

Docket Item #13  
TEXT AMENDMENT #2003-0006

Planning Commission Meeting  
November 6, 2003

**CASE:** TEXT AMENDMENT #2003-0006  
DAY LABOR AGENCIES

**ISSUE:** Consideration of an amendment to the Zoning Ordinance to permit a day labor agency only with a special use permit, to limit the zones in which a day labor agency may be allowed, and to require the abatement of existing day labor agencies.

---

**PLANNING COMMISSION ACTION, NOVEMBER 6, 2003:** On a motion by Mr. Komoroske, seconded by Ms. Fossum, the Planning Commission voted to recommend approval of the text amendment, with an amendment. The motion carried on a vote of 6-0. Mr. Wagner was absent.

**Reason:** The Commission agreed with the staff analysis and expressed its strong support for regulating the day labor agency use as staff proposes to do. It also spoke of its support for adding requirements in the zoning ordinance for any SUP that is approved in the future for the use. Finally, it discussed whether an 18 month abatement period was necessary and, if so, how to best deal with the problem in the interim, including potential, additional enforcement mechanisms.

**Speakers:**

Cathy Puskar, representative of Ace Temporaries, was present in Chambers during the hearing.

The following speakers spoke in favor of the text amendment and cited numerous problems with the existing day labor agency at 717 Pendleton Street. Examples of problem behavior cited in the testimony include: litter, noise, theft, threatening behavior, and public urination and expectoration.

Michael Schlee, 712 Pendleton Street  
Kelly Conner, 607 North Columbus Street  
Amy Stoll, 710 Pendleton Street  
Betty Hines, 314 Wolfe Street  
Sarah Linnerooth, 710 Pendleton Street  
Jacqueline Dudley, 602 North Columbus Street

Amy Slack, Del Ray Land Use Committee, spoke against locating day labor agencies close to residential areas, in favor of a special use permit process where the use may be appropriate, such as on Jefferson Davis Highway in Del Ray, and in favor of adding specific SUP conditions in the text amendment as requirements.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission recommend approval of the following text amendment:

#### ARTICLE II: DEFINITIONS

Sec.2-126 *Business and professional office.* Any room, studio, clinic, suite or building in which the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by a salesman, sales representative or manufacturer's representative; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents and landscape architects but not including offices for dentists, physicians or other medical practitioners, or for day labor agencies.

Sec. 2-133.1 *Day labor agency.* A place where assignments for employment are made characterized by the daily gathering of workers. A day labor agency operates a dispatch to which at least some workers physically report, apply and wait for work daily, and return to receive their paychecks daily. Day labor is labor that is occasional or irregular at which the person is assigned for not longer than the time period required to complete the work assignment. The majority of day labor workers are not assigned clerical or professional employment.

#### ARTICLE IV: COMMERCIAL AND INDUSTRIAL ZONES

[The following zones will be amended by adding the following language to the list of uses allowed only with a special use permit: CG, CD, CD-X, OC, OCM(50), OCM(100), OCH, and I.]

*Special uses.* The following uses may be allowed in the zone pursuant to a special use permit:

Day labor agency;

ARTICLE XII: NONCONFORMITIES

Sec. 12-200 Nonconforming uses.

12-215 *Abatement of day labor agencies.* Any day labor agency in existence on October 7, 2003, for which a special use permit has not been granted shall be deemed a nonconforming use and shall be discontinued on or before a date eighteen months from the date on which the use was first notified of its nonconforming status, unless it obtains a special use permit which authorizes its continuation subject to the following:

- (A) Promptly upon learning of the existence of a day labor agency that was in existence prior to October 7, 2003, the director shall notify the property owner and, if different, the property operator of the nonconforming status of the use and that it must cease operations or obtain a special use permit approval, if permitted by the zoning ordinance, prior to the expiration of eighteen months from the date of the notice.
- (B) No later than the expiration of the applicable eighteen month time period, the owner or operator of any such nonconforming day labor agency may seek from city council an extension of the date by which it must come into conformity with this section 12-215 by filing with the director a petition which sets forth in detail the reasons why a fair and reasonable return on the investment in such day labor agency made by the petitioner prior to October 7, 2003, cannot be obtained prior to the expiration of the eighteen month period.
- (C) Council shall conduct a public hearing on any such petition, prior to which the director shall provide notice in accordance with the provisions of section 11-300 of this ordinance.
- (D) Following the hearing, council may extend the eighteen month period only if it finds that a strict application of that time period will deny the petitioner the opportunity to realize a fair and reasonable return on the investment in the nonconforming day labor agency made by petitioner prior to October 7, 2003, in which case council shall extend the date to a time which it determines will provide such opportunity to the petitioner.

NEW LANGUAGE ADDED BY PLANNING COMMISSION:

CHAPTER VII: SUPPLEMENTAL ZONE REGULATIONS

Section 7-2000      Day Labor Agencies.

Any day labor agency approved under this ordinance shall, in addition to other conditions appropriate to the specific location and circumstances in the given case, be subject to the following requirements:

- (A) The use shall not be permitted within 300 feet of land in a residential or mixed use zone.
- (B) Attended indoor restrooms shall be available two hours prior to the hours of operation for the benefit of congregating laborers.
- (C) Trash receptacles shall be provided to the satisfaction of the Director of Planning and Zoning.
- (D) Litter on the site and on the public rights of way and spaces adjacent to or within 100 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to present an unsightly or unsanitary accumulation, on each day that the business is open.
- (E) No amplified sound shall be audible at the property line.
- (F) When deemed necessary by the Director of Planning and Zoning and at the expense of the applicant, a private security service, or such dedicated personnel, shall be employed to discourage loitering, public urination, or consumption of alcoholic beverages and to control noise associated with the congregation of laborers. This service shall commence prior to the time laborers arrive and remain until workers disperse in both the morning and afternoon or evening hours.

## DISCUSSION

This text amendment proposes several changes to the zoning ordinance with respect to day labor agencies. First, the definition clarifies the definition of “day labor agency.” Second, the text amendment requires a special use permit for day labor agencies. In addition, as the Commission had previously suggested, staff has refined the list of commercial zones in which day labor agencies may be approved, and deleted the lower density zones because they are typically located adjacent to residential areas. Third, existing day labor agencies will be required to cease operations or obtain special use permit approval within eighteen months. After a discussion of the 1999 zoning ordinance amendment regarding day labor agencies and the legal challenge of City’s initiation procedure used for the 1999 amendment, the staff report discusses the specific revisions proposed to the Zoning Ordinance.

### 1999 Zoning Ordinance Amendment Regarding Day Labor Agencies

Responding to concerns from local residents, staff studied day labor agencies beginning in 1996 and determined that such uses pose significant negative impacts in residential areas. In 1999, staff proposed Text Amendment #99-0001, an amendment to the Zoning Ordinance.

At the time of the proposed amendment in 1999, staff knew that two day labor agencies operated in the City. Several city agencies had received numerous complaints from residential neighbors about negative impacts of such a use, including complaints regarding litter, loitering, excessive noise (beginning as early as 4:30 a.m.), and disruptive, unsanitary behavior. Staff determined that laborers gathered and waited for work assignments very early in the morning, and arrived as a group at the end of the day. Staff determined that the laborers often congregated outside on the sidewalk both in the morning and evening. Staff also determined that laborers stayed in the neighborhood to drink alcohol and subsequently litter the nearby homes. In both cases, the neighborhoods asked staff to consider the negative impacts of the use and reassess its zoning status.

Following the Planning Commission’s recommendation, the City Council amended the City’s zoning ordinance and enacted Ordinance No. 4049, deeming any day labor agency in existence on February 2, 1999, to be a nonconforming use and requiring it to cease operations within 18 months. Alternatively, the business could apply for a special use permit to continue to operate for a longer period of time. Under the special use process, the City would be able to review the appropriateness of day labor agency locations and their impacts on the neighborhood on a case by case basis and then approve it, deny it, or approve it with conditions designed to prevent negative impacts.

Both then existing day labor agencies – All Star Temporaries and Ace Temporaries, Inc. – submitted special use permit applications. Staff supported the relocation of All Star Temporaries from a location behind a Washington Street building to an industrial area on Eisenhower Avenue. In support of the application, staff analyzed the new site and noted that it was on a major road, in an industrial area in a mixed use warehouse building, and at a distance from residential uses. Subsequently, the City Council approved All Star Temporaries’ request.

After a similar review process, Ace Temporaries' special use permit application for 717 Pendleton Street was denied. First, after completing a full review, staff recommended denial of Ace Temporaries' application because its operation created significant and intensive negative impacts for the nearby neighborhood. Staff cited to numerous police calls and complaints from local residents regarding littering, loitering, excessive noise, excessive human traffic flow, insufficient accommodation for workers' pick-up and drop-off activities, and limited availability of on-street parking. After a public hearing, the Planning Commission agreed with staff's analysis and voted to recommend denial. Finally, the City Council agreed with the Planning Commission's recommendation to deny the special use permit and provided 90 days for Ace Temporaries to relocate.

Legal Challenge to 1999 Zoning Ordinance Amendment Regarding Day Labor Agencies

Rather than pursue its administrative remedies before the Board of Zoning Appeals (BZA), Ace challenged the ordinance amendment and its application in Circuit Court. On the eve of trial, the parties agreed to a six-month stay in litigation to pursue settlement. Despite good faith efforts by the City to find a compatible new location for Ace Temporaries, Ace Temporaries refiled its suit in May 2002. In July 2002, Ace Temporaries finally agreed that its administrative challenge of the Director's determination was in the wrong forum and agreed to continue to stay all litigation pending resolution of a BZA appeal.

In October 2002, following a full hearing including citizen and applicant testimony, the BZA rejected Ace Temporaries' appeal and upheld the Director's determination that Ace Temporaries is a day labor agency under the Zoning Ordinance. *See* Exhibit A, BZA Docket Materials. A challenge to the BZA decision, among other claims, was then brought by Ace Temporaries against the City in Circuit Court. In June 2003, the court ruled on a procedural issue, holding that the 1999 text amendment was not properly initiated as called for in the state statute. In particular, the court held that there "was never a resolution nor a motion to initiate the amendment; only a 'motion' before the Planning Commission to adopt the changes." *See* Exhibit B, Letter from Judge Alfred D. Swersky, Circuit Court of Alexandria, granting complainant's motion for summary judgment.

Text Amendment #2003-0006 Clarifies the Definition of Day Labor Agency

The existing Zoning Ordinance definition sets forth characteristics that describe the operation of a “day labor agency” as a general matter.

*Day labor agency.* A place where arrangements for short term employment are made, characterized by the gathering of employees who are hired typically for a one day period. Employers often transport the employees to the work site and return them to the day labor agency.

The key zoning characteristic captured by the definition is that a day labor agency use attracts a significant number of people at regular intervals in both the early morning and in the afternoon. Building on this characteristic, Text Amendment #2003-0006 revises the definition of day labor agency. It defines a day labor agency as:

A place where assignments for employment are made characterized by the daily gathering of workers. A day labor agency operates a dispatch to which at least some workers physically report, apply and wait for work daily, and return to receive their paychecks daily. Day labor is labor that is occasional or irregular at which the person is assigned for not longer than the time period required to complete the work assignment. The majority of day labor workers are not assigned clerical or professional employment.

By revising the definition of day labor agency, Text Amendment #2003-0006 arguably provides greater clarity to the potentially regulated community. An employer’s possible use of a transportation service is no longer a component of the definition, although it remains a characteristic of day labor agencies of which staff is aware. The revised definition also makes a clear distinction between day labor agencies and temporary employment agencies.

Staff examined temporary employment agencies and found that they typically provide clerical or professional employment. In terms of operations, temporary employment agencies typically operate as follows: they require applicants to submit an application via fax or mail; applicants do not arrive at its offices every day for an assignment. If the applicant is properly qualified, the applicant is invited to the temporary employment agency for an interview. At an interview, the applicant’s skills are tested and all necessary paperwork is completed at that time. Unlike a day labor agency, assignments generally are provided by telephone. If an applicant receives an assignment, that individual is unlikely to return to the temporary employment agency. Also, contrary to day labor agency, paychecks are mailed to the employee’s home address.

Day Labor Agencies Should Not be a Permitted Use in the City and Should Not Be Allowed At  
All in the Lower Density Zones

Staff is aware of two day labor agencies now operating in the City, and it is possible that there are others. One is Ace Temporaries which has remained at 717 Pendleton Street, at the corner of Pendleton and North Columbus Streets. The second is at 4926 Eisenhower Avenue, and is the continuation of the All Stars Temporaries agency, for which an SUP was approved.

Staff has reexamined the use and operations of day labor agencies and has determined that they still require special treatment. Day labor operations attract significant human traffic flow and create too intense an activity to be located in or adjacent to a residential neighborhood. Negative impacts of day labor operations result in litter, loitering, noise, and excessive human traffic flow. Staff continues to believe that the best location for these uses is in an area with good access to public transportation but that is physically removed from residences so that impacts are not borne by residential uses.

The proposed text amendment results from staff's analysis. Staff continues to recommend that day labor agencies only be allowed after special use permit review. Therefore, the zoning ordinance will provide, in most commercial zones, that a day labor agency use requires a special use permit. Second, staff has refined the list of commercial zones in which day labor agencies may be approved. Staff proposes that day labor agencies be prohibited in CL/Commercial Low Zones, CC/Community Commercial and CSL/Commercial Service Low Zones because those zones were specifically designed to be mapped adjacent to residential zones and uses in the city. Similarly, staff has not proposed that day labor agencies be allowed in the mixed use zones, even with a SUP; those zones specifically seek to achieve both commercial and residential activities on the same site. Thus, any proposed day labor agency in the CL, CC, CSL or the mixed use zones will be adjacent to residential areas, and not appropriate because of day labor agencies' inherent negative impacts for residential uses.

Eighteen Month Abatement Period is a Reasonable Time for Day Labor Agencies  
to Recoup its Investment

As to the existing day labor agencies in the City, they will be required to cease operations or obtain a special use permit within eighteen months of the effective date of the zoning ordinance amendment. The eighteen month abatement period, also known as an amortization period, refers to the termination of a nonconforming use after a specified period of time and is intended to give nonconforming day labor agencies an opportunity to amortize investment in the use. The City's authority to require amortization of nonconforming uses is provided in the City Charter.

Given the modest operations of a day labor agency, eighteen months appears to be a reasonable time in which a day labor agency could recoup its costs. Staff examined day labor agencies' investment and potential loss and determined that a eighteen month period should not pose an economic hardship. Recently, staff observed day labor operations at two different addresses and noted little, if any, investment in the property. For example, at Ace Temporaries, staff found no evidence of significant investment in the building and little equipment in the office.

The premises amount to a large room with several tables, chairs, a countertop, and a restroom. Furthermore, Ace Temporaries' investment in its building could be recouped upon sale or rental to another use. The Zoning Ordinance lists numerous permitted uses, such as commercial space or a retail store, which could occupy a current day labor agency office location.

In addition, the procedures included in the text amendment would allow Council to expand the eighteen month period if the owner can show that it needs additional time to recoup its investment.

The two day labor agencies of which staff is aware have been notified of the proposal and of the schedule for the public hearings.

#### Recommendation

Staff recommends that the Commission adopt Text Amendment #2003-0006 clarifying the definition of day labor agency, prohibiting day labor agencies in lower density zones, and requiring day labor agencies cease operations or obtain a special use permit approval within eighteen months of the effective date of the zoning ordinance amendment.

Staff: Eileen Fogarty, Director, Planning and Zoning;  
Barbara Ross, Deputy Director, Planning and Zoning.

Docket Item #1  
BZA CASE #2002-0063

Board of Zoning Appeals  
October 10, 2002

**ADDRESS:** 717 PENDLETON STREET  
**ZONE:** CL/COMMERCIAL LOW  
**APPLICANT:** ACE TEMPORARIES, INC. AND ACH, LLC

**ISSUE:** Appeal from the determination of the Director of Planning and Zoning that the property use is a "day labor agency" subject to the nonconforming use provisions in the Zoning Ordinance.

---

SUMMARY OF CASE ON APPEAL

This case concerns the definition of "day labor agency" as set forth in the City of Alexandria (the City's) Zoning Ordinance. In 1999, the City's Director of Planning and Zoning ("the Director") determined that the property use at 717 Pendleton Street by Ace Temporaries, Inc. and ACH, LLC ("Ace") was a day labor agency under Section 2-133.1 of the Zoning Ordinance. The Director had concluded that Ace's operations as a day labor agency created major negative impacts in the surrounding residential neighborhood, including increased criminal activity (i.e., police calls for public drunkenness and disorderly conduct), an ongoing litter problem on adjacent residential properties, excessive noise in pre-dawn hours, a disruptive impact on neighborhood streets, and insufficient parking and excessive traffic related to workers' pick-up and drop-off activities. In May 1999, the Director determined that, under Section 12-215 of the Zoning Ordinance, Ace was a day labor agency subject to the Ordinance's nonconforming use provisions and would require a special use permit ("SUP") to operate. Ace appeals from that ruling and contends that its use is not a day labor agency.

Following the City's (May 1999) determination, Ace filed its SUP application in September 2000. The Director and the City's Planning Commission recommended denial of the application and, in December 2000, the City Council upheld the recommendation to deny the SUP. Ace did not exhaust its administrative remedies before the BZA, by seeking review of the Director's determination that it was a day labor agency, subject to an SUP requirement. Rather, Ace challenged the application of the ordinance, among other claims, in the Circuit Court for the City of Alexandria. On the eve of trial, the parties agreed to a six-month stay in litigation to pursue settlement. Despite good faith efforts by the City to find a compatible location for Ace, Ace refiled its suit in May 2002. In July 2002, Ace agreed that its administrative challenge of the Director's determination was in the wrong forum and agreed to stay the litigation pending resolution of the BZA appeal.



**BZA #2002-0063**

**10/10/02**



Throughout this time, Ace's operations continued unabated. The business has consistently produced the sorts of negative effects that led to passage of Section 2-133.1. Ace is a day labor agency and remains an incompatible use with the surrounding residential properties.

BACKGROUND OF ZONING ORDINANCE AMENDMENT  
TO ADDRESS IMPACTS FROM DAY LABOR AGENCIES

Beginning in 1996, several city agencies received numerous complaints from local residents about the use of the two properties, Ace, then located at 1000 Queen Street, and All Star Temporaries, located at 717 Pendleton Street. When Ace purchased the building at 717 Pendleton Street, All Star Temporaries was forced to move. Eventually, with SUP approval, All Star Temporaries moved to a location in the industrial zone on Eisenhower Avenue. Meanwhile, Ace relocated to 717 Pendleton Street on April 1, 1999. The complaints regarding both properties addressed litter, loitering, excessive noise beginning as early as 4:30 a.m., and disruptive unsanitary behavior. *See* Complaints received by the Alexandria Police Department, the City's Office of Citizen Assistance, the City's Code Enforcement Bureau, the Department of Planning and Zoning regarding 717 Pendleton Street at Exhibit 1.

The Director investigated the citizen complaints by visiting the properties in question and observing the operations at these addresses over the course of many months. The Director also discussed the properties with the police and neighbors.

Regarding Ace's operations, for example, the Director determined that:

- Approximately 100-125 laborers seeking assignment for a particular day report to its office every morning (except on Sundays).
- Laborers gather, congregate outside on the sidewalk, and wait for work assignments beginning at 4:30 a.m.
- Ace assigns the laborers to job sites over the entire Washington, DC metropolitan area, extending as far as north of Baltimore.
- Ninety percent of Ace's assignments start at 7:00 a.m., requiring most laborers to arrive at Ace before 6:00 a.m. in order to obtain an assignment and report to the job site on time.
- Approximately 150 laborers report back to Ace's office on a daily basis at the end of the workday.
- The laborers typically report back between 3:00 p.m. and 6:00 p.m. and often congregate outside on the sidewalk.

- The laborers often stay in the neighborhood to consume alcohol and subsequently litter the nearby residential properties.

After examining both properties, the Director was convinced that the negative impacts of this use were significant. To address the negative impacts, the Director proposed an amendment to the Zoning Ordinance requiring day labor agencies to operate under an SUP. Under an SUP, the Director could address the problems created by day labor agencies.

On January 15, 1999, the Director sent a letter via hand delivery to Ace providing official notice of the proposed amendment to the City's zoning ordinance. On January 25, the Director sent another letter to Ace identifying citizen complaints about the operations of Ace and other day labor agencies.

On February 2, 1999, the City's Planning Commission held a public hearing on the proposed legislation regarding day labor agencies. Ace testified. At the hearing, the Planning Commission, on its motion, initiated the text amendment regarding day labor agencies. On February 20, the City Council held a public hearing on the text amendment and deferred the matter asking the relevant City departments to visit potentially affected day labor agencies and listen to their concerns.

As a result, on April 28, 1999, Department of Planning and Zoning Staff and the City Attorney's Office met with Ace and its counsel to discuss the Zoning Ordinance Amendment. On May 15, the City Council amended the City's zoning ordinance and enacted Ordinance No. 4049, requiring any day labor agency in existence on February 2, 1999, to apply for an SUP. *See Alexandria, VA, Ordinance No. 4049 (May 15, 1999) (attached as Exhibit 2).* Zoning Ordinance Amendment No. 4049 defines a day labor agency as:

A place where arrangements for short term employment are made characterized by the gathering of employees who are hired typically for a one-day period. Employers often transport the employees to the work site and return them to the day labor agency.

