, severely limiting the developer's ability to construct the project under the current SUP approval. Further, good engineering practices dictate that the location of the new box culvert be located

1415 North Taft Street  
Suite 100  
Arlington, VA  
22201

(703) 527-7500  
(703) 527-7504 Fax

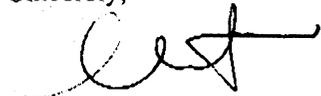
**Paradigm**

Mayor William D. Euille  
Members of City Council  
March 23, 2004  
Page 2

under the proposed streets to accommodate the proper flow and hydraulic requirements consistent with the City of Alexandria's engineering standards.

We hope that this clarifies the issues raised in HFLC's letter dated March 23, 2004.

Sincerely,



W. Clarke Ewart  
Executive Vice President

mrc/WORD/MILL RACE/ALEXANDRIA CITY CNCL 01

sent via fed ex  
12/15/03

# Paradigm

DEVELOPMENT CO.

December 15, 2003

Mr. Hubert N. Hoffman III, Vice Chairman  
Hoffman Company  
2461 Eisenhower Avenue  
Alexandria, VA 22331

RE: Mill Race

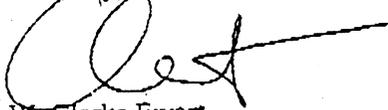
Dear Jay:

As a follow up to our conversations last week, we were successful in acquiring the residential component of the Mill Race project and are now finalizing our plans for the installation of the box culvert. We anticipate starting the actual construction of the box culvert on February 15, 2004. In preparation of that, Paradigm would like to propose the following:

1. We would be willing to pay the Hoffman Company \$1,000/month for temporary construction easements on parcels A and B as indicated on the enclosed temporary easement plat (Exhibit 1). On parcel A, Paradigm will maintain two-way access into the Hoffman parking lot. The agreement would terminate upon final acceptance of the box culvert by the City of Alexandria or 12 months, whichever is sooner.
2. Once the construction of the box culvert is complete, the City will need permanent easements for maintenance and operation of the box culvert. Paradigm would be willing to pay a lump sum payment of \$10,000 for a permanent easement on parcel A (which measures approximately 1,009 SF) as shown on the permanent easement plat (Exhibit 2). Paradigm will also pay for all recordation costs associated with the easement on parcel A and any costs relating to the vacation of existing easements that are no longer needed by the City relating to the box culvert.

If this is acceptable to you, please sign where indicated below. We would appreciate your response by December 30, 2003. Please do not hesitate to contact me if you have any questions.

Sincerely,



W. Clarke Ewart  
Executive Vice President

**AGREED & ACCEPTED**

Hubert N. Hoffman, III, Vice Chairman      Date  
Hoffman Company

mrc/WORD/MILL RACE/HOFFMAN 03

1415 North Taft Street  
Suite 100  
Arlington, VA  
22201

(703) 527-7500  
(703) 527-7504 Fax

25  
-----  
3-23-04

March 23, 2004

DELIVERED BY MESSENGER--PRIORITY

Jacqueline M. Henderson  
Clerk, City Council  
City of Alexandria  
301 King Street, Room 2300  
Alexandria, Virginia 22314

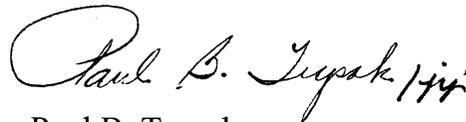
Re: Docket Item #25 of the Tuesday, March 23, 2004  
Regular Meeting of the City Council of Alexandria, Virginia

Dear Ms. Henderson:

Attached is a letter to the Mayor and Members of City Council regarding an item on **tonight's Docket, Tuesday, March 23, 2004**. Please deliver this to the Mayor and members of City Council as part of their material for tonight's meeting.

Thank you for your assistance.