*See City Zoning Ordinance § 2-133.1.* In accordance with the amended ordinance, the City sent a letter via hand delivery to Ace providing notice of its nonconforming use status on May 21, 1999. On September 21, 2000, Ace responded to the amendment by submitting to the City a Special Use Permit Application #2000-0119 for its operation on Pendleton Street. Following additional investigation, the Director recommended denial of the permit application for 717 Pendleton Street because the operation created significant and intensive negative impacts for that neighborhood. The Director cited to numerous police calls, complaints from local residents, littering, loitering, excessive noise, excessive human and vehicular traffic flow, disruptive impacts on vehicle traffic through the neighborhood, insufficient accommodation for workers' pick-up and drop-off activities, and limited availability of on-street parking.

The Director also stated Ace's operation was "too active [with] too many potentially negative impacts for this neighborhood, which is primarily residential. The Police report that a total of six calls for service were received last year and that another six calls have been received to date this year. The types of calls received include: burglary, drunk, disorderly suspicious person, fight and trespassing." See SUP #2000-0119 (attached as Exhibit 3). The report added that, because of the extremely early gathering of employees in and around Pendleton Street, even non-objectionable behavior such as starting cars, opening and closing doors and regular conversation was "inappropriate for nearby residential uses." *Id.*

On November 9, the City's Planning Commission held a public hearing to consider Ace's request for an SUP. After considering testimony from Ace and local residents, the Planning Commission agreed with the Director's analysis and voted 7-0 to recommend denial of the application. Following testimony by Ace and local residents, the City Council upheld the Planning Commission's unanimous recommendation to deny the SUP and provided 90 days for Ace to relocate. As discussed above, instead of relocating, Ace filed suit against the City and eventually agreed to stay litigation pending resolution of this administrative appeal.

#### STANDARD OF REVIEW: DEFERENCE TO THE DIRECTOR

The City Charter and Zoning Ordinance delegate to the Director the authority and responsibility to administer and enforce the Zoning Ordinance. Under settled principles of administrative law, the interpretation given a legislative enactment by public officials charged with its administration and enforcement is entitled to be given significant weight by the courts. See *Payton v. Williams*, 145 S.E.2d 147 (1965). In Virginia, it is settled law that a presumption of correctness attaches to the actions of state and local officials. See *Hladys v. Commonwealth*, 366 S.E.2d 98 (1988). Such actions are presumed to be valid and will not be disturbed by a court absent clear proof that the action is unreasonable, arbitrary, and bears no reasonable relation to the public health, safety, morals or general welfare. See *County of Lancaster v. Cowardin*, 391 S.E.2d 267, 269 (Va. 1990). Thus, the Director's determination under the zoning ordinance is entitled to substantial deference. Unless the Board can find that the Director's decision was made without a reasonable basis, the Board should uphold that decision.

The City's Attorney's Office has also stated that "substantial deference" to a Director's determination is the appropriate standard of review. The City Attorney's Office has found that the Board of Zoning Appeals stands in the same relationship to the Director as a reviewing court when it reviews an administrative interpretation or decision. Thus, the Director's determination is entitled to substantial deference, both by this Board and a reviewing court. See Opinion to the Chairman and Members of the Board of Zoning Appeals, at 2-3 (April 12, 1989) (available for review).

THE DIRECTOR'S DETERMINATION THAT ACE IS A  
DAY LABOR AGENCY WAS REASONABLE

Ace claims that the City's ordinance does not describe its operations. Ace is wrong. First, the Zoning Ordinance does not set forth mandatory criteria that must be satisfied. The fact that Ace's use attracts a significant number of people in the very early morning and late afternoon hours independently satisfies the ordinance. Second, Ace's operations fall squarely in the zoning ordinance definition of "day labor agency." Under both analyses, the Director's definition that Ace is a day labor agency was proper and reasonable.

Ace's "Gathering of Employees" Satisfies the Zoning Ordinance

The ordinance in question does not establish specific criteria necessary to satisfy the regulation. Instead, the ordinance sets out significant characteristics of the day labor agency use which trigger the application of the ordinance. If a zoning ordinance is too specific, uses could easily escape regulation. Zoning Ordinance § 2-133.1 sets forth characteristics that describe an operation of a "day labor agency" as a general matter. The key zoning characteristic captured by the ordinance is that Ace's use attracts a significant number of laborers on regular intervals in both the early morning and at the close of every day except Sunday.

The Department of Planning and Zoning observed the movement of significant numbers of laborers to and from 717 Pendleton Street. Every morning, except Sundays, approximately 100-125 laborers seeking assignment for a particular day report to Ace's operations between 4:30 and 8:00 a.m. Over 150 laborers then return each afternoon to get paid, typically reporting back to Ace's premises between 3:00 and 6:00 p.m. The Director determined that this nature of foot and vehicular traffic in and around the building on the property classifies as a "gathering of employees."

The Director based his decision on an extensive record that included materials from Ace, the Department, the Planning Commission, and interested citizens. The Director examined Ace's application before the ordinance was amended. He directly observed the significant human traffic flow and that Ace's operation was too active for a primarily residential neighborhood. He identified negative impacts of Ace's use to include numerous police calls, complaints from local residents, litter, loitering, noise, excessive human and vehicular traffic flow, a disruptive impact on vehicle and bus traffic through the neighborhood, insufficient accommodation for workers' pick-up and drop-off activities both on-site and on the streets, and limited availability of on-street parking.

Following this extensive and fair process, the Director made an informed decision to apply the definition of "day labor agency" to Ace's operations. The record of administrative investigation and analysis far exceeds the applicable reasonableness standard.

### Ace's Operation Satisfies the Definition of Day Labor Agency

The Director also reasonably determined that Ace's use fully satisfies the ordinance's definition. In fact, Ace's operations virtually mirror the language of the zoning ordinance. Ace's attempts to parse each word of the definition should be rejected.

Ace first argues that it does not hire laborers for "short term employment." This is contrary to the Director's reasoned analysis. The Director studied the short-term employment arrangement of Ace's operation at 717 Pendleton Street. In its investigation, the Director determined that Ace assigns employees to work at a variety of construction and industrial businesses for a short period, including one day periods. The Director determined that the length of employment by Ace's laborers is typically one day and its laborers generally report to Ace assignment for a temporary period of a few days or months. The fact that Ace is actually the employer, paying payroll taxes, etc., and does not act as a service to other employers, does not change the essential fact, consistent with the definition, that employment related activity take place at the site, that short term employment assignments are the norm, and that one day stints are very typical.

Ace avers that it is a temporary employment agency, and not a day labor agency, by arguing that it is similar to agencies such as Manpower. This is clearly inaccurate. The City examined the operations of temporary employment agencies such as Manpower. These agencies require applicants to submit an application via fax or mail; applicants do not arrive at its offices every day for an assignment. In fact, if the applicant is properly qualified, the applicant is invited to the agency for an interview. At an interview, the applicant's skills are tested and all necessary paperwork is completed at that time. Unlike Ace, assignments generally are provided by telephone. If an applicant receives an assignment, that individual is unlikely to return to the Manpower office. Also, contrary to Ace's operations, paychecks are mailed to the employee's home address. Given these stark operation differences, Ace is clearly not a temporary employment agency.

Furthermore, Ace does not provide its laborers with health care insurance, life insurance, sick leave, vacation leave, disability coverage, or retirement benefits. The lack of benefits underscores the short-term nature of the laborers' employment. As a result, the Director determined that this employment arrangement is evidence of the "short term employment" of day labor workers as defined in the Zoning Ordinance.

Ace also claims that "[it] does not hire people for one day periods – ever." See Ace's Application for BZA Appeal at 3 (emphasis in original). Documents produced by Ace during the course of the lawsuit directly contradict this assertion. The Employee Payroll History Report (available for review) provides the payroll history of Ace's laborers for the first six months of 2001 and demonstrates many instances of short terms work periods. Indeed, the report shows that some employees received one paycheck for just one day of work, directly contradicting Ace's allegations.

Furthermore, Ace argues that it does not fall under the zoning amendment's definition of day labor agency because it does not provide transportation to its workers. Again, this narrow interpretation

of the ordinance fails. Documents produced by Ace in the course of the lawsuit indicate that Ace laborers are reimbursed for their mileage costs. *See* Employee Payroll History Report. Ace reimburses laborers who drive other laborers to the work site. The Director considers Ace's reimbursement of its laborers' mileage costs equivalent to Ace actually driving the employees to the job site. Furthermore, at one time, Ace did in fact operate a laborer pick-up site in Washington, D.C. Its claim that this service is no longer provided does not preclude Ace from satisfying the definition.

### CONCLUSION

The evidence demonstrates that Ace is a day labor agency. The Director's analysis clearly shows that 100-125 laborers visit Ace's operations every day beginning at 4:30 a.m. and over 150 return every afternoon. The Director determined that this activity constituted a "gathering of employees" that satisfies the zoning ordinance. In addition, Ace's operation satisfies the zoning ordinance's definition of "day labor agency." Ace short-term employment arrangement is characterized by a large daily gathering of employees at its premises. Also, it often arranges for transport of the laborers to the work site. The Director properly determined that Ace is a day labor agency under Section 2-133.1 of the Zoning Ordinance.

The Director has the prerogative to apply the Zoning Ordinance provided that the determination is reasonable. The Director's thorough analysis, which included input from Ace, City agencies, and local citizens, certainly establishes sufficient evidence of reasonableness. Thus, the Director respectfully requests that the BZA uphold the determination.

BZA CASE #2002-0063

ATTACHMENTS

|   |             |
|---|-------------|
| EXHIBIT #1 - COMPLAINTS                                 | pp. 10 - 32 |
| EXHIBIT #2 - ORDINANCE #4049<br>TEXT AMENDMENT #99-0001 | pp. 33 - 44 |
| EXHIBIT #3 - SUP #2000-0119                             | pp. 45 - 78 |

Irv Wharton

To: Timothy Dickinson/Alex@Alex

09/24/01 02:44 PM

cc:

Subject: 98 and 99 Call Data

1998 DATA

| STNBR | STNAME     | STTYPE | RDATE  | CALLTYP | CASENBR  |
|-------|------------|--------|--------|---------|----------|
| 0526  | WASHINGTON |        | 121098 | SUSP-I  |          |
| 1000  | PENDLETON  | ST     | 082298 | BOOT-D  |          |
| 0717  | PENDLETON  | ST     | 031398 | PHON-D  | 98004274 |
| 0717  | PENDLETON  | ST     | 032698 | TRUN-I* | 98005025 |
| 0717  | PENDLETON  | ST     | 041098 | OTHE-D  |          |
| 0717  | PENDLETON  | ST     | 050698 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 052298 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 060598 | DISO-P  |          |
| 0717  | PENDLETON  | ST     | 060598 | DISO-P  |          |
| 0717  | PENDLETON  | ST     | 061298 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 061698 | TRES-I  |          |
| 0717  | PENDLETON  | ST     | 062698 | DISO-I  |          |
| 0717  | PENDLETON  |        | 072098 | OTHE-I  |          |
| 0717  | PENDLETON  | ST     | 072298 | OTHE-P  |          |
| 0717  | PENDLETON  | ST     | 072398 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 090198 | LARC-D  | 98014857 |
| 0717  | PENDLETON  | ST     | 090198 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 100998 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 101298 | BURG-E  | 98017490 |
| 0717  | PENDLETON  | ST     | 103098 | DISO-P  | 98018638 |
| 0717  | PENDLETON  | ST     | 103098 | OTHE-I  |          |
| 0717  | PENDLETON  | ST     | 110498 | FIGH-I  |          |
| 0717  | PENDLETON  | ST     | 111098 | DEST-I  |          |
| 0717  | PENDLETON  | ST     | 111398 | ASSC-I  |          |
| 0717  | PENDLETON  | ST     | 111698 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 122398 | ALARB-I |          |

Parking Put boot on or off

Phone Complainant  
Trouble unknown  
Other Call  
Disorderly

Trespassing

98014857 Larceny

Fight  
Destruction  
Assist Citizen  
Alarm

1999 DATA

|      |            |    |        |         |          |
|------|------------|----|--------|---------|----------|
| 0717 | PENDLETON  | ST | 012199 | DISO-I  |          |
| 0717 | PENDLETON  | ST | 040199 | SUSP-P  |          |
| 0717 | PENDLETON  | ST | 052999 | ALARB-I |          |
| 0717 | PENDLETON  | ST | 082099 | DRUN-I  |          |
| 0526 | WASHINGTON | ST | 031899 | BURG-D  | 99004028 |
| 0526 | WASHINGTON | ST | 042199 | DISO-P  |          |
| 0526 | WASHINGTON | ST | 090899 | ALARB-I |          |
| 0526 | WASHINGTON | ST | 101899 | DISO-I  |          |

Suspicious Person  
Alarm Call  
Drunk  
Burglary  
Alarm Call  
Disorderly

19

Irv Wharton

To: Timothy Dickinson/Alex@Alex

09/24/01 02:44 PM

cc:

Subject: 98 and 99 Call Data

1998 DATA

| STNBR | STNAME     | STTYPE | RDATE  | CALLTYP | CASENBR  |
|-------|------------|--------|--------|---------|----------|
| 0526  | WASHINGTON |        | 121098 | SUSP-I  |          |
| 1000  | PENDLETON  | ST     | 082298 | BOOT-D  |          |
| 0717  | PENDLETON  | ST     | 031398 | PHON-D  | 98004274 |
| 0717  | PENDLETON  | ST     | 032698 | TRUN-I* | 98005025 |
| 0717  | PENDLETON  | ST     | 041098 | OTHE-D  |          |
| 0717  | PENDLETON  | ST     | 050698 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 052298 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 060598 | DISO-P  |          |
| 0717  | PENDLETON  | ST     | 060598 | DISO-P  |          |
| 0717  | PENDLETON  | ST     | 061298 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 061698 | TRES-I  |          |
| 0717  | PENDLETON  | ST     | 062698 | DISO-I  |          |
| 0717  | PENDLETON  |        | 072098 | OTHE-I  |          |
| 0717  | PENDLETON  | ST     | 072298 | OTHE-P  |          |
| 0717  | PENDLETON  | ST     | 072398 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 090198 | LARC-D  | 98014857 |
| 0717  | PENDLETON  | ST     | 090198 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 100998 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 101298 | BURG-E  | 98017490 |
| 0717  | PENDLETON  | ST     | 103098 | DISO-P  | 98018638 |
| 0717  | PENDLETON  | ST     | 103098 | OTHE-I  |          |
| 0717  | PENDLETON  | ST     | 110498 | FIGH-I  |          |
| 0717  | PENDLETON  | ST     | 111098 | DEST-I  |          |
| 0717  | PENDLETON  | ST     | 111398 | ASSC-I  |          |
| 0717  | PENDLETON  | ST     | 111698 | DISO-I  |          |
| 0717  | PENDLETON  | ST     | 122398 | ALARB-I |          |

           Destruction

1999 DATA

|      |            |    |        |         |          |
|------|------------|----|--------|---------|----------|
| 0717 | PENDLETON  | ST | 012199 | DISO-I  |          |
| 0717 | PENDLETON  | ST | 040199 | SUSP-P  |          |
| 0717 | PENDLETON  | ST | 052999 | ALARB-I |          |
| 0717 | PENDLETON  | ST | 082099 | DRUN-I  |          |
| 0526 | WASHINGTON | ST | 031899 | BURG-D  | 99004028 |
| 0526 | WASHINGTON | ST | 042199 | DISO-P  |          |
| 0526 | WASHINGTON | ST | 090899 | ALARB-I |          |
| 0526 | WASHINGTON | ST | 101899 | DISO-I  |          |

270

96-107

CITIZEN ASSISTANCE REQUEST RECORD

DATE 9/19/95  
705-4778-Page  
838-4744-w  
(Phone)

Citizen Ofer David Robinson  
(Name) (Address)

Type of Request Complaint

Received by: Quena  (Phone)  (Letter)  (In Person)

Details: Employees of Ace Impassaries gathering before open - creating noise and trash in A.M. In P.M. alcohol use and trash. They get the booze from Queen St. Market.

A. STAFF/DEPARTMENT CONTACTED

ACTION TAKEN

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_

B. RESOLUTION

Spoke w/ Ken Matthews of ACE Impassaries. Have placed signs asking that they stay inside. Will address noise open at 4:30 AM. Most generally have cars and are parked in their vehicles. Have counseled about drinking and littering.

C. FOLLOW-UP

- Complainant contacted
  - \_\_\_\_\_ Satisfied
  - \_\_\_\_\_ Dissatisfied
  - \_\_\_\_\_ Date

Staff person's signature \_\_\_\_\_

- Further contact needed
  - Comments \_\_\_\_\_
  - \_\_\_\_\_
  - \_\_\_\_\_

D. ADDITIONAL INFORMATION

\_\_\_\_\_  
\_\_\_\_\_

96-167

CITIZEN ASSISTANCE REQUEST RECORD

DATE 4/12/96

Citizen Leonard Hacker 1010 Queen St. 202-543-7453  
(Name) (Address) (Phone)

Type of Request Complaint

Received by: Quene  (Phone)  (Letter)  (In Person)

Details: Employees from ACE Temporary are showing up at 4:30 AM and drink, steal newspaper, and are becoming vicious. They have started urinating + defecating in alley, throwing trash in alley + leaving bottles all over. Residents want business closed down.

A. STAFF/DEPARTMENT CONTACTED

- Officer Robinson  
Police Dept.
- \_\_\_\_\_
- \_\_\_\_\_

ACTION TAKEN

Mr. Quene's noticed any of this behavior because he is not around that time of day. He will get midnight shift to patrol. Problem is coming up again because weather is getting warmer. He will call Mr. Hacker

B. RESOLUTION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. FOLLOW-UP

- Complainant contacted
- \_\_\_\_\_ Satisfied  
\_\_\_\_\_ Dissatisfied  
\_\_\_\_\_ Date

Staff person's signature \_\_\_\_\_

- Further contact needed
- Comments \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. ADDITIONAL INFORMATION

\_\_\_\_\_  
\_\_\_\_\_

CITIZEN ASSISTANCE REQUEST RECORD

DATE: 03/30/1999

CASE # CITIZEN  
9-103 KELLY

SCHAEFER

ADDRESS  
223 N PATRICK ST  
ALEXANDRIA  
703-549-3228

VA 22314-

APT #

GEO-AREA: BRADDOCK RD METRO CENTER

NBHD TITLE: RENO IN #203

SUBJECT: POLICE

CATEGORY: CRIMINAL ACTIVITY

REPORTED BY: BOYD

HOW?: PHONE

DETAIL:

Problem with Ace Temporaries--parking in violation of RRP, trash, loitering, urinating in alley. Police said tickets have been issued, but she never sees any. Men buy alcohol from Jim's Grocery.

STAFF CONTACTED

DENNIS BUTLER

Complaint referred to Police and Code Enforcement for follow-up.

DEPARTMENTS CONTACTED\ACTION TAKEN

POLICE DEPT.

ART DAHLBERG

CODE ENFORCEMENT

RESOLUTION:

FOLLOW-UP

CITIZEN CONTACTED: N DATE CONTACTED:

CITIZEN RESPONSE:

FURTHER CONTACT NEEDED: N CLOSED: N DATE CLOSED:

COMMENT:

ADDITIONAL INFO:

CITIZEN ASSISTANCE REQUEST RECORD

DATE: 07/16/1998

CASE # CITIZEN  
7-055 LEONARD

HACKER

ADDRESS  
1010 QUEEN ST  
ALEXANDRIA  
703

APT #

VA 22314-

GEO-AREA: BRADDOCK RD METRO CENTER

NBHD TITLE: RENO IN #203

SUBJECT: POLICE

CATEGORY: CRIMINAL ACTIVITY

REPORTED BY: OWENS

HOW?: PHONE

DETAIL:

Heard someone trying to enter building. Opened door and found man laying on stoop. Called Police. Man was drunk. ACE said he worked for them and they put him out, but asked that he not be arrested.

STAFF CONTACTED

JOHN CRAWFORD

DEPARTMENTS CONTACTED\ACTION TAKEN

POLICE DEPT.

Complaint referred to Police Dept. for follow-up on nuisance activity.

RESOLUTION:

FOLLOW-UP

CITIZEN CONTACTED: N DATE CONTACTED:

CITIZEN RESPONSE:

FURTHER CONTACT NEEDED: N CLOSED: N DATE CLOSED:

COMMENT:

ADDITIONAL INFO:

24

CITIZEN ASSISTANCE REQUEST RECORD

DATE: 10/27/1998

CASE # CITIZEN  
9-065 KATHLEEN

HOWARD

ADDRESS  
616 N COLUMBUS ST  
ALEXANDRIA  
703-684-5094

APT #

VA 22314-

GEO-AREA: BRADDOCK RD METRO CENTER

NBHD TITLE: UNRENO RT1/WEST ST

SUBJECT: POLICE

CATEGORY: CRIMINAL ACTIVITY

REPORTED BY: OWENS

HOW?: PHONE

DETAIL:

Concerned about nuisance activity around a temporary employment agency on corner of Pendleton and Columbus. Drug dealing and sexual activity being observed. Police told her not to get involved.  
\*

STAFF CONTACTED

DENNIS BUTLER

DEPARTMENTS CONTACTED\ACTION TAKEN

POLICE DEPT.

Complaint referred to Police Department for follow-up and action.  
\*  
\*  
\*

RESOLUTION:  
\*

FOLLOW-UP

CITIZEN CONTACTED: N DATE CONTACTED:

CITIZEN RESPONSE:

FURTHER CONTACT NEEDED: N CLOSED: N DATE CLOSED:

COMMENT:  
\*

ADDITIONAL INFO:  
\*

| PERMIT PLAN  |  |                            |  |                        |   |                           |  |           |  |
|--|--|----------------------------|--|------------------------|---|---------------------------|--|-----------|--|
| <div style="display: flex; justify-content: space-between;"> <span>ES Complaint Tracking -- CMP97-02854</span> <span>Status: P</span> </div>   |  |                            |  |                        |   |                           |  |           |  |
| Name: TEMPORARY, INC<br>Address: 1808 QUEEN ST L2F1<br>Complaint Information:  |  |                            |  |                        | Updated: 11-17-97<br>Master #: CMP97-02854<br>Project #: PR9764 |                           |  |           |  |
| The business (temporary inc for construction) need to control their patron from throwing trash out and urinating at the corner of n. patrick & queen street.<br>Map: 064.03 BK 05 Lot 25 Zoning: C |  |                            |  |                        |   |                           |  |           |  |
| Comp. Number: 017701   |  | Comp. Name: EDUARDO ALZONA |  | Referral To: ?         |   | Date Recd: Not applicable |  | Comments: |  |
| Comp. Address: 026 N PATRICK STREET  |  | Phone: 703-739-0348        |  | Res. Comm: Residential |   | Usage: Owner Occupied     |  | Remarks:  |  |
| Comp. Date: 09/04/1997   |  | Date Completed: 11/04/97   |  | Target Area: NA        |   | Total Hours: 0.60         |  | Status:   |  |
| Type Complaint: COMPLAINT  |  |                            |  |                        |   |                           |  |           |  |
| Parking Case Summary Report for CMP97-02854  |  |                            |  |                        |   |                           |  |           |  |

26

**PERMIT PLAN**

File Edit Options Window Help

New  Open  Save  Print  Exit  
 Undo  Redo  Copy  Paste  Find  Help

---

**US Complaint Tracking -- CMP97-02854 Status P**

Name: **TEMPORARY, INC**      Updated: **11-17-97**      VMS  
 Address: **1000 QUEEN ST 1,2FL**      Master #: **CMP97-02854**  
 Complaint Information:      Project:      # **92377645**

The business (temporary inc for construction) need to control their patron from throwing trash out and urinatio at the corner of n. patrick & queen street.  
 Map: **864.93**      Bk: **85**      Lot: **25**      Zoning: **G**      Type: **1**

Received By:

| DATES    |                      |
|----------|----------------------|
| Received | 09/04/1997           |
| Issued   | <input type="text"/> |
| Expires  | <input type="text"/> |
| Finals   | <input type="text"/> |

Permit Case Summary Report for CMP97-02854

27

08/28/2001  
12:21:38 PM

# Information Summary for Case #: CMP97-02854

| Activity | Description               | Activity |        |        | Disp. | Hold Level | Updated By | Updated    |
|----------|---------------------------|----------|--------|--------|-------|------------|------------|------------|
|          |                           | Date 1   | Date 2 | Date 3 |       |            |            |            |
| CMPA005  | Complaint Received        |          |        |        |       | No Hold    | MBJ        | 09/04/1997 |
| CMPB015  | Insp - Original ProActive |          |        |        |       | No Hold    | MBJ        | 09/04/1997 |

### Case Notes

#### Notes

abated; case closed

### Case People Listing

| Role | Type Name / Address   | Company Name | Hold | Primary |
|------|---|--------------|------|---------|
| OWN  | TEMPORARY, INC<br>1000 QUEEN STREET ALEXANDRIA VA 200052158 |              |      | Y       |

-28







*Proactive*  
COMPLAINT/INSPECTION REPORT

(IMP 98-110)

|   |  |                           |                        |                              |
|---|--|---------------------------|------------------------|------------------------------|
| LOCATION OF COMPLAINT<br><i>1600 QUEEN ST</i>   |  | CENSUS<br><i>1600</i>     | DATE<br><i>3/25/98</i> | COMPLAINT #<br><i>020615</i> |
| RECEIVED BY<br>_____  | PERSON RESPONSIBLE FOR PROPERTY<br><i>ACE Employment Service</i> | ADDRESS<br>_____          |                        | DAY PHONE<br>_____           |
| COMPLAINANT<br>_____  | ADDRESS<br>_____   | WORK PHONE<br>_____       | HOME PHONE<br>_____    |                              |
| COMPLAINT CODE<br>_____   | SPECIFIC DETAILS OF COMPLAINT<br><i>Trash</i>                    |                           |                        |                              |
| PROGRAM CODE<br><i>4</i>  | _____  |                           |                        |                              |
| COMPLAINANT IS TO BE CONTACTED WITH INSPECTION RESULTS: YES _____ NO _____ DATE CONTACTED _____ |  |                           |                        |                              |
| FINAL DISPOSITION: ABATED <input checked="" type="checkbox"/> UNFOUNDED _____ OTHER _____       |  | INSPECTOR<br><i>MARKA</i> |                        |                              |
| REFERRED TO _____ CASE OPENED _____   |  | SUPERVISOR<br>_____       |                        |                              |

|                                  |                       |                        |                              |
|----------------------------------|-----------------------|------------------------|------------------------------|
| LOCATION<br><i>1600 Queen St</i> | CENSUS<br><i>1600</i> | DATE<br><i>3/25/98</i> | COMPLAINT #<br><i>020615</i> |
|----------------------------------|-----------------------|------------------------|------------------------------|

DATE:

*5-1-82*

TIME:

*Cleanup and remove all post, wood and other debris found outside of business of sidewalk AREA*

*Area must be cleanup within 7 days or Trash fine will be issued*

*838-4644 ext 123*

*PM 305-1 Floor AREA inside of business*

*Need cleanup floor dirty with trash*

AN INSPECTION OF THE ABOVE PROPERTY REVEALED CONDITIONS WHICH CONSTITUTE VIOLATIONS OF THE ALEXANDRIA CITY CODE. YOU ARE HEREBY ORDERED TO ELIMINATE THE ABOVE VIOLATIONS ON OR BEFORE \_\_\_\_\_ A.M./P.M. \_\_\_\_\_ 19\_\_ FAILURE TO COMPLY WITH THIS ORDER MAY SUBJECT YOU TO PENALTIES PRESCRIBED BY LAW.

ORDER RECEIVED BY: \_\_\_\_\_ SERVED BY: *Don MacCall* DATE: *3/25/98*

IF YOU ARE SERVED BY THIS NOTICE YOU MUST NOTIFY THE BUILDING, FIRE OR CODE OFFICIAL IN WRITING WITHIN 10 DAYS OF RECEIPT OF THIS NOTICE.

COMPLAINT/INSPECTION REPORT

CMP#

|   |  |                           |                        |                              |
|---|--|---------------------------|------------------------|------------------------------|
| LOCATION OF COMPLAINT<br><i>1000 QUEEN STREET</i>   |  | CENSUS<br><i>16:00</i>    | DATE<br><i>8/17/98</i> | COMPLAINT #<br><b>030245</b> |
| RECEIVED BY   | PERSON RESPONSIBLE FOR PROPERTY                                | ADDRESS                   |                        | DAY PHONE                    |
| COMPLAINANT   | ADDRESS  | WORK PHONE                | HOME PHONE             |                              |
| COMPLAINT<br>PROACTIVE  | SPECIFIC DETAILS OF COMPLAINT<br><i>EXTERIOR WALLS SURFACE</i> |                           |                        |                              |
| <i>Around bay window AREA Need repair</i>   |  |                           |                        |                              |
| COMPLAINANT IS TO BE CONTACTED WITH INSPECTION RESULTS: YES _____ NO _____ DATE CONTACTED _____ |  |                           |                        |                              |
| FINAL DISPOSITION: ABATED <input checked="" type="checkbox"/> UNFOUNDED _____ OTHER _____       |  | INSPECTOR <i>M. McKay</i> |                        |                              |
| REFERRED TO _____ CASE OPENED _____   |  | SUPERVISOR _____          |                        |                              |

|                |                                  |              |                |               |
|----------------|----------------------------------|--------------|----------------|---------------|
| DATE:          | LOCATION                         | CENSUS       | DATE           | COMPLAINT #   |
|                | <i>1000 Queen St</i>             | <i>16:00</i> | <i>8/17/98</i> | <b>030245</b> |
| DATE:          |                                  |              |                | TIME:         |
| <i>8/17/98</i> | <i>Peeling paint on exterior</i> |              |                |               |
| <i>8/17/98</i> | <i>Surfaces around windows</i>   |              |                |               |
| <i>9/17/98</i> | <i>Workman completed</i>         |              |                |               |
|                | <i>Case closed</i>               |              |                |               |

COMPLAINT/INSPECTION REPORT

CMP#

|   |  |                        |                              |
|---|--|------------------------|------------------------------|
| LOCATION OF COMPLAINT<br><i>1000 QUEEN STREET</i>   | CENSUS<br><i>1600</i>  | DATE<br><i>8/17/98</i> | COMPLAINT #<br><b>030245</b> |
| RECEIVED BY   | PERSON RESPONSIBLE FOR PROPERTY  | ADDRESS                | DAY PHONE                    |
| COMPLAINANT   | ADDRESS  | WORK PHONE             | HOME PHONE                   |
| COMPLAINT PROACTIVE   | SPECIFIC DETAILS OF COMPLAINT<br><i>EXTERIOR WALLS SURFACE</i><br><i>AROUND BAY WINDOWS AREA NEED REPAIR</i> |                        |                              |
| COMPLAINANT IS TO BE CONTACTED WITH INSPECTION RESULTS: YES _____ NO _____ DATE CONTACTED _____ |  |                        |                              |
| FINAL DISPOSITION: ABATED <input checked="" type="checkbox"/> UNFOUNDED _____ OTHER _____       | INSPECTOR <i>[Signature]</i>   |                        |                              |
| REFERRED TO _____ CASE OPENED _____   | SUPERVISOR _____   |                        |                              |

|                                  |                       |                        |                              |
|----------------------------------|-----------------------|------------------------|------------------------------|
| LOCATION<br><i>1000 Queen St</i> | CENSUS<br><i>1600</i> | DATE<br><i>8/17/98</i> | COMPLAINT #<br><b>030245</b> |
|----------------------------------|-----------------------|------------------------|------------------------------|

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

*PM 3:04/2*

*EXTERIOR WOOD SURFACE*  
*AROUND BAY WINDOWS AREA*  
*NEED REPAIRING*

*EXTERIOR WALLS SURFACE*  
*SHOULD BE MAINTAINED IN*  
*GOOD CONDITION*

*838-4644x123*

AN INSPECTION OF THE ABOVE PROPERTY REVEALED CONDITIONS WHICH CONSTITUTE VIOLATIONS OF THE ALEXANDRIA CITY CODE. YOU ARE HEREBY ORDERED TO ELIMINATE THE ABOVE VIOLATIONS ON OR BEFORE \_\_\_\_\_ A.M./P.M. 19\_\_ FAILURE TO COMPLY WITH THIS ORDER MAY SUBJECT YOU TO PENALTIES PRESCRIBED BY LAW.

ORDER RECEIVED BY: *[Signature]* DATE: \_\_\_\_\_

SERVED BY: *[Signature]* DATE: *8/17/98*

IF YOU ARE AGGRIEVED BY THIS NOTICE YOU MUST NOTIFY THE BUILDING, FIRE OR CODE OFFICIAL IN WRITING WITHIN 10 DAYS OF RECEIPT OF THIS NOTICE.

COMPLAINT/INSPECTION REPORT

CMP#

|   |   |                            |                         |                              |
|---|---|----------------------------|-------------------------|------------------------------|
| LOCATION OF COMPLAINT<br><i>1000 Queen St</i>   |   | CENSUS<br><i>16:00</i>     | DATE<br><i>11-10-98</i> | COMPLAINT #<br><b>031033</b> |
| RECEIVED BY   | PERSON RESPONSIBLE FOR PROPERTY               | ADDRESS                    |                         | DAY PHONE                    |
| COMPLAINANT   | ADDRESS                                       | WORK PHONE                 | HOME PHONE              |                              |
| COMPLAINT _____<br>PROACTIVE _____  | SPECIFIC DETAILS OF COMPLAINT<br><i>Trash</i> |                            |                         |                              |
| COMPLAINANT IS TO BE CONTACTED WITH INSPECTION RESULTS: YES _____ NO _____ DATE CONTACTED _____ |   |                            |                         |                              |
| FINAL DISPOSITION: ABATED <input checked="" type="checkbox"/> UNFOUNDED _____ OTHER _____       |   | INSPECTOR <i>M. Hebert</i> |                         |                              |
| REFERRED TO _____ CASE OPENED _____   |   | SUPERVISOR _____           |                         |                              |

| DATE:           | LOCATION   | CENSUS       | DATE            | COMPLAINT #   |
|-----------------|--|--------------|-----------------|---------------|
| <i>11-10-98</i> | <i>1060 Queen St</i>   | <i>16:00</i> | <i>11-10-98</i> | <b>031033</b> |
| <i>11-13-98</i> | <i>Violator</i>  |              |                 |               |
|                 | <i>lease trash such as paper, bottles surrounding property notice of violation issue</i> |              |                 |               |

ACE 0416

COMPLAINT/INSPECTION REPORT

CMP#

|   |   |                        |                         |                              |
|---|---|------------------------|-------------------------|------------------------------|
| LOCATION OF COMPLAINT<br><i>1000 Queen St</i>   |   | CENSUS<br><i>16-00</i> | DATE<br><i>11/10/98</i> | COMPLAINT #<br><b>031033</b> |
| RECEIVED BY   | PERSON RESPONSIBLE FOR PROPERTY               | ADDRESS                |                         | DAY PHONE                    |
| COMPLAINANT   | ADDRESS                                       | WORK PHONE             | HOME PHONE              |                              |
| COMPLAINT PROACTIVE   | SPECIFIC DETAILS OF COMPLAINT<br><i>Trash</i> |                        |                         |                              |
| COMPLAINANT IS TO BE CONTACTED WITH INSPECTION RESULTS: YES _____ NO _____ DATE CONTACTED _____ |   |                        |                         |                              |
| FINAL DISPOSITION: ABATED _____ UNFOUNDED _____ OTHER _____                                     |   |                        | INSPECTOR _____         |                              |
| REFERRED TO _____ CASE OPENED _____   |   |                        | SUPERVISOR _____        |                              |

|                                  |                        |                             |                              |
|----------------------------------|------------------------|-----------------------------|------------------------------|
| LOCATION<br><i>1000 Queen St</i> | CENSUS<br><i>16-00</i> | DATE<br><i>Nov 10, 1998</i> | COMPLAINT #<br><b>031033</b> |
|----------------------------------|------------------------|-----------------------------|------------------------------|

DATE:

TIME:

|  |                   |
|--|-------------------|
| <i>5-1-82</i>  |                   |
| <i>Clean up and remove all loose paper, bottles at sidewalk area and next to curb side</i> |                   |
| <i>Area shall be cleaned up within 7 days</i>  |                   |
| <i>11/13/98</i>  | <i>close case</i> |
| <i>838-4644x193</i>  |                   |

AN INSPECTION OF THE ABOVE PROPERTY REVEALED CONDITIONS WHICH CONSTITUTE VIOLATIONS OF THE ALEXANDRIA CITY CODE. YOU ARE HEREBY ORDERED TO ELIMINATE THE ABOVE VIOLATIONS ON OR BEFORE \_\_\_\_\_ A.M./P.M. 19\_\_.

IF YOU ARE AGGRIEVED BY THIS NOTICE YOU MUST NOTIFY THE BUILDING, FIRE OR CODE OFFICIAL IN WRITING WITHIN 10 DAYS OF RECEIPT OF THIS NOTICE.

ORDER RECEIVED BY: *[Signature]* DATE: *11/10/98* SERVED BY: *[Signature]* DATE: *11-10-98*

FROM: ERROL NEWSOME

TO: PETER LEIBERG

DATE: 06-12-95  
TIME: 10:05

CC:  
SUBJECT: 1000 Queen St. Ace Temporaries  
PRIORITY:  
ATTACHMENTS:

COM 95-0090

FORWARDED FROM: ERROL NEWSOME  
FROM: ERROL NEWSOME

*Case closed 7-12-95*

TO: BARBARA ROSS

DATE: 05-31-95  
TIME: 17:07

-CC: ERROL NEWSOME

SUBJECT: 1000 Queen St. Ace Temporaries  
PRIORITY: 1  
ATTACHMENTS:

On 5/31/95 at 3:30 P.M. I investigated the business ACE TEMPORARIES INC. at 1000 Queen st. per your request. The results of my findings are: the business has no zoning approvals for a labor pool business, no Alexandria business licence (they were told by the business licence office they could open and get their licence within 30 days), there is no cert. of occupancy issued by the code enforcement office or the fire marshal. There were numerous people, hanging around the front of the office. Vechicles were discharging day workers and double parking causing traffic problems. It appears there was no toilet facilities for the general public. The use prior to the opening of a labor pool office, was a retail grocery.

*allowed on  
closed out -- applicant reviewed by permit  
7-12-95*      *see permit # 95-0225 7-12-95  
business license for office use as determined by Dept  
Director of P. E.*

CITY OF ALEXANDRIA, VIRGINIA

To no  
7/30/98

DEPARTMENT OF PLANNING AND ZONING

ZONING COMPLAINT and REFERRAL

COM 98-0162

DATE: 7/17/98

TIME: \_\_\_\_\_

STAFF: Evenson

LOCATION OF OFFENSE: 717 Pendleton St

DATE & TIME OF OFFENSE: \_\_\_\_\_

NATURE OF OFFENSE: Temporary day labor employment

agency (CL zone) - loitering, wandering  
on nearby property, urinating, spitting  
& staring - sending DC & MD people; not  
neighborhood

*Planned  
check out of area  
and no more to  
have people do same  
of the same.*

[very angry, will go to Mayor next]

**717 PENDELTON**

Is this the first time the complainant has notified Zoning of this offense?  YES  NO

If no, when was previous notice made: \_\_\_\_\_

Has complainant notified any other City departments of this offense?  YES  NO

*Police many times -  
No satisfaction*

Officer regarding this complaint?  YES  NO



DC 829-8011

VA (703) 519-7404

INFORMATION IS NOT TO BE RELEASED  
APPROVAL BY THE CITY ATTORNEY

BALT (410) 523-8006



*NAN*

MD (301) 627-STAR

COMPLAINANT'S NAME: \_\_\_\_\_

COMPLAINANT'S ADDRESS: \_\_\_\_\_

COMPLAINANT'S PHONE #: \_\_\_\_\_

CITY OF ALEXANDRIA, VIRGINIA  
DEPARTMENT OF PLANNING AND ZONING  
ZONING INSPECTION FOLLOW-UP REPORT

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_ INSPECTOR: \_\_\_\_\_

ADDRESS OF INSPECTION: \_\_\_\_\_

OCCUPANT'S NAME: \_\_\_\_\_

PROPERTY OWNER'S NAME: \_\_\_\_\_

PROPERTY OWNER'S ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

ZONING ORDINANCE SECTIONS: \_\_\_\_\_

INSPECTION RESULTS: 7-20-98 INVESTIGATE COMPLAINT

BUSINESS  
LICENSE #  
31087-017

... SOME OF BUSINESS MGR

7-21-98 RESEARCHED CASE W/

BUSINESS LICENSE OFFICE &

ZONING APPROVAL

7-21-98 to WORKING W/ OWNER & COMPLAINING

8-4-98 CITIZEN NO ZONING VIOLATION

NOT A ZONING ISSUE PER B.R.

ZONING OFFICE ACTION: \_\_\_\_\_ (CASE CLOSED)

"NOTICE OF VIOLATION" SERVED:  YES  NO

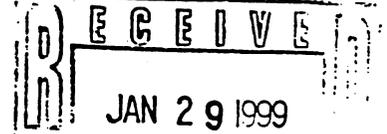
FOLLOW-UP DATE AND TIME OF NEXT INSPECTION: \_\_\_\_\_ N/A

OTHER DEPARTMENTS TO BE NOTIFIED: \_\_\_\_\_ N/A

ms  
CALLED W/ RESULTS

#15: TA 99-0001

CAROLYN KARR  
534 North Columbus  
Alexandria, Virginia 22314  
(703) 836-1186



January 29, 1998

Sheldon Lynn, Director  
Department of Planning  
and Zoning  
City of Alexandria  
301 King Street, Room 2100  
Alexandria, Virginia 22314

Re: Day Labor Agency Text Amendment

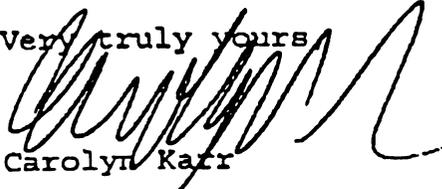
Dear Mr. Lynn:

I own two houses on the corner of North Columbus and Pendleton Streets, where All Star Temporaries is also situated. I strongly support the day labor text amendment (the "Amendment") currently before the Planning Commission and hope that it will be adopted promptly and enforced rigorously.

Since All Star opened its doors, I have endured cat calls as I retrieved my morning paper, urination in my yard, a radical increase in garbage strewn on my property and constant disruption. Every weekday (and often Saturday) morning during temperate weather I am awakened before six by horns, trucks and loud shouts. Hoardes of men crowd the sidewalks and streets in the morning and in the afternoon the congregation becomes a party. When I have complained to All Star the responsible party on duty has insulted me and hung up on me.

I am pleased to see that the Planning Commission is considering the Amendment as All Star is diminishing not only the enjoyment of my property but also its value.