Sincerely,



Paul B. Terpak

PBT/jrj

Enclosure

cc: Ignacio Pessoa, Esq.  
(via Facsimile)  
Michael Perine, Esq.

March 23, 2004

DELIVERED BY MESSENGER  
and  
VIA FACSIMILE

Mayor William D. Euille  
Members of City Council  
City of Alexandria  
301 King Street, City Hall  
Alexandria, Virginia 22314

Re: Docket Item #25 of the Tuesday, March 23, 2004  
Regular Meeting of the City Council of Alexandria, Virginia

Dear Mayor Euille and Members of City Council:

We have been retained and authorized to represent the interests of the Hoffman Family, LLC (“HFLC”) with respect to the matters surrounding the topic of the above-referenced docket item.

We understand that City Council will consider a resolution to authorize the City to acquire by purchase or condemnation certain permanent storm water utility and temporary construction easements from property either owned by the HFLC or on which they hold a reservation of surface uses and rights.

We have also had the opportunity to review the Memorandum of March 19, 2004 prepared by the City Attorney, Ignacio Pessoa, recommending the City Council’s adoption of a Resolution authorizing the acquisition by purchase or condemnation of such permanent public storm water utility and temporary construction easements in furtherance of the Eisenhower East Small Area Plan and Mill Race SUP approval (the “Memorandum”).

On behalf of the HFLC, we object to any effort by the City to change the location of existing utilities to benefit the developer of the Mill Race project at the expense of HFLC. We also respectfully disagree with the assertions set forth in

Mayor William D. Euille  
Members of City Council  
March 23, 2004  
Page 2

the Memorandum that the proposed condemnations are for a “public purpose” as required by law.

It should be noted even before addressing the question of a legitimate public purpose, that the HFLC had struck a verbal agreement with the developers of the Mill Race project for the acquisition of all necessary permanent and temporary easements required by the Mill Race project. Mill Race later decided to change the terms to which they had verbally agreed.

It should also be noted that the Paradigm Development Co., in a subsequent purchase offer to HFLC dated December 15, 2003, offered only marginal compensation for temporary construction easements on Parcels “A” and “B” (referenced as Areas III and I, respectively, on Attachment 4-1 of the Memorandum), a similarly marginal sum for a permanent easement on Parcel A, and no monetary consideration whatsoever for a permanent easement on Parcel B or temporary construction activities in Area II.

It would be an improper use of the power of eminent domain for City Council to adopt a resolution authorizing the purchase or condemnation of off-site construction and utility easements to favor one developer in monetary negotiations between private developers.

The storm sewer realignment on the Mill Race project is unnecessary and unrelated to any stated need or desire by the City of Alexandria for the “grid system of streets” envisioned by the Eisenhower East Small Area Plan. Any desired streets could be constructed today over these existing, functioning public utilities without the need for the acquisition or condemnation of off-site easements or property rights. It is only the desire of Mill Race to construct the densest development in the Eisenhower Valley at an FAR of 3.75, which necessitates the acquisition of these easements.

There are other alternatives. For example, HFLC’s engineers have confirmed that the storm sewer could easily be relocated starting at the point where it comes onto the Mill Race property, without acquiring any construction or permanent easements from the HFLC in Area I. The only consequence would be a marginally smaller, and perhaps less dense development parcel, a result consistent

Mayor William D. Euille  
Members of City Council  
March 23, 2004  
Page 3

with one of the express goals of the Eisenhower East Small Area Plan and having a zero impact on the “grid system of streets.”

The proposed condemnation is not for a “public use” as required by law, but simply an exercise of the City’s power of eminent domain to favor one landowner at the expense of another. On behalf of the HFLC, we strongly object to any attempt by the City to condemn a portion of their property in furtherance of the Mill Race Special Use Permit approval. We certainly hope that City Council will take the proper position and vote against the proposed resolution.

Sincerely,



Paul B. Terpak

PBT/jrj  
cc: Ignacio Pessoa, Esq.