Very truly yours

  
Carolyn Karr

#15 TA 99-0001



*City of Alexandria, Virginia*



DEPARTMENT OF PLANNING AND ZONING

301 King Street, Room 2100  
Alexandria, Virginia 22314  
(703) 838-4666  
FAX (703) 838-6393

January 25, 1999

BY FACSIMILE (730-3560)

Mr. Chuck Colton  
Ace Temporaries

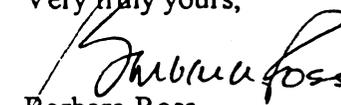
Re: Complaints about day labor agencies

You and I spoke this morning about the pending text amendment that would affect your business at 1000 Queen Street and you requested that I send you information about complaints. I have reviewed the files in this department and spoken to the Department of Citizen Assistance about complaints regarding Ace Temporaries, at 1000 Queen Street, and All Star Employment, at 717 Pendleton. As I told you by phone, we are legally limited as to the scope of what we can tell you about complaining parties. However, I can tell you the following: the complaints to this office and Citizen Assistance regarding Ace Temporaries were from the 1996-1997 time frame. Regarding All Star Employment, at 717 Pendleton Street, they began approximately nine months ago and still continue. In both cases, the complaints have come from a number of citizens and property owners adjacent to and near the subject businesses. The specific complaints concern the following incidents:

- Public urination and defecation in the alley behind Ace Temporaries
- Public urination on properties near All Star
- Loitering in front of Ace Temporaries and adjacent properties
- Loitering in front of All Star and abutting properties
- Public drinking in front of and near Ace Temporaries
- Public drinking in front of and near All Star
- Litter in front of Ace Temporaries and All Star
- Litter, including beer bottles and cans, in the alley behind Ace Temporaries
- Litter, including beer bottles and cans, on properties near All Star
- Early morning congregating and noise in front of Ace Temporaries
- Early morning congregating and noise in front of All Star and on nearby properties

In addition, as we discussed, I understand that the Mayor's Office, the Department of Transportation and Environmental Service and the Alexandria Police Department have each received citizen complaints in the past. If you have additional questions, please contact me at 838-4666.

Very truly yours,

  
Barbara Ross  
Deputy Director

cc: Sheldon Lynn, Director  
Rose Boyd, Director, Department of Citizen Assistance

ACE0162

*H*

ORDINANCE NO. 4049

AN ORDINANCE to amend and reordain Section 2-126 (BUSINESS AND PROFESSIONAL OFFICE) under Section 2-100 (DEFINITIONS), of Article II (DEFINITIONS), and to further amend and reordain said Section 2-200 and Article II by adding thereto a new Section 2-133.1 (DAY LABOR AGENCY); to amend and reordain Section 4-103 (SPECIAL USES) under Section 4-100 (CL/COMMERCIAL LOW ZONE), Section 4-303 (SPECIAL USES) under Section 4-300 (CSL/COMMERCIAL SERVICE LOW ZONE), Section 4-403 (SPECIAL USES) under Section 4-400 (CG/COMMERCIAL GENERAL ZONE), Section 4-503 (SPECIAL USES) under Section 4-500 (CD/COMMERCIAL DOWNTOWN ZONE), Section 4-603 (SPECIAL USES) under Section 4-600 (CD-X/COMMERCIAL DOWNTOWN ZONE-OLD TOWN NORTH ZONE), Section 4-803 (SPECIAL USES) under Section 4-800 (OC/OFFICE COMMERCIAL ZONE), Section 4-903 (SPECIAL USES) under Section 4-900 (OCM(50)/OFFICE COMMERCIAL MEDIUM (50) ZONE), Section 4-1003 (SPECIAL USES) under Section 4-1000 (OCM(100)/OFFICE COMMERCIAL MEDIUM (100) ZONE), Section 4-1103 (SPECIAL USES) under Section 4-1100 (OCH/OFFICE COMMERCIAL HIGH ZONE) and Section 4-1203 (SPECIAL USES) under Section 4-1200 (I/INDUSTRIAL ZONE), all of Article IV (COMMERCIAL, OFFICE AND INDUSTRIAL ZONES); and to amend and reordain Section 12-200 (NONCONFORMING USES) of Article XXII (NONCOMPLIANCE AND NONCONFORMITY) by adding thereto a new Section 12-215 (ABATEMENT OF DAY LABOR AGENCIES), all of the City of Alexandria Zoning Ordinance (TA NO. 99-0001).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-126 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

Sec. 2-126 Business and professional office. Any room, studio, clinic, suite, clinic, suite or building in which the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by a salesman, sales representative or manufacturer's representatives; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents and landscape architects but not including offices for dentists, physicians or other medical practitioners, or for day labor agencies.

Section 2. That Section 2-100 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Section 2-133.1, to read as follows:

42

Sec. 2-133.1 Day labor agency. A place where arrangements for short term employment are made characterized by the gathering of employees who are hired typically for a one-day period. Employers often transport the employees to the work site and return them to the day labor agency.

Section 3. That Section 4-103, Section 4-303, Section 4-403, Section 4-503, Section 4-603, Section 4-803, Section 4-903, Section 4-1003, Section 4-1103 and Section 4-1203 of the City of Alexandria Zoning Ordinance be, and the same hereby are, amended by adding thereto a new subsection, the appropriate subsection letter heading of which is to be assigned by the city attorney in preparing the codification of this ordinance, to read as follows:

( ) Day labor agency.

Section 4. That Section 12-200 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Section 12-215, to read as follows:

Sec. 12-200 Nonconforming uses.

12-215 Abatement of day labor agencies. Any day labor agency in existence on February 2, 1999, for which a special use permit has not been granted shall be deemed a nonconforming use and shall be discontinued no later than the date 18 months from the date on which the use was first notified of its nonconforming status, unless it obtains a special use permit which authorizes its continuation subject to the following:

- (A) Promptly upon learning of the existence of a day labor agency that was in existence on February 2, 1999, the director shall notify the property owner and, if different, the owner or operator of the nonconforming status of the use and that the use must cease operations or obtain a special use permit approval prior to the expiration of 18 months from the date of the notice.
- (B) No later than the expiration of the applicable 18 month time period, the property owner or owner or operator of any such nonconforming day labor agency may seek from city council an extension of the date by which it must come into conformity with this section 12-215 by filing with the director a petition which sets forth in detail the reasons why a fair and reasonable return on the investment in such day labor agency made by the petitioner prior to February 2, 1999, cannot be obtained prior to the expiration of the 18 month period.

- (C) Council shall conduct a public hearing on any such petition, prior to which the director shall provide notice in accordance with the provisions of section 11-300 of this ordinance.
- (D) Following the hearing, council may extend the 18 month period only if it finds that a strict application of that time period will deny the petitioner the opportunity to realize a fair and reasonable return on the investment in the nonconforming day labor agency made by petitioner prior to February 2, 1999, in which case council shall extend the date to a time which it determines will provide such opportunity to the petitioner.

Section 5. That Section 2-100, Section 4-103, Section 4-303, Section 4-403, Section 4-503, Section 4-603, Section 4-803, Section 4-903, Section 4-1003, Section 4-1103, Section 4-1203 and Section 12-200 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 6. 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

Final Passage: May 15, 1999

20  
2-20-99

Docket Item # 15  
TEXT AMENDMENT #99-0001

Planning Commission Meeting  
February 2, 1999

CASE: TEXT AMENDMENT #99-01  
DAY LABOR AGENCIES

ISSUE: Consideration of an amendment to the Zoning Ordinance to permit a day labor agency only with a special use permit and to require the abatement of existing day labor agencies.

---

PLANNING COMMISSION ACTION, FEBRUARY 2, 1999: On a motion by Mr. Komoroske, seconded by Mr. Robinson, the Planning Commission voted to recommend approval of the text amendment. The motion carried on a vote of 5 to 0. Mr. Wagner and Mr. Dunn were absent.

Reason: The Planning Commission agreed with the staff analysis.

Speakers: *Colton*

Chuck Colton, owner of Ace Temporaries, spoke in opposition, expressing the view that the behavior complained about is a police matter and should not be the responsibility of a business owner.

**STAFF RECOMMENDATION:** Staff recommends that the Planning Commission on its own motion initiate the following text amendment:

## ARTICLE II: DEFINITIONS

Sec.2-126 *Business and professional office.* Any room, studio, clinic, suite or building in which the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by a salesman, sales representative or manufacturer's representative; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents and landscape architects but not including offices for dentists, physicians or other medical practitioners, or for day labor agencies.

Sec. 2-133.1 *Day labor agency.* A place where arrangements for short term employment are made, characterized by the gathering of employees who are hired typically for a one day period. Employers often transport the employees to the work site and return them to the day labor agency.

## ARTICLE IV: COMMERCIAL AND INDUSTRIAL ZONES

[The following zones will be amended by adding the following language to the list of uses allowed only with a special use permit: CL, CSL, CG, CD, CD-X, OC, OCM(50), OCM(100), OCH, and I.]

\_\_\_ *Special uses.* The following uses may be allowed in the \_\_\_ zone pursuant to a special use permit:

\_\_\_ Day labor agency.

## ARTICLE XII: NONCONFORMITIES

Sec. 12-200 Nonconforming uses.

12-215 *Abatement of day labor agencies.* Any day labor agency in existence on February 2, 1999, for which a special use permit has not been granted shall be deemed a nonconforming use and shall be discontinued on or before a date eighteen months from the date on which the use was first notified of its nonconforming status, unless it obtains a special use permit which authorizes its continuation subject to the following:

- (A) Promptly upon learning of the existence of a day labor agency that was in existence prior to February 2, 1999, the director shall notify the property owner and, if different, the property operator of the nonconforming status of the use and that it must cease operations or obtain a special use permit approval prior to the expiration of eighteen months from the date of the notice.
- (B) No later than the expiration of the applicable eighteen month time period, the owner or operator of any such nonconforming day labor agency may seek from city council an extension of the date by which it must come into conformity with this section 12-215 by filing with the director a petition which sets forth in detail the reasons why a fair and reasonable return on the investment in such day labor agency made by the petitioner prior to February 2, 1999, cannot be obtained prior to the expiration of the eighteen month period.
- (C) Council shall conduct a public hearing on any such petition, prior to which the director shall provide notice in accordance with the provisions of section 11-300 of this ordinance.
- (D) Following the hearing, council may extend the eighteen month period only if it finds that a strict application of that time period will deny the petitioner the opportunity to realize a fair and reasonable return on the investment in the nonconforming day labor agency made by petitioner prior February 2, 1999, in which case council shall extend the date to a time which it determines will provide such opportunity to the petitioner.

## DISCUSSION

This text amendment recognizes for special treatment a use that can be particularly bothersome to residential neighbors: a day labor agency. Such uses have in the past been treated as general offices and allowed to open "by right" in all of the commercial zones. However, experience in the city over the last several years suggests the need to require special approval for them. This text amendment would allow the use only by special use permit.

A day labor agency is a place where arrangements for a day's employment are made between an employer and employees with the agency serving as an intermediary. The typical arrangement works as follows: the employer relates his employee needs for a specific day to the agency. Potential laborers arrive at the agency in the early morning to sign up for available jobs for that day. The agency determines which of the potential employees meet the need of the employer. Those that are selected are typically picked up from the agency location by the employer or his agents. The employer also typically provides return transportation to the agency for the group of employees at the end of the day.

Staff is aware of two day labor agencies operating in the city now, although it is possible there are others. One is at 1000 Queen Street, at the corner of Queen and North Patrick Streets, across from Jim's Groceries. The second is at 717 Pendleton Street, at the corner of Pendleton and North Columbus Streets. In both cases, several city agencies have been besieged by complaints from residential neighbors about the use. For both, the complaints are similar: litter, loitering, urination, noise and other unsavory behaviors. Because the nature of the use includes laborers gathering and waiting in the morning, and then often arriving as a group at the end of the day, there is a natural tendency for them to congregate outside on the sidewalk. In addition, there are allegations that the employees stay in the neighborhood drinking and littering on nearby residential properties. The neighborhoods in both cases have been asked staff to consider the negative impacts of the use and to reassess its zoning status.

This text amendment would change the use from an unregulated permitted use to one for which a special use permit is required. The use, with a special use permit will be allowed in each of the commercial, office and industrial zones. The language proposed defines the use by its characteristics, focusing chiefly on people gathering for purposes of employment and transportation to employment. As part of the special use permit process, the city can review the appropriateness of the location and its proximity to residential uses. The city can also include conditions on the use to limit its impact on other uses.

As to the existing day labor agencies in the city, they will be required to cease operations or obtain special use permit approval within eighteen months. Eighteen months was selected as a reasonable time in which such a business could recoup the costs it incurred in opening the agency; the capital outlay for the two known day labor agencies appears to be very small. The procedures included in

the text amendment would allow Council to expand the eighteen month period if the owner can show that it needs additional time to recoup its investment.

The two day labor agencies that staff is aware of have been notified of this proposal and of the schedule for public hearings.

STAFF: Sheldon Lynn, Director, Planning and Zoning; Barbara Ross, Deputy Director.



1 A 97-0001

*City of Alexandria, Virginia*

DEPARTMENT OF PLANNING AND ZONING  
301 King Street, Room 2100  
Alexandria, Virginia 22314  
(703) 838-4666  
FAX (703) 838-6393



DATE: DECEMBER 22, 1998

TO: CIVIC ASSOCIATIONS AND INTERESTED GROUPS

FROM: SHELDON LYNN, DIRECTOR *Sheldon Lynn*  
DEPARTMENT OF PLANNING AND ZONING

SUBJECT: NEW TEXT AMENDMENTS: SPECIAL USE PERMIT CHANGE OF OWNERSHIP AND DAY LABOR AGENCIES

---

Enclosed are two text amendment proposals that staff plans to present to the Planning Commission and Council for consideration in February, 1999. We invite your comments.

Special Use Permit Change of Ownership

The process by which special use permits are changed from one business owner to another is now spelled out in the City's zoning ordinance at section 11-503. Under that process, staff is permitted to change the ownership administratively if the following five conditions are met:

1. The applicant wants no change in the conditions of the permit;
2. There have been no substantiated violations of the permit;
3. No changes are anticipated in the operation of the business;
4. After newspaper notice, no one has requested that the matter be docketed for hearing;
5. Staff does not believe new or amended conditions for the permit are necessary.

It is the last restriction, that no new conditions are warranted, to which the proposed text amendment relates. As to certain types of uses, such as restaurants or auto repair operations, the City has developed what amount to standard special use permit conditions. They are applied in each new case automatically over and over again. Over time, Council or staff may change the wording or add new ideas to the standard conditions, but at any given point in time, the City has, what could be considered acceptable and necessary conditions. The proposed text amendment would allow staff to add such standard conditions administratively when an applicant seeks to change the ownership of a special use permit, so long as the applicant agrees to the conditions. Attached to the draft text amendment is

what staff considers the City's current standard conditions. Staff intends to return to Council periodically for future approvals as the standard conditions change over time.

#### Day Labor Agencies

The second proposed text amendment enclosed concerns a business use that is a concern in some neighborhoods and for which staff recommends a special use permit be required. Day labor agencies are places where employment is arranged, typically for day laborers, between employers and employees. Typically, unemployed men gather at the site of the agency in the early morning hours, are picked up by employers needing day laborers, and are returned to the site in the late afternoon. Staff is aware of two operations now taking place in the city: at 1000 Queen Street and 717 Pendleton Street. Both have prompted a large number of complaints by Inner City residents regarding loitering, drunkenness, litter and general disruption in the neighborhood. Staff believes it is appropriate for such uses to require special review so that they may be approved only on a case by case basis, depending on the location and, if approved, with conditions to limit the impacts. As to the existing operations, they will have 18 months to obtain a special use permit or they will be required to cease operations.

If you have questions about or wish to comment on either of the text amendment proposals, please contact me or Barbara Ross, or attend the hearings at the Planning Commission and Council in February.

cc: Honorable Mayor and Members of City Council  
Vola Lawson, City Manager

Enclosures

#15: TA 99-0001.

RECEIVED  
JAN 29 1999

CAROLYN KARR  
534 North Columbus  
Alexandria, Virginia 22314  
(703) 836-1186

January 29, 1998

Sheldon Lynn, Director  
Department of Planning  
and Zoning  
City of Alexandria  
301 King Street, Room 2100  
Alexandria, Virginia 22314

Re: Day Labor Agency Text Amendment

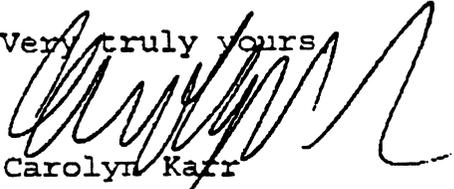
Dear Mr. Lynn:

I own two houses on the corner of North Columbus and Pendleton Streets, where All Star Temporaries is also situated. I strongly support the day labor text amendment (the "Amendment") currently before the Planning Commission and hope that it will be adopted promptly and enforced rigorously.

Since All Star opened its doors, I have endured cat calls as I retrieved my morning paper, urination in my yard, a radical increase in garbage strewn on my property and constant disruption. Every weekday (and often Saturday) morning during temperate weather I am awakened before six by horns, trucks and loud shouts. Hoardes of men crowd the sidewalks and streets in the morning and in the afternoon the congregation becomes a party. When I have complained to All Star the responsible party on duty has insulted me and hung up on me.

I am pleased to see that the Planning Commission is considering the Amendment as All Star is diminishing not only the enjoyment of my property but also its value.

Very truly yours

  
Carolyn Karr



*City of Alexandria, Virginia*



DEPARTMENT OF PLANNING AND ZONING

301 King Street, Room 2100  
 Alexandria, Virginia 22314  
 (703) 838-4666  
 FAX (703) 838-6393

January 25, 1999

BY FACSIMILE (730-3560)

Mr. Chuck Colton  
 Ace Temporaries

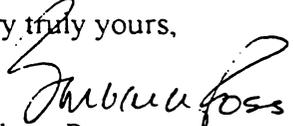
Re: Complaints about day labor agencies

You and I spoke this morning about the pending text amendment that would affect your business at 1000 Queen Street and you requested that I send you information about complaints. I have reviewed the files in this department and spoken to the Department of Citizen Assistance about complaints regarding Ace Temporaries, at 1000 Queen Street, and All Star Employment, at 717 Pendleton. As I told you by phone, we are legally limited as to the scope of what we can tell you about complaining parties. However, I can tell you the following: the complaints to this office and Citizen Assistance regarding Ace Temporaries were from the 1996-1997 time frame. Regarding All Star Employment, at 717 Pendleton Street, they began approximately nine months ago and still continue. In both cases, the complaints have come from a number of citizens and property owners adjacent to and near the subject businesses. The specific complaints concern the following incidents:

- Public urination and defecation in the alley behind Ace Temporaries
- Public urination on properties near All Star
- Loitering in front of Ace Temporaries and adjacent properties
- Loitering in front of All Star and abutting properties
- Public drinking in front of and near Ace Temporaries
- Public drinking in front of and near All Star
- Litter in front of Ace Temporaries and All Star
- Litter, including beer bottles and cans, in the alley behind Ace Temporaries
- Litter, including beer bottles and cans, on properties near All Star
- Early morning congregating and noise in front of Ace Temporaries
- Early morning congregating and noise in front of All Star and on nearby properties

In addition, as we discussed, I understand that the Mayor's Office, the Department of Transportation and Environmental Service and the Alexandria Police Department have each received citizen complaints in the past. If you have additional questions, please contact me at 838-4666.

Very truly yours,

  
 Barbara Ross  
 Deputy Director

cc: Sheldon Lynn, Director  
 Rose Boyd, Director, Department of Citizen Assistance

APPLICATION for SPECIAL USE PERMIT # 2000-0119

16  
CC  
DENIE

[must use black ink or type]

PROPERTY LOCATION: 717 Pendleton Street, Alexandria, VA 22314

TAX MAP REFERENCE: 054.04, Block 14, Lot 16

ZONE: CL

APPLICANT Name: Ace Temporaries, Inc.

Address: 717 Pendleton Street, Alexandria, VA 22314

PROPERTY OWNER Name: ACH, L.L.C.

Address: 711 Pendleton Street, Alexandria, VA 22314

PROPOSED USE: Office for existing temporary employment agency.

Nonconforming day labor agency

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Chuck Carlton

Print Name of Applicant or Agent

711 Pendleton Street

Mailing/Street Address

Alexandria, VA

City and State

22314

Zip Code

(703) 683-3500

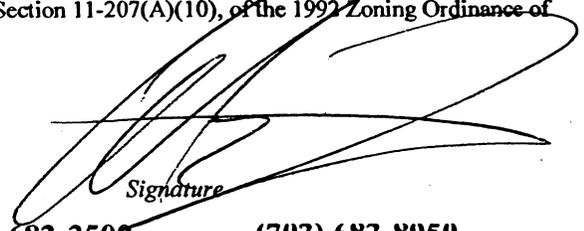
Telephone #

(703) 683-8950

Fax #

September 21, 2000

Date



DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received:

Date &- Fee Paid:

\$

ACTION - PLANNING COMMISSION: 11/09/00

Recommend Denial

7-0

ACTION - CITY COUNCIL: 11/18/00PH -- CC noted the deferral of this item to the December 16, 2000 public hearing meeting.// 12/16/00PH -- See attached.

34

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

## Planning Commission (continued)

16. SPECIAL USE PERMIT #2000-0119  
717 PENDLETON STREET

Public Hearing and Consideration of a request for a special use permit for a nonconforming day labor agency; zoned CL/Commercial Low. Applicant: Ace Temporaries Inc., by Chuck Carlton. (#24 11/18/00)

COMMISSION ACTION: Recommend Denial 7-0

2 Councilman Speck met with the attorney for the applicant who indicated a willingness to accept a condition for the placement of a private uniformed security officer at the property during peak work hours, and he asked those who will be testifying to comment on their reaction to that.

3 Mr. Carlton does not have a problem having a security officer on-site during peak hours. The problem in the past was finding off-duty police officers who were willing to work those times. As an option, Mr. Carlton has offered the use of their end unit for a police substation for which he would provide the phone system, the furniture, a coffee maker and anything else they needed.

4 Deputy Police Chief Hilleary could not address whether the Police Department has ever considered a satellite facility (an unstaffed office front location where officers may find it convenient to go to write reports from time to time) there. He understands that there is an existing parking problem at this location, and a satellite facility requires parking for two cruisers.

5 For the record, Councilman Euille stated that it is not the business of the City government or any agency to put a company out of business, and that is not what staff is requesting. Their recommendation is for denial of this particular application at this particular location, and they have offered and suggested other site potential on Eisenhower Avenue.

6 Councilwoman Eberwein abstained from voting on the motion. She stated that she is very sympathetic to the residents but this is an issue that she would have preferred to see a workout period of a year, and then if it hadn't worked, she would have voted with the residents.

1 City Council upheld the Planning Commission recommendation to deny the special use permit request and permitted a 90-day relocation period for this business.  
Council Action: \_\_\_\_\_

Docket Item # 17  
SPECIAL USE PERMIT #2000-0119

Planning Commission Meeting  
November 9, 2000

**ISSUE:** Consideration of a request for a special use permit for a nonconforming day labor agency.

**APPLICANT:** Ace Temporaries Inc.  
by Chuck Carlton

**LOCATION:** 717 Pendleton Street

**ZONE:** CL/Commercial Low

---

**CITY COUNCIL ACTION: DECEMBER 16, 2000:** City Council upheld the Planning Commission recommendation to deny the Special Use Permit request and permitted a 90-day relocation period for this business.

Councilman Speck met with the attorney for the applicant who indicated a willingness to accept a condition for the placement of a private uniformed security officer at the property during peak work hours, and he asked those who will be testifying to comment on their reaction to that.

Mr. Carlton does not have a problem having a security officer on-site during peak hours. The problem in the past was finding off-duty police officers who were willing to work those times. As an option, Mr. Carlton has offered the use of their end unit for a police substation for which he would provide the phone system, the furniture, a coffee maker and anything else they needed.

Deputy Police Chief Hilleary could not address whether the Police Department has ever considered a satellite facility (an unstaffed office front location where officers may find it convenient to go to write reports from time to time) there. He understands that there is an existing parking problem at this location, and a satellite facility requires parking for two cruisers.

For the record, Councilman Euille stated that it is not the business of the City government or any agency to put a company out of business, and that is not what staff is requesting. Their recommendation is for denial of this particular application at this particular location, and they have offered and suggested other site potential on Eisenhower Avenue.

Councilwoman Eberwein abstained from voting on the motion. She stated that she is very sympathetic to the residents but this is an issue that she would have preferred to see a workout period of a year, and then if it hadn't worked, she would have voted with the residents.

**CITY COUNCIL ACTION, NOVEMBER 18, 2000:** City Council noted the deferral of this item to the December 16, 2000 public hearing meeting.

**PLANNING COMMISSION ACTION, NOVEMBER 9, 2000 :** On a motion by Mr. Wagner, seconded by Ms. Fossum, the Planning Commission voted to recommend denial of the request. The motion carried on a vote of 7 to 0.

**Reason:** The Planning Commission agreed with the staff analysis and members of the Commission asked staff to review the issue of whether the use was appropriate for the property zoned CL.

**Speakers:**

Mike Schlee, 712 Pendleton Street, expressed concern about litter, loitering, verbal harassment, drug activity, vandalism, and the lack of on-street parking caused by the applicant's clients.

Jacqueline Dudley, resident who lives across North Columbus Street, expressed concern about noise and trash and stated that she has spoken with the applicant in the past regarding those problems.

Carolyn Karr, resident who owns two properties at the corner of North Columbus and Pendleton Streets, stated that the existing business is out of character with the other permitted and special uses allowed in this zone.

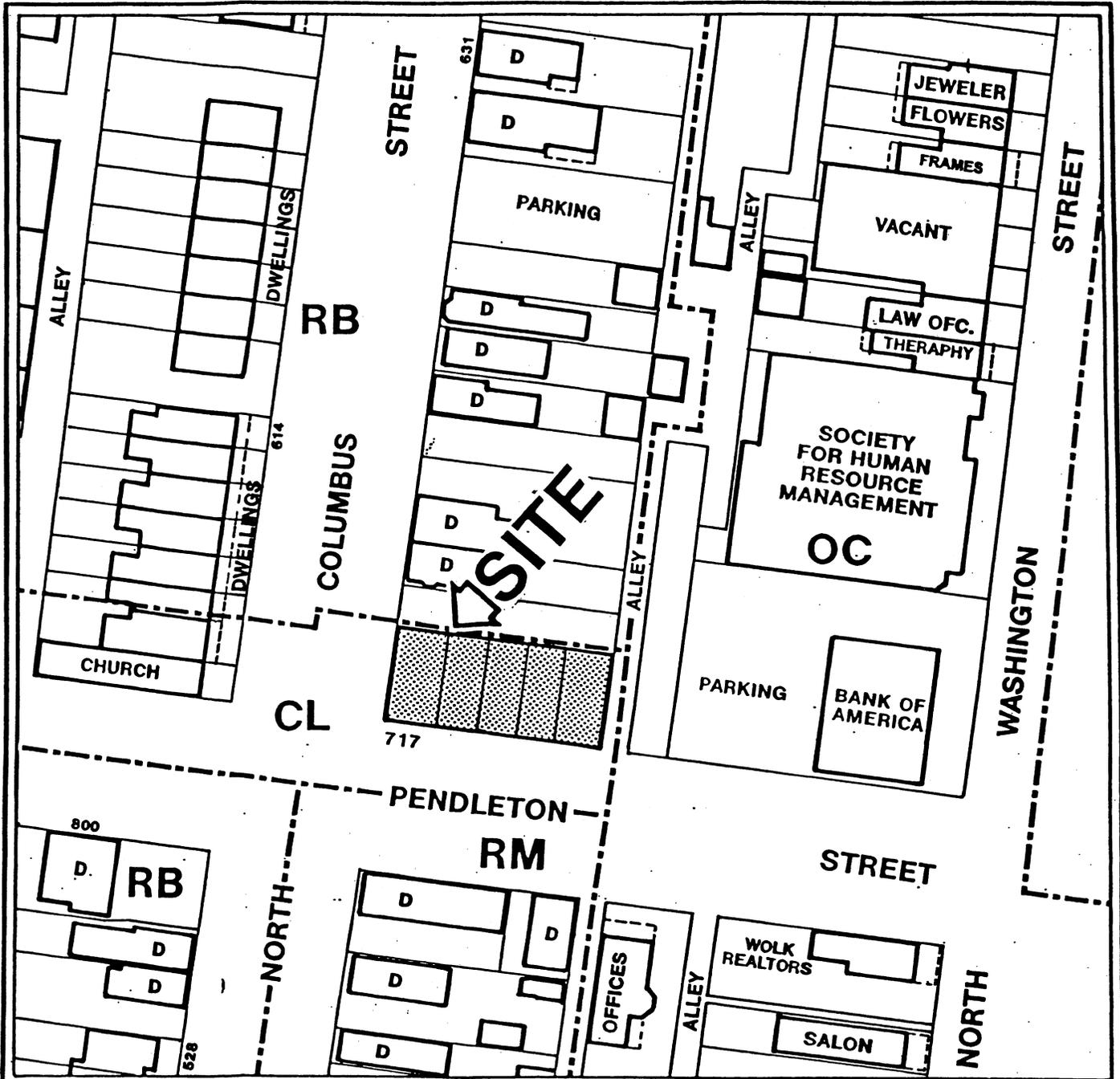
Scott Overby, previous resident of 513 ½ North Columbus Street, stated that people congregate in the alley beside the building, that he has had items stolen from his car, and that he has been accosted by persons demanding money.

Al Hendershot, 526 North Columbus Street, stated that his family will not walk past the building when going to the new Saul Center development on North Washington Street.

Slade Owens spoke in opposition to the applicant's request.

Sean Pratt, 532 North Columbus Street, stated that he previously worked for day labor agencies in New York City and that he witnessed the problems the neighbors' describe. He noted that those agencies were located in warehouse districts away from residential neighborhoods.

Chuck Carlton, applicant, stated that he has operated the business for ten years and been in this location for approximately two years. He stated that he was unsure how many complaints raised by the residents were caused by his clients and stated that he would not hire persons engaging in these activities, and that he has not been made aware of the residents' concerns.



**SUP #2000-0119**

**11/9/00**



(Not to Scale)

58

STAFF RECOMMENDATION:

Staff recommends **denial** of the applicant's request. If Council approves the request, staff recommends approval subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit is granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z)
2. The day labor agency shall expand its existing waiting room in order to provide a seating capacity large enough to accommodate all employees and potential employees on the site at any one time. The waiting room shall be heated and/or cooled to an ambient temperature suitable and comfortable for the agency's clients and shall contain sufficient rest room space to meet code standards. No alcohol or drugs shall be permitted on the premises. (P&Z)
3. The hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Saturday. (P&Z)
4. The applicant shall require the agency's clients to enter the building upon arrival of the agency's employees. The agency's offices will not close until all clients have left the premises. (P&Z)
5. The applicant shall prohibit clients and potential clients from waiting or gathering outside the building on or in the vicinity of the subject property. The applicant shall require such persons standing outside the building to disperse or to enter the premises. (P&Z)
6. The day labor agency shall keep the area within 100 feet from each of its exterior doors free of litter at all times. (P&Z)
7. The applicant shall provide at least one trash container inside the waiting room for its clients' use. (P&Z)
8. No pay telephones shall be installed on the exterior of the building. (P&Z)
9. The applicant shall not establish transport pick up locations within the city other than at Metro stations, inside homeless shelters or other such locations that staff approves. (P&Z)

10. The applicant shall maintain its driver bonus program and shall encourage its clients to participate. (P&Z)
11. The applicant shall encourage its clients and staff to use mass transit or to carpool when travelling to and from the agency, by posting in the waiting room information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z)
12. The applicant shall post a sign inside the building prohibiting double parking of clients' vehicles on Pendleton and North Columbus Streets. (P&Z)
13. The applicant shall contact the Alexandria Police Department, Division of Crime Prevention, for a security survey of the business and a robbery awareness program for all employees. (Police)
14. The Director of Planning and Zoning shall review the special use permit one year after this approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)

---

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

DISCUSSION:

1. The applicant, Ace Temporaries, Inc., by Chuck Carlton, requests special use permit approval to allow the continuation of a nonconforming day labor agency located at 717 Pendleton Street.
2. The subject property is one lot of record with approximately 93 feet of frontage on Pendleton Street, approximately 40 feet of frontage on North Columbus Street and a total lot area of approximately 3,758 square feet. The site is developed with a one story building. The property is located in the Parker-Gray Historic District.

The property is surrounded by residential uses to the north, south and west. Immediately across Columbus Street is a church, and there are additional commercial uses west of there on the north side of Pendleton. Bank of America and its parking lot are located adjacent to the east of the property. A ten foot wide alley runs between the subject property and the Bank of America parking lot.

3. The applicant seeks permission to allow the existing nonconforming day labor agency to continue to operate. A day labor agency is defined in the zoning ordinance as, "A place where arrangements for short term employment are made, characterized by the gathering of employees who are hired typically for a one-day period. Employers often transport the employees to the work site and return them to the day labor agency" (Section 2-133.1).
4. In 1998, Planning and other city department staff became aware of complaints, including litter, loitering, urination, and noise, associated with the operations of two existing day labor agencies from their residential neighbors. In May 1999, City Council adopted legislation classifying day labor agencies as special uses, so that the city may review the appropriateness of the location, their proximity to residential uses, and impose conditions to limits their impact on other uses. Existing day labor agencies were required either to obtain special use permit approval within eighteen months or cease operations. After the adoption of the ordinance, staff sent a letter to the applicant advising him that he must either obtain special use permit approval to continue the business or cease operations by November 21, 2000 (see attached). This application followed.
5. The applicant's office was previously located at 1000 Queen Street, at the corner of Queen and North Patrick Streets, across from Jim's Groceries. After All Star Temporaries vacated the subject property, the applicant relocated his office to the subject property.

6. The applicant describes its business as one which provides temporary labor to construction and industrial clients. Persons seeking employment who have not already been assigned to a client normally report to the Pendleton office in the morning between 4:30 a.m. and 8:00 a.m. to be assigned. Many other persons call in or meet at off-site locations. Approximately 100 people visit the site each morning seeking employment. The applicant estimates that workers typically remain on site for 10 to 15 minutes. The workers then travel to their worksites either by their own or by public transportation. In addition to finding work for potential employees, Ace Temporaries also pays most workers; those workers return to the office between 3:00 p.m. and 6:00 p.m. to get paid. According to the applicant, approximately 150 workers report back to the office to get paid each day. All payments are by check and workers are paid daily or weekly depending on their job.
7. The applicant occupies approximately 3,000 square feet of space in the building. A small portion of the building is used as a waiting room by workers and plastic chairs and a trash container are provided for workers' use. A small bathroom is also located in this area.
8. According to the applicant, it has a pick up location in Washington, D.C. that it uses occasionally, but it does not plan to offer regular pick up and drop off activities for workers at that location or any others in Alexandria.
9. All workers submit an application in order to work. The company checks identification and requires drug testing only if required by a particular employer.
10. The hours of operation are from 4:30 a.m. to 6:00 p.m. Monday through Friday, and 5:30 a.m. to 6:00 p.m. on Saturdays. The applicant anticipates that two to four employees will operate the office.
11. Section 8-200(A)(20) of the zoning ordinance requires a 3,000 square foot office type to provide at least six parking spaces. No off-street parking is provided. Because the building has been used as offices for many years, the lack of parking is considered grandfathered and no off-street parking is required for a continued office use.
12. In the application materials, the applicant states that it tries to make employee placements in advance and over the telephone, has upgraded its computer systems to assign and pay employees more quickly, increased the waiting area to guarantee indoor accommodation for waiting employees and improved the level of comfort in the waiting area, and encouraged employees to remain indoors while waiting.

13. Another pre-existing day labor agency, All Star Temporaries, has obtained special use permit approval to relocate its offices from this site to 4926-D Eisenhower Avenue within the Build America Six warehouse complex (SUP #99-0085).
14. Zoning: The subject property is located in the CL/Commercial low zone. Section 4-103(C.1) of the zoning ordinance allows a day labor agency in the CL zone only with a special use permit.
15. Master Plan: The subject property is located in the Braddock Road Metro Station small area plan chapter of the Master Plan which designates the property for commercial low uses.

STAFF ANALYSIS:

Staff recommends denial of the continued operation of the day labor agency at 717 Pendleton Street because the use is too active and has too many potentially negative impacts for this neighborhood, which is primarily residential. The Police report that a total of six calls for service were received last year and that another six calls have been received to date this year. The types of calls received include: burglary, drunk, disorderly, suspicious person, fight and trespassing. Staff has also spoken with residents who live near the agency who described their concerns about the agency and its operations. They report on-going problems with workers who litter and loiter outside the building, and with early morning noise in the neighborhood.

Staff has visited the property in the early morning and witnessed the continuous arrival and departure of workers by foot, bus, and car. Staff observed workers entering the building, obtaining their assignments for that day, and leaving the building. The duration of these visits is approximately 10 to 15 minutes. As a consequence, there is a steady flow of workers during the early morning hours. Much of the noise generated by the workers is caused by the opening and closing of car doors and by workers greeting each other on the sidewalk in front of the building on Pendelton Street and in the street. Although the witnessed behavior is not objectionable in isolation, given the number of arriving workers and the early morning schedule, staff believes the use is inappropriate for nearby residential uses.

T&ES staff also recommend against the applicant's request based on concerns about the limited availability of on-street parking, the impact of the use on traffic flow through the neighborhood, noting the limited site distances at the intersection of North Columbus and Pendleton Streets due to on-street parking, and the insufficient accommodation for workers' pick-up and drop-off activities both on-site and on the streets.

SUP #2000-0119  
717 Pendleton St

Staff did support the relocation of another day labor agency from Old Town to a property on Eisenhower Avenue (SUP #99-0085). In its support of that application staff noted that the site is on a major road, in an industrial zone within a tenant space in a mixed use warehouse building, and at a distance from residential uses. Staff continues to believe that the best location for these uses is in an area with good access to public transportation but that is physically removed from residences so that the traffic and other impacts, like litter and loitering that may be associated with these uses, are not borne by their residential neighbors.

For these reasons, staff recommends denial of the applicant's request to continue to operate a day labor agency at 717 Pendleton Street.

STAFF: Barbara Ross, Acting Director, Department of Planning and Zoning; Kathleen Beeton, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- F-1 Available on-street parking is very limited.
- F-2 This operation has the potential to significantly disrupt traffic flow through the neighborhood. Pendleton Street is a primary collector and is served by both DASH and METRO bus service. Although the intersection is signalized, site distances are limited due to existing on-street parking.
- F-3 The applicant has not shown sufficient accommodation for pick-up and drop-off of clients either on-site or on the public street.
- R-1 T&ES recommends denial of this application.

Code Enforcement:

- F-1 No comments.

Health Department:

- F-1 No comments.

Police Department:

- R-1 Security survey for the business, this is to be completed prior to the business occupying this building.
- R-2 Robbery awareness program for all staff employees

APPLICATION for SPECIAL USE PERMIT # 2000-0119

[must use black ink or type]

PROPERTY LOCATION: 717 Pendleton Street, Alexandria, VA 22314

TAX MAP REFERENCE: 054.04, Block 14, Lot 16

ZONE: CL

APPLICANT Name: Ace Temporaries, Inc.

Address: 717 Pendleton Street, Alexandria, VA 22314

PROPERTY OWNER Name: ACH, L.L.C.

Address: 711 Pendleton Street, Alexandria, VA 22314

PROPOSED USE: Office for existing temporary employment agency.

Nonconforming day labor agency

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Chuck Carlton

Print Name of Applicant or Agent

711 Pendleton Street

Mailing/Street Address

Alexandria, VA

City and State

22314

Zip Code

(703) 683-3500

Telephone #

(703) 683-8950

Fax #

September 21, 2000

Date

Signature

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received:

Date &- Fee Paid:

\$

ACTION - PLANNING COMMISSION:

ACTION - CITY COUNCIL:

606

All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (*check one*)  the Owner  Contract Purchaser  
 Lessee or  Other: \_\_\_\_\_ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

|               |  |     |
|---------------|--|-----|
| Chuck Carlton | 9811 Hampton Road, Fairfax Station, VA 22039 | 50% |
| Adam Schramm  | 9409 Eagle Trace, Fairfax Station, VA 22039  | 50% |

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes. Provide proof of current City business license  
 No. The agent shall obtain a business license prior to filing application, if required by the City Code.

2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.

NARRATIVE DESCRIPTION

3. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

**In the interest of maintaining good relations with the City and the community and in the interest of saving Ace Temporaries and the City exorbitant legal fees, we are filing this application and pursuing a Special Use Permit. However, by no means should this be construed as a waiver of our previously stated position that the Special Use Permit does not apply to Ace Temporaries, Inc. Beyond this, we are applying for a Special Use Permit to continue operating our existing temporary employment agency.**

**Ace Temporaries has been in business for ten years, the past six in the City of Alexandria. We are in the business of supplying temporary industrial personnel to construction and industrial clients. The temporaries are employees of Ace Temporaries that we contract out to our clients. Employees wishing to work who have not already been assigned to a client normally report to our office in the morning (usually between 0430 and 0800) to be assigned to a client. Many others call in or meet at off-site locations. Normally, about 100 employees report to the office in the morning. Given the broad expanse of reporting times and the fact that employees are usually assigned within minutes, the number of employees on-site at any given time is relatively low. The employees then travel to their worksite, virtually always by either their own or public transportation. At the end of the workday (1500 to 1800) most employees report back to the office to get paid. Many others get paid less frequently. Normally, about 150 employees report to the office in the afternoon. Because of speed with which we can issue checks (a matter of seconds), the number of employees in the office at any given time is kept low.**

**In an effort to reduce any impact of our business on the community we have taken many actions and continually strive to improve our operation. Some of the measures we have taken include such things as making more employee assignments in advance and over the phone, upgrading our computer systems to assign employees and pay employees more quickly, increasing waiting area accommodations to guarantee indoor accommodation even given the scenario with the most waiting employees, improving the comfort level of our waiting area and encouraging employees to remain indoors while waiting.**

68

USE CHARACTERISTICS

4. The proposed special use permit- request is for: *(check one)*

a new use requiring a special use permit,

a development special use permit,

an expansion or change to an existing use without a special use permit,

expansion or change to an existing use with a special use permit.

other. Please describe: **After operating legally in the City for the past 6 years, the City is now requesting a Special Use Permit.**

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

**0430 to 1830 Monday through Friday. Normally no more than 20 employees at any given time are anticipated.**

B. How many employees, staff and other personnel do you expect? Specify time period (i.e., day, hour, or shift).

**Normally, 2-4 staff members during hours of operation.**

6. Please describe the proposed hours and days of operation of the proposed use:

Day:

Hours:

**See Above**

7. Please describe any potential noise emanating from the proposed use:

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

**None other than normal conversational noise.**

B. How will the noise from patrons be controlled?

**Employees will be indoors. It is Ace Temporaries policy to encourage any waiting employees to remain indoors.**

8. Describe any potential odors emanating from the proposed use and plans to control them:

**N/A**

9. Please provide information regarding trash and litter generated by the use:

A. What type of trash and garbage will be generated by the use?

**Typical office garbage (papers, etc...)**

B. How much trash and garbage will be generated by the use?

**Nominal**

C. How often will trash be collected?

**Weekly**

D. How will you prevent littering on the property, streets and nearby properties?

**Exterior trash receptacles, employees indoors, grounds policed regularly.**

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

- ii. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of residents, employees and patrons?

**No safety concerns.**

#### ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes.  No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

PARKING AND ACCESS REQUIREMENTS

14. Please provide information regarding the availability of off-street parking:

A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

N/A

B. How many parking spaces of each type are provided for the proposed use:

N/A Standard spaces

N/A Compact spaces

N/A Handicapped accessible spaces.

N/A Other.

C. Where is required parking located? N/A  on-site  off-site (check one)

If the required parking will be located off-site, where will it be located:

Pursuant to section 8-200 (C) of the zoning ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. A-E other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

D. If a reduction in the required parking is requested, pursuant to section 8-100 (A) (4) or (5) of the zoning ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are required for the use, per section 8-200 (B) of the zoning ordinance? N/A

B. How many loading spaces are available for the use? N/A

C. Where are off-street loading facilities located? N/A

D. During what hours of the day do you expect loading/unloading operations to occur?

N/A

E. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?

N/A

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

Access is adequate.

#### SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building?  Yes  No

Do you propose to construct an addition to the building?  Yes  No

How large will the addition be? \_\_\_\_\_ square feet.

18. What will the total area occupied by the proposed use be?

3000 sq. ft. (existing) + 0 sq. ft. (addition if any) = 3000 sq. ft. (total)

19. The proposed use is located in: (check one)

a stand alone building  a house located in a residential zone  a warehouse

a shopping center. Please provide name of the center:

an office building. Please provide name of the building:

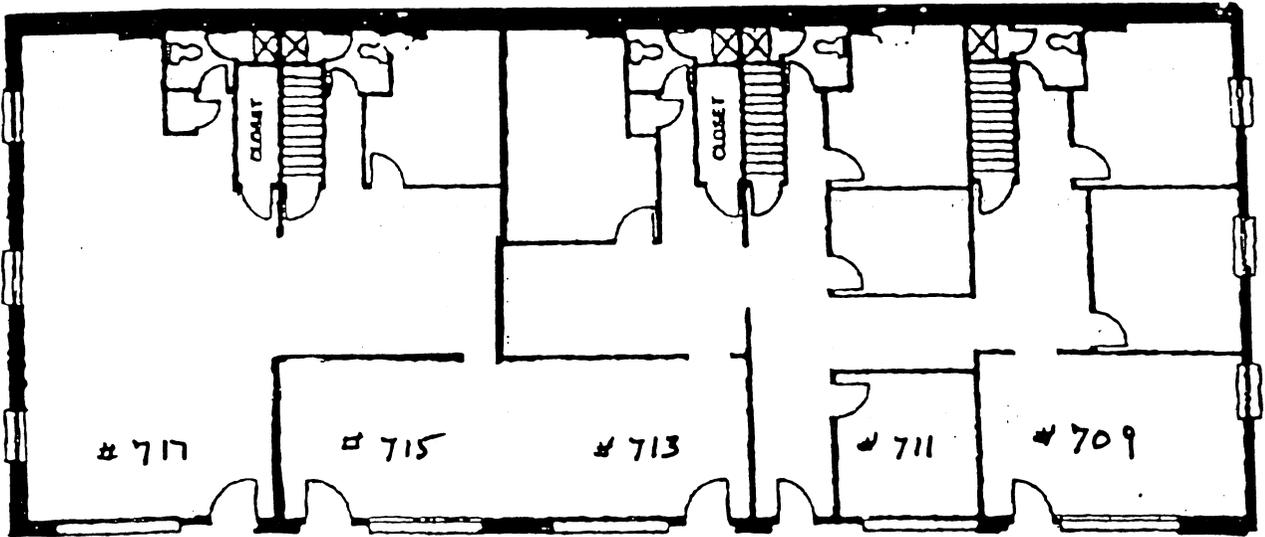
other, please describe:

BEGINNING at the intersection of the North line of Pendleton Street with the east line of Columbus Street, thence running north along the east side of Columbus Street 40.08 feet to a point; thence eastwardly and parallel to the north line of Pendleton Street 93.42 feet to an alley 10 feet wide; thence along the west line of said alley parallel to Columbus Street 40.08 feet to the north side of Pendleton Street; thence along the north line of Pendleton Street Westwardly 93.42 feet to the point of beginning, including the premises formerly known as Nos. 601 and 603 North Columbus Street and the lot in rear of No. 601 North Columbus Street, and now known as Nos. 709, 711, 713, 715 and 717 Pendleton Street.

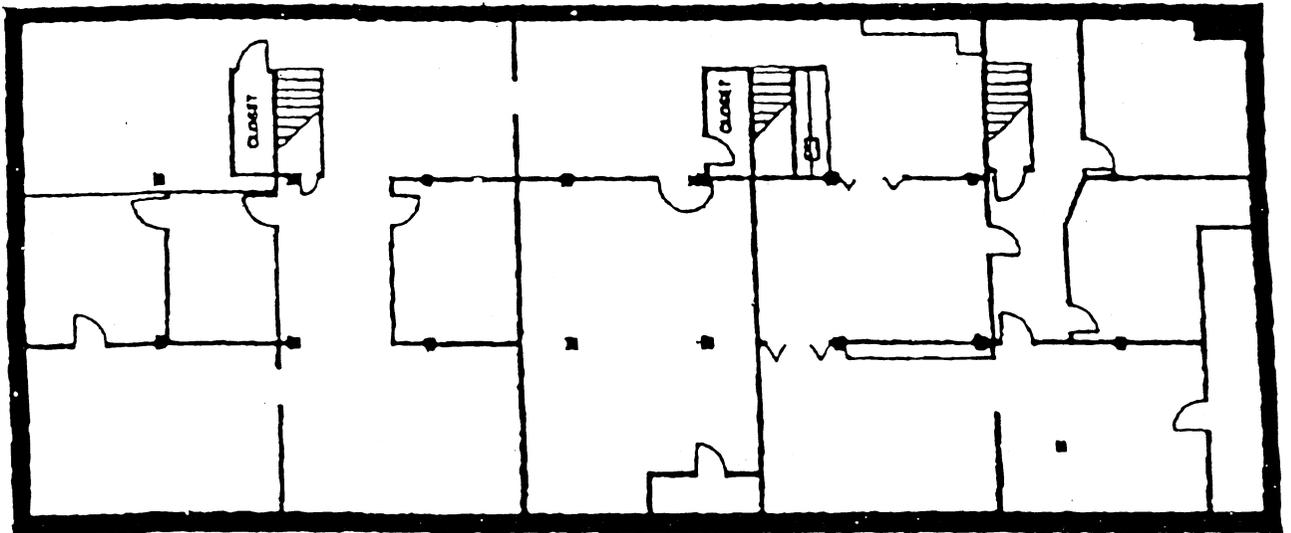


93'

40'



Upper Level



Lower Level



City of Alexandria, Virginia

DEPARTMENT OF PLANNING AND ZONING  
301 King Street, Room 2100  
Alexandria, Virginia 22314  
(703) 838-4666  
FAX (703) 838-6393



May 21, 1999

BY HAND DELIVERY  
Mr. Charles Colton  
Ace Temporaries, Inc.  
717 Pendleton Street  
Alexandria, Virginia 22314

Re: Notice of nonconforming use

Dear Mr. Colton:

This is to advise you that pursuant to section 12-215 of the City's zoning ordinance, adopted by Council on May 15, 1999, your day labor agency at 717 Pendleton Street is considered a nonconforming use. Under that provision, you have eighteen months from today's date to obtain a special use permit allowing the business. If a special use permit is not granted within that time, the business must cease operation. You should be aware that the special use permit process typically takes approximately two months from the time a complete application is filed until a decision is made on the application.

If you have any questions, please contact me.

Very truly yours.

Barbara Ross  
Deputy Director

cc: Sheldon Lynn, Director

November 1, 2000

Department of Planning and Zoning  
Room 2100, City Hall  
301 King Street  
Alexandria, VA 22314

**Commission Members:**

I wish to submit my views and experience bearing on your consideration of Special Use Permit #2000 - 0119 at 717 Pendleton Street. I have resided at 712 Pendleton Street since November 1992. Since Ace Temporaries moved into their current location more than two years ago, the "quality of living" at both my home and in the neighborhood have markedly declined. In order to summarize and document this statement, I will outline recurring problems as well as specific incidents in this two year plus period.

**Recurring problems:**

- 1) **Litter:** The front of my home has become a trash can. While some minimum efforts have been made to police the front of 717 Pendleton, the patrons of that location constantly and without reservation litter in front of my residence at 712 Pendleton. Litter is on a daily basis, day in and day out, six days a week. Frequent litter includes beer bottles and cans, liquor bottles, fast food empty and partially filled containers, coffee cups, stubs from Ace pay checks, cigarette butts and empty food packages galore, parts of newspapers, banana peels, partially eaten sandwiches and a variety of trash. On two occasions I had feces ladened underwear in my flower beds; as well as condoms on the sidewalk and in the street. On three occasions, the litter was vomit on the sidewalk and steps. I have kept several weekly logs of the trash which I've picked up in the past two plus years which I will be happy to present. There are recurring incidents of beer cans and bottles being consumed in then dropped from parked cars in front of my home. Also, there is recurring trash which could indicate drug use or sales (very small baggies, etc.).

- 2) **Noise:** Beginning at 4:00 a.m. six days a week, there are a wide variety of disruptive noises to include blaring car stereos, car alarms going off, loud conversation as well as occasional yelling, car doors and office doors slamming, "screeching tire car take-offs." This peaks again in the later afternoon hours. Frequently, people are loitering after the closing hours for Ace and are frequently talking well above conversational levels. On some Sundays sometimes there are "group meetings" in front of 717 Pendleton Street.
- 3) **Loitering:** The block in front of 717 Pendleton has become a hang out place for varying numbers of persons. While there is a bus stop, the loitering folks seldom catch buses. This loitering area occasionally moves across the street to the front of my residence. On several occasions I have been blocked from entry into my home by people sitting on my steps who begrudgingly move when asked. Also, there are frequently cars with 4-5 people hanging out in front of my residence. As an example, an Ace worker slept in one of the doorways at 717 Pendleton on the night of October 30, 2000 and this was not the first time.
- 4) **Drug dealing:** I have been advised by two police officers that the intersection of Pendleton and North Columbus Streets is now a "well known" drug area and is under frequent surveillance.
- 5) **Verbal Harassment:** Both my significant other and I have been subjected to racist as well as vulgar comments from persons loitering on both sides of the 700 block of Pendleton Street during the past two years.
- 6) **Theft:** I know of at least four packages left by delivery men (UPS, Post Office) which have been taken from the front of our home. In two of the incidents the package coverings were found and these thefts were reported to the police. My daily Washington Post has been taken dozens of times.
- 7) **Vandalism:** I have replaced three radio antennas which have been broken off in the past two years. I've experienced scratches on both of my vehicles from people leaning on and sitting on my cars.
- 8) **Parking:** Spaces on the block in front of my home are nearly impossible to get until after 7:00 p.m. Additionally, there is a lot of come and go traffic from 4:00 a.m. - 9:00 a.m. and 3:00 p.m. - 7:00 p.m.

**Selected incidents:**

- 1) On three occasions, I saw or heard males urinating in front of my home. We observe males urinating in the alley adjacent to the Ace property frequently.
- 2) On two occasions, I had to remove feces laden underwear from my flower beds.
- 3) On a Saturday morning in April 2000, I was picking up trash in front of my home and was verbally threatened by an employee of Ace. His verbal tirade ended with words to the effect of "Why don't you move away from here."
- 4) Approximately a year ago, we were getting into our car and a worker with a shovel started yelling and verbally threatening us. We departed before he made it to us.
- 5) I can cite numerous other incidents to the Commission or Council.

In addition to the recurring problems and incidents, I will make several observations of misstatements in the Application for Special Use Permit #2000 - 0119.

Section 3: The discussion of the efficient flow of personnel is just not how it happens. As cited above, there is continual loitering, etc.

Section 5: People arrive well before 4:30 a.m. and are in the area well after 6:30 p.m. Also, the facility is operating on Saturday. The "20" figure is a serious understatement.

Section 7: This is just not true. I have cited the types of noise pollution earlier. Additionally, these personnel do not stay primarily indoors.

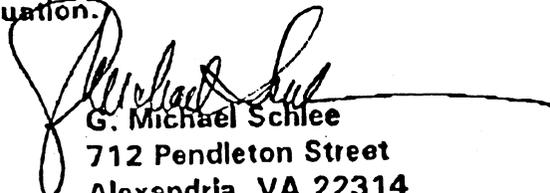
Section 9: I have discussed the trash situation. Moreover, the receptacles in front of Ace Temporaries are usually jammed packed most of time with trash overflowing by collection day.

Also, trash (as described above) is not just "typical office garbage/papers, etc.")

The "prevent littering" plan does not work.

Section 12: We have real safety concerns both for limb and property.

The Pendleton Street location is just flatly wrong for this type of operation. Any modified plan will truly lack any real enforcement aside from that of the residents in the area. We have put up with, I believe, an awful lot in the past thirty months. In the strongest possible terms, I urge you to reject this application. I will be happy to meet with the Commission or Council to discuss our unfortunate experiences with this dreadful situation.

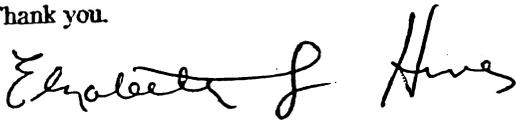
  
G. Michael Schlee  
712 Pendleton Street  
Alexandria, VA 22314

Alexandria Planning Commission  
and Alexandria City Council: Attn: Kathleen Beeton

I would like to go on record as opposing the request for a Special Use Permit  
for the existing temporary emmployment agency at 717 Pendleton St.

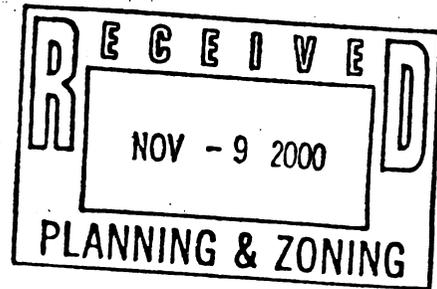
This agency has been a serious problem for my tenants across the  
street and I join them in feeling that this is an inappropriate business  
for this location.

Thank you.



Elizabeth Hines  
314 Wolfe St.  
Alexandria, Va 22314

Phone: 703-548-5332



## PETITION

To Members of the Alexandria City Council and the Alexandria Planning Commission:

We, residents of the neighborhood surrounding Ace Temporaries, Inc. ("Ace"), respectfully request that the Application for Special Use Permit filed by Ace be denied.

The primary reasons for our position are:

- **Noise.** Loud voices and vehicle honking begin at 4:30 or 5:00 A.M.
- **Violence.** Fights among Ace laborers break out in the street—usually in the afternoon when children are in transit from school.
- **Trash.** The amount of litter in the streets, on the sidewalks and in residential yards has risen dramatically since Ace's predecessor (also a day labor agency) took possession of the premises and has remained constant during Ace's tenure.
- **Vulgarity.** Ace laborers have leered at and made inappropriate comments to women (including a pregnant woman) walking by the premises, shouted profanities and urinated in a neighboring yard.
- **Public Alcohol Use:** Upon returning to the premises following the day's work, Ace laborers openly drink in the street and on the sidewalk. Drugs may also be involved.
- **Precedent:** If Ace, which identifies itself as an industrial outfit, is permitted to operate in our neighborhood, we wonder what will be permitted next.

We work hard to make our neighborhood a friendly, peaceful place to live and to raise children. Ace hinders these efforts.

Please heed our petition and oppose the granting of a special use permit to Ace.

| Printed Name           | Signature                     | Address                                 |
|------------------------|-------------------------------|---|
| SEAN PRATT             | <i>Sean Pratt</i>             | 532 N. Columbus St.                     |
| POPE WARD              | <i>Pop. Ward</i>              | 524 N. Columbus St                      |
| Lisa Ward              | <i>Lisa Ward</i>              | 524 N. Columbus St.                     |
| <i>Mallee Hill</i>     |                               | 520 N. Columbus St                      |
| Peter Bonta            | <i>P. Bonta</i>               | 515 N. Columbus St.                     |
| Brian Brennan          | <i>Brian Brennan</i>          | 513 1/2 N. Columbus St.                 |
| CHRISTINE ANNE BRENNAN | <i>Christine Anne Brennan</i> | 513 1/2 N. Columbus St.                 |
| JAMES B. VARTIZ        | <i>James B Vartiz</i>         | 504 N. COLUMBUS ST ALEXANDRIA, VA 22314 |
| Kelly L. Vartiz        | <i>Kelly L Vartiz</i>         | 504 N. Columbus St Alexandria VA        |
| JASON MARRS            | <i>JASON MARRS</i>            | 502 N. Columbus St ALEXANDRIA VA        |
| <i>Ray Pusey</i>       | <i>Ray Pusey</i>              | 502 N Columbus St Alexandria            |
| R. Dawson              | <i>R. Dawson</i>              | 500 N. COLUMBUS ST 22314                |
| MARY G. DEANBLEE       | <i>Mary G. Deanblee</i>       | 514A N Columbus St 22314                |
| WILLIAM CROWLEY        | <i>Will. Crowley</i>          | 421 N. Alfred St.                       |
| EI. Dawson             | <i>EI. Dawson</i>             | 418 N Columbus St.                      |
| Kara Choodler          | <i>Kara Choodler</i>          | 419 N. Columbus St.                     |
| Laura L. Eckart        | <i>Laura L. Eckart</i>        | 421 A N. Columbus St 223                |
| Anne Haynes            | <i>Anne Haynes</i>            | 718 ORONO ST #2 Alex VA 22314           |
| DAVE SMITH             | <i>DAVE SMITH</i>             | 718 ORONO ST #1 Alex, VA 22314          |
| Janice Smith           | <i>Janice Smith</i>           | 718 ORONO ST #1 Alex, VA 22314          |
| Shannon Parks          | <i>Shannon Parks</i>          | 532 N. Columbus St Alex, VA 22314       |
| Ed Braswell            | <i>Ed Braswell</i>            | 426 N. Columbus St                      |
| <i>John Johnson</i>    |                               | 709 ORONO #2                            |
| Meredith Childers      | <i>Meredith Childers</i>      | 711 ORONO #3                            |
| Jonathan Childers      | <i>Jonathan Childers</i>      | 711 ORONO #3                            |
| Phas H. Kiper          | <i>Phas H. Kiper</i>          | 503 COLUMBUS ST                         |

Printed Name

Signature

Address

JASON DALCORA

505 N. Columbus St

~~FORE DUZGUSEN~~

~~FORE DUZGUSEN~~

507 N. Columbus St.

~~BLAKE PHILLIPS~~

BLAKE PHILLIPS

515 N. Columbus St

KATHARINE BLANDT

KBLANDT

515 N. Columbus St

Katherine Elkins

529 N. Columbus St

Jade Elkins

529 N. Columbus St

Sean Bird

527 N. Columbus

Carolyn Luepkes

615 N. Columbus St

Luxe Zopicich

802 Pendleton St

Starling Chandler

802 Pendleton St

Dennis Bural

523 N Columbus St

JODIE LONDON

513 N. Columbus St.

Louis Franklin

604 N. Columbus St.

Penelope Poulou

614 N. Columbus St;

Stephen TOMPA

614 N. Columbus St.

Trish Horowitz

620 N. Columbus St.

Daniel Horowitz

620 N. Columbus St.

Bha Hochheimer

626 W. Columbus St

Vicki Sara

531 No Alfred St.

JANARA

JAN SARA

531 N. ALFRED ST.

AL HENDERSHOT

526 N. Columbus

Doris Hendershot

526 N. Columbus

MICHAEL COLBERT

512 N. Columbus

CHARLENE COLBERT

512 N. Columbus

SARIE McCray

508 N. Columbus

T.C. COLLIS

410 N. Columbus St.

Printed Name                      Signature                      Address

|                     |                     |                          |
|---------------------|---------------------|--------------------------|
| CHRIS PRICHARD      | [Signature]         | 419 N COLUMBUS ST        |
| Zuly Shupp          | [Signature]         | 525 N. Alfred St         |
| Anne Price          | Anne W. Price       | 513 N. Columbus          |
| RON KIRBY           | Ronald Kirby        | 528 N. Columbus          |
| SE. MILLER          | [Signature]         | 525 N. COLUMBUS          |
| J. FRAZIER          | [Signature]         | 433 N. COLUMBUS          |
| Margaret Murphy     | Margaret Murphy     | 421 N North Columbus St. |
| Mace Esper          | [Signature]         | 409 N. Columbus St.      |
| ANDREA L. ESPEr     | Andrea L. Esper     | 409 N. Columbus St.      |
| Alicia Spence       | Alicia Spence       | 431 N. Columbus St.      |
| Tara Reilly Mica    | Tara Reilly Mica    | 511 N. Columbus St.      |
| Jacq. Dudley        | Jacqueline Dudley   | 602 N Columbus St.       |
| Mary Noël McMillian | Mary Noël McMillian | 530 N. Columbus St.      |
| Martha Pernberg     | Martha Pernberg     | 531 N. Columbus St.      |
| Richard Paul        | G. Michael Schlegel | 712 Pendleton St         |
| Cheryl Huff         | Cheryl Huff         | 712 Pendleton St         |
| Lick STATON         | Lick STATON         | 811 Oronoco ST           |
| Merrie Morris       | Merrie Morris       | 815 Oronoco St.          |
| Alan Zlotky         | ALAN ZLOTKY         | 815 Oronoco ST           |
| BERNARD B. KAMR     | [Signature]         | 501 N ALFRED ST          |
| Susan Bradshaw      | Susan Bradshaw      | 501 N. Alfred St         |
| L. WOLF             | Linda Wolf          | 513 N. Alfred St         |



BOARD OF ZONING APPEALS  
CITY OF ALEXANDRIA, VIRGINIA

BZA CASE # 2002-0063

APPLICATION FOR APPEAL

Identify the order, requirement, decision or determination that is the subject of the appeal, and attach one copy to the application:

The Applicants appeal the determination that Ace Temporaries, Inc. is a day labor agency subject to the non-conforming use provisions contained in Section 12-215 of the Zoning Ordinance, as set forth in a letter from Barbara Ross, Deputy Director of Planning and Zoning, to Charles Colton [sic], Ace Temporaries, Inc.

What is the DATE that the order, requirement, decision or determination was made? By draft order not yet filed with the Court, the Applicants agreed to file this BZA appeal by 7/5/02. The appeal must be filed within 30 days from the date that the order, requirement, decision or determination was made.

PART A

1. Applicant:             Owner             (Other Lessee)

Name Ace Temporaries, Inc. and ACH, LLC

Address 711 Pendleton Street

Alexandria, VA 22314      Daytime Phone 703-683-3500

2. Property Location 717 Pendleton Street

3. Assessment Map 54.04 Block 14 Lot 16 Zone CL

4. Legal Property Owner:

Name ACH, LLC

Address 717 Pendleton Street, Alexandria, VA 22314

5. If property owner or applicant is being represented by an authorized agent such as an attorney, realtor or other person for which there is some form of compensation, does this agent or the business in which they are employed have a business license to operate in the City of Alexandria, Virginia? Not Applicable
- ( ) Yes - Provide proof of current City business license.
- ( ) No - Said agent shall be required to obtain a business prior to filing application.

THE UNDERSIGNED HEREBY ATTESTS that all of the information herein provided including the site plan, building elevations, prospective drawings of the projects, etc., are true, correct and accurate. The undersigned further understands that, should such information be found incorrect, any action taken by the Board based on such information may be invalidated. The undersigned also hereby grants the City of Alexandria permission to post placard notice as required by Article XI, Division A, Section 11-301(B) of the 1992 Alexandria City Zoning Ordinance, on the property which is the subject of this application. The applicant, if other than the property owner, also attests that he/she has obtained permission from the property owner to make this application.

APPLICANT OR AUTHORIZED AGENT:

Ace Temporaries, Inc. and ACH, LLC  
By: M. Catharine Puskar, Agent/Attorney  
print name

M. Catharine Puskar  
signature

703-528-4700  
telephone

July 3, 2002  
date

Pursuant to Section 13-3-2 of the City Code, the use of a document containing false information may constitute a Class 1 misdemeanor and may result in a punishment of a year in jail or \$2,500 or both. It may also constitute grounds to revoke the permit applied for with such information.

PART B

1. Why do you believe the order, requirement, decision, or determination is incorrect? Explain each basis for the appeal, beginning in the following space and using additional pages, if necessary:

The Applicants request that the Board of Zoning Appeals ("BZA") reverse the determination that Ace Temporaries, Inc. ("Ace") is a day labor agency subject to the nonconforming use provisions contained in Section 12-215 of the Zoning Ordinance, as set forth in a letter from Barbara Ross, Deputy Director of the Department of Planning & Zoning, to Mr. Charles Colton [sic], Ace Temporaries, Inc.

On May 15, 1999, the City Council enacted Ordinance No. 4049 (the "Ordinance"), which distinguished day labor agencies from "business and professional offices" by establishing a definition for a "day labor agency" and amended Section 12-200 to add Section 12-215, which regulates the abatement of day labor agencies.

The definition of "day labor agency," as set forth in Section 2-133.1 of the Zoning Ordinance is as follows:

A place where arrangements for short term employment are made characterized by the gathering of employees who are hired typically for a one-day period. Employers often transport the employees to the work site and return them to the day labor agency.

Although the City drafted this definition with the specific intent of targeting Ace's business, the definition enacted by the City Council does not describe Ace's business. It is not enough for the City to have intended for the definition to apply to Ace. The plain language of the definition is clear and simply does not apply to Ace. As described below, Ace does not hire workers for "short term employment," does not hire employees for "one-day periods," does not "transport the employees to the work site and return them," and does not act on the behalf of employers, but is, instead, the employer itself. Therefore, the determination that Ace Temporaries, Inc. is a day labor agency subject to the nonconforming use provisions of Section 12-251 is in error and should be reversed.

First, Ace does not hire workers for "short term employment". Contrary to the City's assertion, getting assigned work and then being paid in the same day is not "short term employment." It bears noting that such an arrangement is a common characteristic shared by many temporary employment agency operations that have not been classified by the City as "day labor agencies." In fact, Ace hires its employees directly without specifying a period of time for that employment. When a new potential employee comes

to Ace, he or she is required to fill out standard employment documents, including W-4 and I-9 forms. Ace then pays social security and all employment taxes for that employee, who is, as are the majority of employees in Virginia, an "at will" employee. There is no short term employment. At best, the employees have projects, or assignments, that may be short term. This, too, is a characteristic of all temporary employment agencies, including Manpower, Ranstad and others located within the City.

Second, although the City has chosen to include in its definition of day labor agency that "short term employment" is "typically" for one day periods, Ace does not hire people for one day periods – ever. Ace employees are hired by Ace, not by Ace's clients, and they remain employed by Ace until that employment is terminated. Again, at best, Ace's employees may be assigned each day to certain projects. This is a characteristic shared by many businesses, and certainly by other employment agencies. Ace employees frequently work at the same assignment for months, if not years. For example, the Alexandria Rehabilitation Housing Authority, which is one of Ace's clients, has used the same Ace employee for many months.

Third, the definition distinguishes between the day labor agency and the employer. Ace, however, is the employer, and the fact is not in dispute.

Finally, Ace does not provide transportation for its employees, further illustrating the definition's failure to describe or encompass Ace's actual operations.

What Ace does cling to is the notion that the definitions contained in the Ordinance are important to its application. The City has attempted to shoehorn Ace into its definition of day labor agency even though Ace's operations do not meet the characteristics of that definition. The City claims essentially that because the Ordinance was intended to target Ace, the definition, is, therefore, applicable to Ace, regardless of its plain language. While Ace does not dispute that the City could craft an ordinance that properly reached its use, it cannot be permitted to craft a sloppy ordinance that describes a use not existing on property, and seek to apply it to the detriment of a lawful, and law-abiding business. To do so would effectively give blanket authorization for arbitrary application of the Zoning Ordinance. As such, the Applicants respectfully request that the BZA reverse the determination that Ace Temporaries, Inc. is a day labor agency subject to the nonconforming use provisions set forth in Section 12-215 of the Zoning Ordinance.

If property is involved, attach 12 copies of pertinent drawings or other documents.



*City of Alexandria, Virginia*

DEPARTMENT OF PLANNING AND ZONING  
301 King Street, Room 2100  
Alexandria, Virginia 22314  
(703) 838-4666  
FAX (703) 838-6393



May 21, 1999

BY HAND DELIVERY

Mr. Charles Colton  
Ace Temporaries, Inc.  
717 Pendleton Street  
Alexandria, Virginia 22314

Re: Notice of nonconforming use

Dear Mr. Colton:

This is to advise you that pursuant to section 12-215 of the City's zoning ordinance, adopted by Council on May 15, 1999, your day labor agency at 717 Pendleton Street is considered a nonconforming use. Under that provision, you have eighteen months from today's date to obtain a special use permit allowing the business. If a special use permit is not granted within that time, the business must cease operation. You should be aware that the special use permit process typically takes approximately two months from the time a complete application is filed until a decision is made on the application.

If you have any questions, please contact me.

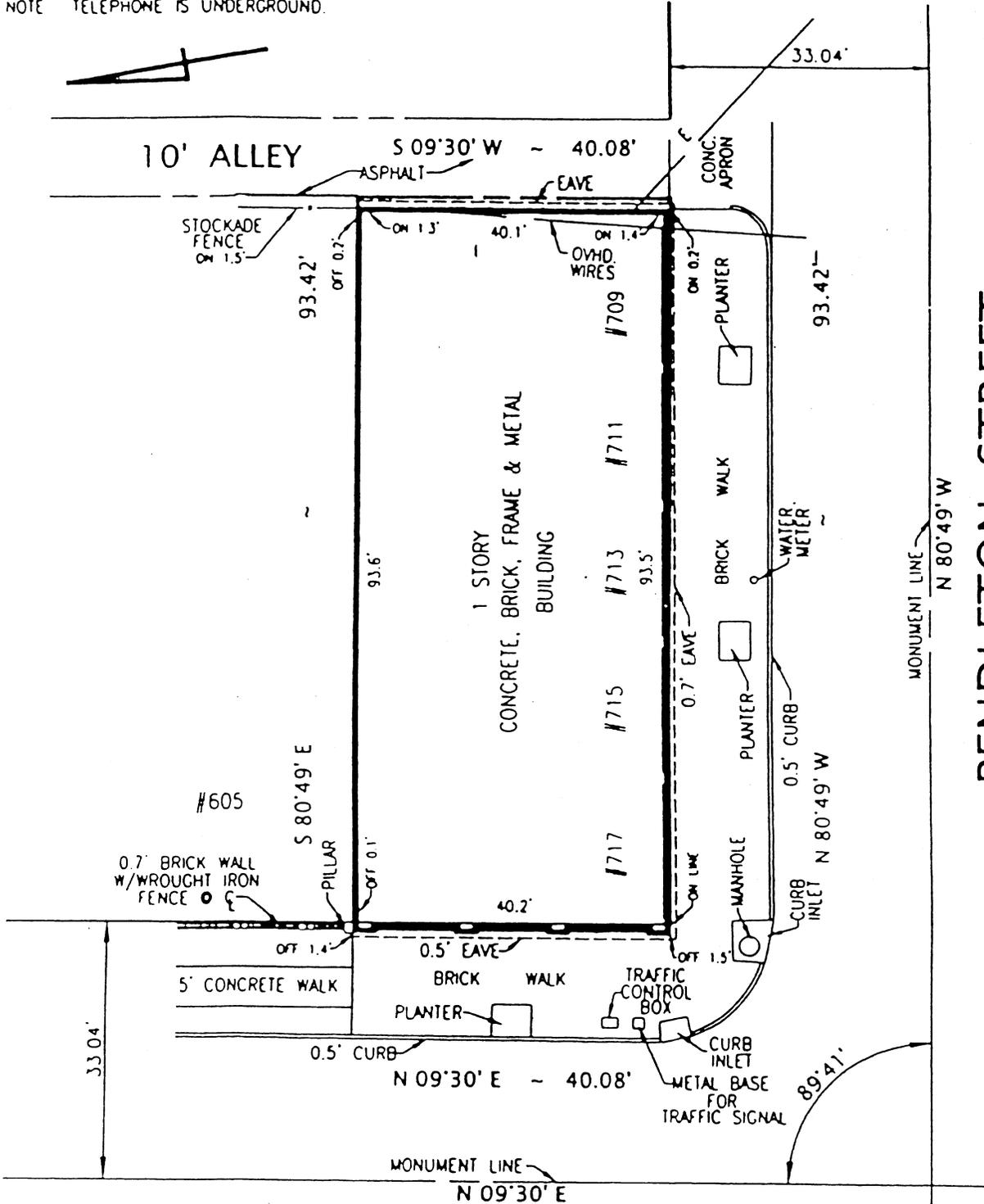
Very truly yours,

A handwritten signature in cursive script, appearing to read "Barbara Ross".

Barbara Ross  
Deputy Director

cc: Sheldon Lynn, Director

NOTE TELEPHONE IS UNDERGROUND.



# NORTH COLUMBUS STREET

## PLAT

SHOWING HOUSE LOCATION ON THE PROPERTY LOCATED AT

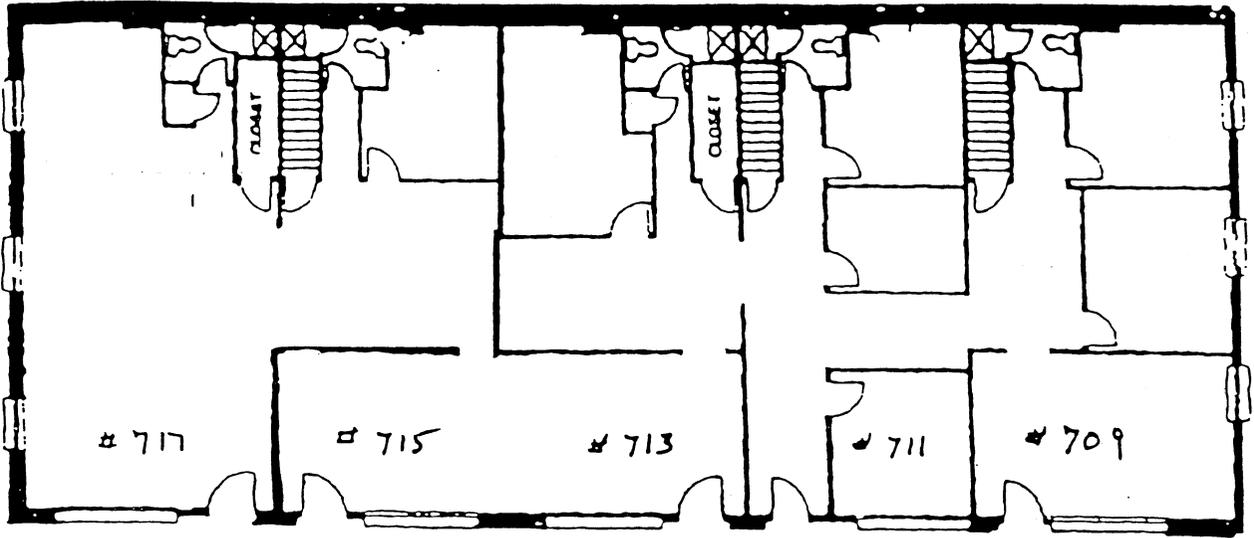
#709, #711, #713, #715 & #717

# PENDLETON STREET

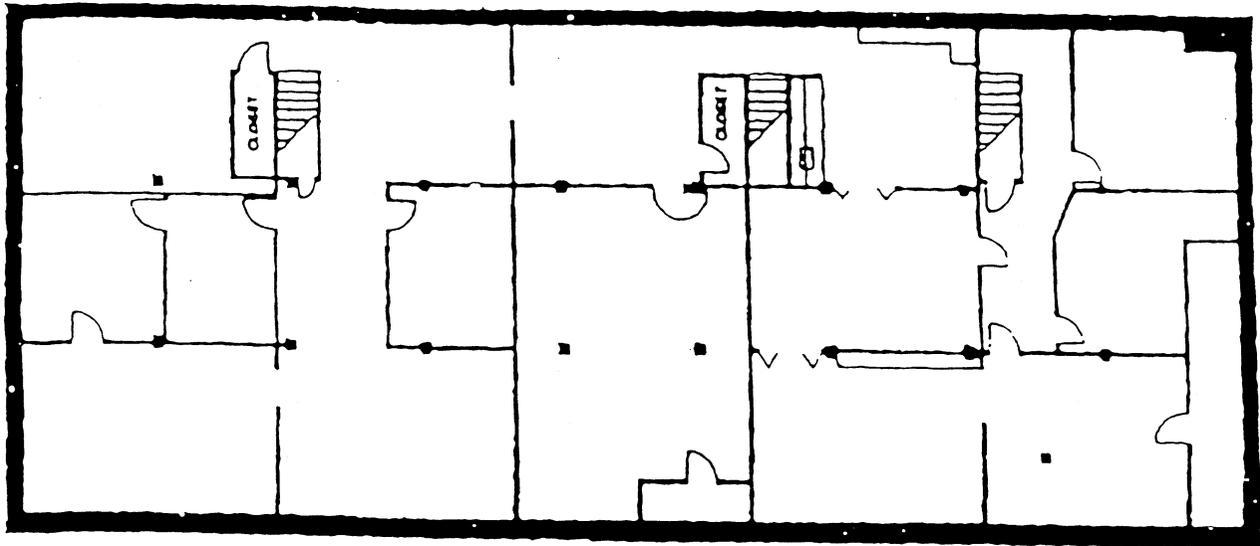
CITY OF ALEXANDRIA, VIRGINIA

93'

40'



Upper Level



Lower Level

FINDINGS OF FACT AND CONCLUSIONS  
CASE BZA #2002-0063  
717 PENDLETON STREET  
ACE TEMPORARIES, INC. AND ACH, LLC

Adopted

1. The Director determined that the property use at 717 Pendleton Street by Ace Temporaries, Inc. and ACH, LLC ("Ace") was a "day labor agency" under Section 2-133.1 of the City's Zoning Ordinance.
2. Specifically, the Director investigated Ace's operations and determined, in part, that a significant number of people "gather" at Ace's operations in the very early morning and late afternoon hours. The Director also found that, despite the fact that Ace employs the laborers, Ace arranged for short-term assignments of its laborers; its laborers are typically hired by Ace for one-day or short-term periods; and Ace at one time provided transportation to its laborers.
3. The Director's determination that Ace meets the definition of "day labor agency" in the zoning ordinance is not unreasonable. An overly specific zoning definition of "day labor agency" could easily be evaded by businesses it is designed to address. The zoning ordinance provides examples of "day labor agency" operations but makes clear that they are general examples, i.e., it includes descriptors of "day labor agency" such as "*characterized by the gathering of employees,*" "*hired typically for a one day period,*" and "*often transport.*" While these are general examples, the ordinance is not vague, and thus, is sufficiently clear to provide notice of the ordinance's applicability to Ace's operations.
4. On the question of evidence, citizens who live in the surrounding residential neighborhood testified that Ace's employees "gathered" for work assignments from Monday through Saturday. They provided testimony that reasonably demonstrated Ace's operations created significant negative impacts as a result of the laborers' gathering in the neighborhood. The negative impacts included an ongoing litter problem on adjacent residential properties, excessive noise in pre-dawn hours, a disruptive impact on neighborhood streets, and insufficient parking and excessive traffic related to workers' pick-up and drop-off activities.
5. Prior to the adoption of Section 2-133.1 of the Zoning Ordinance, the Director investigated the use of two properties operating as "day labor agencies" that were causing significant negative impacts.
6. Under the Zoning Ordinance, the operations of a "day labor agency" are distinct from a temporary employment agency. Unlike a "day labor agency," a temporary employment agency does not require its employees to visit the office every day, and assignments are generally provided by telephone and paychecks are mailed to employees.

EXHIBIT B

EXHIBIT B

Circuit Court of Alexandria  
Virginia

Judges  
DONALD M. BADDOCK  
ALFRED D. SWERSKY  
JOHN E. KLOCH



Courthouse  
520 King Street  
Alexandria, Virginia  
22314-3164  
(703) 838-4123

June 2, 2003

John H. Foote, Esquire  
W. Michael Semkon, Esquire  
Walsh, Colucci, Lubeley, Emrich &  
Terpak  
9324 West Street, Suite 300  
Manassas, VA 20110

Ignacio Pessoa, Esquire  
City Attorney, City of Alexandria  
301 King Street, Room 1300  
Alexandria, VA 22314

Fred R. Wagner, Esquire  
David Wagner, Esquire  
Beveridge & Diamond  
1350 I Street, N.W., Suite 600  
Washington, DC 20005

Re: Ace Temporaries, Inc., et al. v. City  
Chancery Nos. CH020648 and CH021733

Dear Counsel,

This matter is before the Court on motions for summary judgment. The facts are not in dispute and Complainant's motion for summary judgment will be granted.

The dispute arises from the passage of a zoning text amendment by the City that attempted to require "day labor agencies" to obtain special use permits to continue in business. The ordinance, known as Ordinance 4049, was proposed by the City's Department of Planning and Zoning and notice of its proposal was sent to Complainant and one other "day labor agency" on January 15, 1999.

On February 2, the City's Planning Commission held a public hearing at which Complainant appeared and testified and by motion made at the hearing, recommended adoption of the amendment. The City Council, on February 20, 1999, approved the

06/03/03 TUE 12:42 [TX/RX NO 8143]

96

Acc Temporaries, Inc., et al. v. City  
Chancery Nos. CH020648 and CH021733

June 2, 2003  
Page Two

amendment at a public hearing.

Complainant argues that the procedural requirements of Title 15.2, Code of Va., §2286(7) were not met and, therefore, the ordinance is not valid. That statute states, in pertinent part, as follows:

Wherever the public necessity, convenience, general welfare, or good zoning practice requires, the governing body may by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated (i) by resolution of the governing body, (ii) by motion of the local planning commission, or (iii) by petition of the owner, contract purchaser ... Any such resolution or motion by such governing body or commission proposing the rezoning shall state the above public purposes therefor.

The City has failed to properly initiate the zoning text amendments. There was never a resolution nor a motion to initiate such amendments; only a "motion" before the Planning Commission to adopt the changes. The City attempts to rely on oral statements in the record by one of the Planning Commissioners as to the purpose of the amendments. Such reliance is misplaced. Even if the Court were to find that such oral statements satisfy the requirements of §15.2-2286, the statements were not made in the "initiation" of the amendments.

County of Fairfax v. Southern Iron Works, 242 Va. 435 (1991), is inapposite here. In that case, the County Board did adopt a resolution of initiation that recited all of the language of §2286 as the purpose of the zoning amendment. The Supreme Court approved the use of the general language and did not require a finding of a specific purpose. In this case there has never been a proper "initiation" of the zoning amendments.

The procedural requirements of these statutes granting authority to localities are mandatory and substantial compliance, even if the Court found it to have occurred here, would not be sufficient.

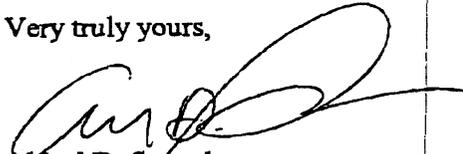
The other issues in the case regarding the denial of the special use permit to Complainant, whether Complainant fits the definition of a "day labor agency", and whether the amortization period is proper, are moot in view of the Court's ruling on the validity of the amendments.

Ace Temporaries, Inc., et al. v. City  
Chancery Nos. CH020648 and CH021733

June 2, 2003  
Page Three

Mr. Foote should prepare an appropriate order noting Defendant's objections and dismissing CH021733 as moot.

Very truly yours,



Alfred D. Swersky

Kelly Conner  
607 North Columbus Street  
Alexandria, VA 22314

October 24, 2003

Members of the Planning Commission:

I live immediately next door to Ace Temporaries, which is a day labor agency located at 717 Pendleton Street. I am writing this letter to express my strong support for the City's continued efforts to remove this nuisance business from our neighborhood.

I have lived in my house since January 2002. Since that time, I have experienced continuous problems as a direct result of Ace. These problems include:

- Trash: On a daily basis, I pick up trash left by Ace employees from around my house, including food wrappers, soda cans, empty liquor bottles, and bits of paper from Ace employment receipts. I have also picked up empty crack bags, syringes, and a bottle of urine. I understand that Chuck Carlton has previously contended that the trash around Ace and the surrounding properties comes from people in the neighborhood and not from Ace's employees, but this is simply not true. On countless occasions, I have personally witnessed Ace's employees throwing trash on the sidewalks and in the alley behind my house.
- Public Urination: On several occasions, both my neighbors and I have personally witnessed Ace employees urinating on my property or in the alley behind my house. On one of these occasions, which occurred on November 21, 2002, I advised Mike Carlton, a manager at Ace, that I had just seen one of his employees urinating on my property. Nonetheless, the problem has continued.
- Crime: In the past 20 months, my husband and I have had our newspaper stolen on literally countless occasions. In fact, it was stolen both yesterday as well as today. Infuriatingly, the

thief always throws the plastic bag which held the newspaper on the sidewalk between my house and Ace. In addition, items have been stolen from our car, our mail has been stolen, and our property has been vandalized. Indeed, on one occasion, my husband had a confrontation with an employee of Ace who had been yelling profanities in front of our house. The next day, we discovered that the antenna on our car had been maliciously bent. Because of this incident, we now hesitate to confront the employees and owners of Ace about these problems for fear of retaliation.

- Parking Problems: Like most of Alexandria, our neighborhood suffers from a lack of street parking. Despite the fact that there is a parking garage located one block away, the owners and managers of Ace continue to park their personal vehicles on the street for hours on end, in violation of the zoned parking restrictions. These cars are the regular offenders: a red Honda Civic, MD tag DNL 577; a black Honda Civic, VA tag YJP 9333; a black Ford pickup, VA tag YYF 2264; and a navy Chevy Tahoe, DC tags BL 6937. In addition, of course, the many day laborers visiting Ace each morning and afternoon by car exacerbates the parking problems in the neighborhood.
- Loitering and Fighting: Ace employees continue to congregate during the predawn hours in the surrounding area, particularly in the Bank of America parking lot next door to Ace and directly behind my house. Not only does this result in excessive noise, but fights have broken out. In fact, on October 7, 2002, several neighbors and I (as well as Adam Schramm, one of the owners of Ace) had to call the police to break up a fight.
- Excessive noise and traffic: Because Ace begins its operations at 4:30 am, my husband and I are routinely awoken by workers slamming their car doors, playing their car radios, setting off car alarms, revving engines, shouting to each other, etc. There is also routine profanity. When they arrive to receive assignments in the morning, Ace employees park on Pendleton Street in front of Ace, on North Columbus Street in front of my house, and in the bank parking lot behind our house. As a result, we

are literally surrounded by this each morning beginning in the predawn hours.

- Harassment: Since I moved to my house in January 2002, my family, friends, and I have endured countless episodes of harassment by Ace employees. While working in my garden, my mother-in-law (a senior citizen) was once verbally harassed by an Ace employee. My husband has also been threatened with violence by an Ace employee. Men who were working on my house were once harassed by Ace employees. Ace employees have even taunted my dog. I myself have been subject to countless lewd comments from Ace employees.
- Trespassing: Ace employees have occasionally trespassed on my property, including one incident in October 2002 in which an Ace employee opened my gate and entered my yard so that he could hide his bicycle behind the bushes in my yard. I arrived home to discover an unknown bicycle in the bushes and, thinking it had been stolen and dumped in my yard, I called the police who took the bicycle. That afternoon, an Ace employee came to my door demanding his bicycle. When I asked him why he had put it in my yard, he indicated that he did not feel it was safe to leave it in front of Ace, as it would be stolen. He indicated that he was not allowed to leave it in the building.

These are just some examples of the problems I continue to experience as a result of Ace Temporaries operating in the Pendleton Street location. As always, whenever I speak to a manager or owner of Ace, they are obsequious and make promises to try to alleviate the problems caused by their employees and business. Unfortunately, however, after nearly two years it is now clear that the owners of Ace are simply unable to alleviate the inevitable problems caused by more than 100 workers showing up in a residential neighborhood with no parking beginning at 4:30 a.m.

My understanding is that the City's efforts to remove Ace from the neighborhood due to citizen complaints have been underway for several years now. While I cannot speak to Ace's nuisance activities over the previous years, I can certainly attest to the fact that they have continued unabated since January 2002, when I moved to the

neighborhood. Both the City of Alexandria and the neighborhood have been more than patient with Ace. Simply, Ace has taken advantage of the City's good will and the neighborhood's patience. I therefore urge you to make every effort to end Ace's operations in the unsuitable Pendleton Street location as soon as possible.

Sincerely,

Kelly Conner

Frank Conner  
607 North Columbus St  
Alexandria

October 24, 2003

Members of the Planning Commission:

I live next door to Ace Temporaries. I cannot express how frustrating it has been to deal with this business and the problems it has brought to our neighborhood. The neighborhood has been patient to a fault. Please take action to help us.

For your consideration:

1. Ace employees arrive every day but Sunday at approximately 4:30 am and have no regard for the early hour, yell profanity up and down the street, slam their car doors and exhibit no regard for the residents or their property. Obviously, some Ace employees do their business fairly quietly and get in and out of the neighborhood without creating a ruckus. Even if all Ace employees did, having 150+ laborers arriving in our residential neighborhood every day at 4:30 or 5am is utterly inappropriate.

Ace employees also often arrive in vehicles with broken mufflers, play loud music and drive recklessly to and from Ace because they are "late for a job in Maryland". These types of regular occurrences only exacerbate the noise problem brought to the neighborhood by a large number of people arriving at a business with ZERO dedicated parking day in and day out.

2. Ace employees deposit trash in the gutter, sewer and sidewalk and throw it over our rear fence. Favorite dumping zones appear to be our front garden near the sidewalk and in the area of the bank dumpster in the rear alley. On 10/23/03, two used car tires were observed dumped next to the bank dumpster. They came from a vehicle believed to be transporting Ace employees. Discussions with the bank management revealed they have tried unsuccessfully to prevent Ace employees from parking in the bank lot and from

dumping there. Numerous complaints have been made by neighbors to Ace management, but Ace refuses to accept that their employees are the source of the trash problem or, in fact, ever litter in the area. Recently, I observed one employee throw chicken bones, a half full soda can and chip bag over my rear fence along with a shredded up piece of paper. After piecing the page back together, it turned out to be an Ace pay statement. I brought this directly to Ace management. They refused to take any action and were very careful not to make any statement admitting responsibility.

3. One very early morning last spring, an employee of Ace was standing directly in front of my home urinating on the sidewalk in the pitch dark. I did not see him as I left my home for work at 5:30am until I was almost on top of him. This surprised him causing him to splatter my shoes and pants with urine as he fled into the Ace office. I followed him into the office and confirmed with him and the Ace employee behind the desk that he worked for them. This person claimed both that that Ace's bathroom was so dirty he preferred to urinate outside and that he wasn't allowed to use Ace's bathroom. Ace denied that employees were not allowed to use their bathroom.

3. Ace management park illegally in the area every day. There are typically two or three cars associated with Ace management in the area at any given time. None has zone three parking stickers. This does not include the large volume of traffic coming and going in the morning and afternoon picking up and depositing Ace day labor employees.

4. Ace employees routinely steal our newspaper. The frustration of having the paper stolen is bad. Worse is the nerve of these guys who steal the paper from my front steps, take it out of the plastic bag as they walk to Ace, and throw the bag into the front garden or sidewalk. They check in with Ace to get their assignment for the day and head off reading my paper knowing that they aren't going to get arrested for taking a newspaper.

Please understand that from our perspective, it isn't worth running the risk of being targeted by Ace employees for retribution for calling the police or complaining to Ace because of their activities time and time again. I don't have a shadow of a doubt in my mind that if I

routinely confronted Ace employees directly for taking my paper or for throwing trash or for urinating over my fence or for playing loud music or any number of other things there would be retribution. I have already been told by one Ace employee to move my "ass to the suburbs if I don't like it". More importantly, the real culprit is Ace management.

5. Ace employees, if their license plates are any indication, are not, by and large, Alexandria residents. In fact, my observation has been that far more DC and MD vehicles come to Ace than VA. Most of the Virginia cars do not belong to Alexandria residents. I am aware that Ace likes to claim that they provide a service by offering employment to Alexandria residents. I strongly disagree as I believe the disadvantages far outweigh any advantages of employing a few Alexandria residents.

6. Ace employees have been observed time and time again making offensive advances towards women in the area. One Ace employee made a vulgar advance towards my wife, then wanted to fight me on the sidewalk when I told him to knock it off. My wife often catches the bus at the stop directly in front of Ace where she has been met with unwanted comments, graphic advances and lewd remarks all coming from employees coming and going from Ace. One family living on the 600 block of Columbus decided to move due in large part to the long running problems with Ace.

7. This very morning, October 24, 2003, I went downstairs at 5:30 to discover my wife upset in the kitchen. The problem wasn't so much that our Washington Post had been stolen for the third day in a row from our porch. The problem was that like the days prior, the little plastic bag that holds our newspaper was lying on the sidewalk immediately next to Ace's front door and she knew there wasn't a thing she could do. It is easy, probably, for you to picture yourself walking into Ace and raising a stink. But don't forget to picture the denials from Ace management, the Ace employees standing on your iron fence urinating into your front yard in a "taunting" way, the threats, and the invitation to "go to the suburbs if you don't like it".

We would rather lose a couple newspapers a week than worry about what might happen to our house while we're at work. So we're not

running to Ace or the City every time something happens. We'll keep picking up Ace's trash out of our yard and enduring their noise. But we need you, the Planning Commission, to help this neighborhood.

Sincerely,

Frank Conner

PC Docket Item # 13  
TA 2003-0006  
Day Labor Agencies

October 30, 2003

The Planning Commission  
Department of Planning and Zoning  
301 King Street, Room 2100  
Alexandria, Virginia 22313

**Commission Members:**

I have resided at 712 Pendleton since November 1992. Since Ace Temporaries moved in at 717 Pendleton Street more than four years ago, the "quality of living" in the neighborhood has suffered a visible and measurable decline. To cite a few of the recurring and continuing problems, I submit the following:

- 1) **Litter and Trash:** The area in front of my home has become a trash can since Ace Temporaries moved in. I have to pick up trash and garbage daily which has been left by the users of the 717 Pendleton establishment. The trash includes beer and liquor bottles and cans, cigarette butts, used face protection masks, filthy items of clothing, partially eaten food remnants, newspapers and items that the normal mind can't imagine. This is at varying amounts-day in and day out. I have personally seen people parked in cars who have been at Ace Temporaries discard the trash. On three occasions in the last six months, guys have been repairing their cars parked along the 700 block of Pendleton or in the Bank of America parking lot-with the ensuing trash and oil spills. Some efforts are made by Ace to clean up in front of their location but that doesn't deter their clients from discarding trash.
- 2) **Noise:** Beginning before 4:00 a.m. six days a week, there are continuing disruptive and loud noises to include blaring car stereos, slamming car doors and office doors, car and truck alarms, several recurring vehicles with faulty or no mufflers, occasional "screeching tire takes offs." Daily, there are social exchanges – frequently at yelling levels – by those going in and out of Ace or loitering outside and in adjacent properties to 717 Pendleton Street. These occurrences include several individuals as well as groups of 6-8 people on a recurring basis.
- 3) **Loitering and Vagrancy:** I called the police during the past year about one man who was blatantly living in his car in the 700 block of

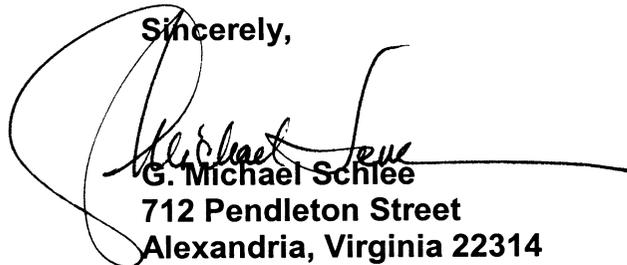
Pendleton Street for seven days. There are recurring incidents of people sleeping in their cars overnight. There is a constant amount of hanging out in front of Ace Temporaries and adjacent areas every day. On several occasions, I've arrived home to find people sitting on my front steps waiting for people at Ace.

- 4) **Theft:** I have had at least two packages removed from the front of my house so far in 2003. One I found torn open around the corner and a second was reported to USPS.
- 5) **Vandalism:** I replaced my auto radio antenna for the fourth time in January 2003 and it was broken off within six weeks. I had to cancel the Washington Post delivery because more copies were stolen than I received.
- 6) **Parking and Damage:** Spaces in the block of 712 Pendleton are impossible to get during Ace's hours of operation. I've experienced door dings in my cars due to drop offs going into Ace. I witnessed my car doors being bumped on several occasions in 2003. Ace clients often park in the Bus stop in front of 717 Pendleton.

The above cited problems have all occurred in 2003 and are merely representative of the negative impact of this business on this neighborhood. I noted my call to the police in the vagrancy situation. I'm reluctant to call the police since nothing really changes and my experience with them has not always been pleasant.

The Pendleton Street location is just wrong for the day labor type of operation. No city agency seems to want to address the noise, trash and other situations. I will be happy to discuss my experiences as well as the decline of the quality of living in this neighborhood with you.

Sincerely,



G. Michael Schlee  
712 Pendleton Street  
Alexandria, Virginia 22314

# Del Ray Citizens Association

PO Box 2233

ALEXANDRIA VA 22301

ESTABLISHED 1954

---

To: Members of Alexandria Planning Commission  
Eileen Fogarty, Director, Office of Planning and Zoning

From: Amy Slack, Land Use Committee Co-Chair  
Sarah Haut, Land Use Committee Co-Chair  
Justin Wilson, President

Date: November 5, 2003

Subject: Text Amendment #2003-0006 Day Labor Agencies  
Consideration of a text amendment to the Zoning Ordinance to define day labor agencies and to require an SUP for day labor agencies in appropriate commercial zones, with abatement for existing agencies.  
Applicant: Department of Planning and Zoning

TA #2003-0006  
PC Docket Item #13

At the Land Use committee meeting on November 3, 2003 we discussed the subject text amendment.

A summary of events leading to the revised definition of Day Labor Agencies, recommendation to require an SUP, and restriction of the use to appropriate zones, was given.

Our discussion touched on several issues which are reflected in conditions suggested below. In general, we feel day labor agencies offer a valuable service to the business community but their presence is not compatible with residential neighborhoods and their use need be prohibited from some commercial zones. We agree with staff recommendation to require SUP approval and with the allowable zones.

The committee recommended to *support the text amendment. We ask that the following conditions, all or in part, be made standard conditions to the use or, at the discretion of the Commission and Council, be incorporated into City Ordinance:*

- The use is not allowed within 300' of residential uses.
- Indoor restrooms will be available prior to the hours of operation for the benefit of congregating laborers.  
We leave it to the discretion of the Commission to determine the appropriate time frame.
- Trash receptacles will be provided to the satisfaction of the Director of Planning and Zoning.
- Litter on the site and on the public right-of-way and spaces adjacent to or within 100' of the premises shall be picked up at least twice a day and at the close of business,

and more often if necessary, to present an unsightly or unsanitary accumulation, on each day that the business is open.

- No amplified sound shall be audible at the property line.
- When deemed necessary by the Director of Planning and Zoning and at the expense of the applicant, a private security service, or such dedicated personnel, shall be employed to discourage loitering, public urination, or consumption of alcoholic beverages and to control noise associated with the congregation of laborers. This service will commence prior to laborer congregation and remain until workers disperse both AM and PM.

We request your support for this position and welcome your questions and comments. Please feel free to contact Co-chairs Amy Slack at 703-549-3412 or Sarah Haut at 703-838-9060 and President Justin Wilson at 703-299 1576.

**TEXT AMENDMENT # 2003-0006**

ISSUE DESCRIPTION: 1. Day Labor Agencies  
Consideration of a text amendment  
to the Zoning Ordinance to define  
day labor agencies and to require  
an SUP for day labor agencies in appropriate  
Commercial Zones, with abatement for existing  
agencies.

ZONING ORDINANCE SECTION: \_\_\_\_\_

CITY DEPARTMENT: Planning and Zoning

=====

ACTION - PLANNING COMMISSION: 11/06/03 RECOMMEND APPROVAL 6-0

ACTION - CITY COUNCIL: Approved 6 to 0 with an amendment that abatement  
of existing agencies be no more than 12 months.

15  
11-15-03



<mschlee@legion.org>

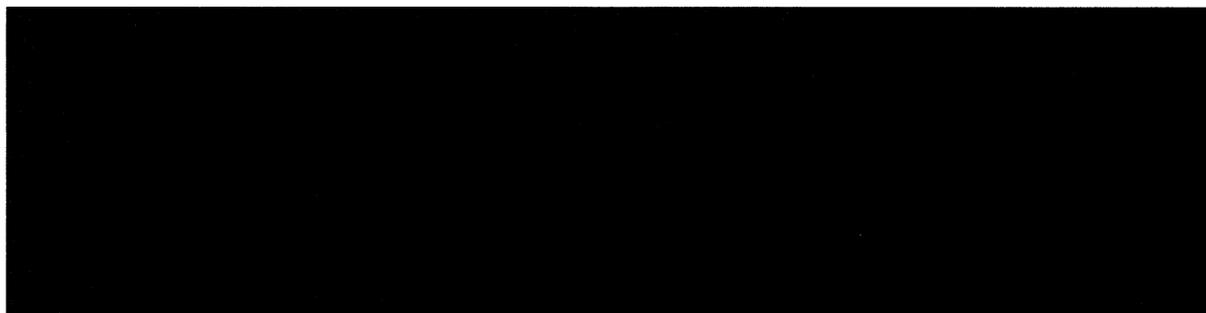
11/14/2003 10:27 AM

Please respond to  
mschlee

To: <alexvamayor@aol.com>, <delpepper@aol.com>,  
<council@joycewoodson.net>, <councilmangaines@aol.com>,  
<rob@krupicka.com>, <macdonaldcouncil@msn.com>,  
<paulcsmedberg@aol.com>, <rose.boyd@ci.alexandria.va.usi>,  
<jackie.henderson@ci.alexandria.va.us>

cc:

Subject: City of Alexandria Website Contact Us - EMail for Mayor, Vice-Mayor  
and Council Members (alexvamayor@aol.com, delpepper@aol.com,  
council@joycewoodson.net, councilmangaines@aol.com,  
rob@krupicka.com, macdonaldcouncil@msn.com,  
paulcsmedberg@aol.com, rose.boyd@ci.alexandria.va.usi,  
jackie.henderson@ci.alexandria.va.us)



Time: [Fri Nov 14, 2003 10:27:52] IP Address: [206.104.246.2]

Response requested:

**First Name:** G. Michael

**Last Name:** Schlee

**Street Address:** 712 Pendleton Street

**City:** Alexandria

**State:** Virginia

**Zip:** 22314

**Phone:** (703)836-3866

**Email Address:** mschlee@legion.org

**Comments:**

November 14, 2003

Alexandria City Council  
301 King Street, City Hall  
Alexandria, Virginia 22314

Council Members:

I have resided at 712 Pendleton since November

1992. Since Ace Temporaries moved in at 717 Pendleton Street more than four years ago, the "quality of living" in the neighborhood has suffered a visible and measurable decline. To cite a few of the recurring and continuing problems, I submit the following:

1) Litter and Trash: The area in front of my home has become a trash can since Ace Temporaries moved in. I have to pick up trash and garbage daily which has been left by the users of the 717 Pendleton establishment. The trash includes beer and liquor bottles and cans, cigarette butts, used face protection masks, filthy items of clothing, partially eaten food remnants, newspapers and items that the normal mind can't imagine. This is at varying amounts-day in and day out. I have personally seen people parked in cars who have been at Ace Temporaries discard the trash. On three occasions in the last six months, guys have been repairing their cars parked along the 700 block of Pendleton or in the Bank of America parking lot-with the ensuing trash and oil spills. Some efforts are made by Ace to clean up in front of their location but that doesn't deter their clients from discarding trash.

2) Noise: Beginning before 4:00 a.m. six days a week, there are continuing disruptive and loud noises to include blaring car stereos, slamming car doors and office doors, car and truck alarms, several recurring vehicles with faulty or no mufflers, occasional "screeching tire takes offs." Daily, there are social exchanges – frequently at yelling levels – by those going in and out of Ace or loitering outside and in adjacent properties to 717 Pendleton Street. These occurrences include several individuals as well as groups of 6-8 people on a recurring basis.

3) Loitering and Vagrancy: I called the police during the past year about one man who was blatantly living in his car in the 700 block of Pendleton Street for seven days. There are recurring incidents of people sleeping in their cars overnight. There is a constant amount of hanging out in front of Ace Temporaries and adjacent areas every day. On several occasions, I've arrived home to find people sitting on my front steps waiting for people at Ace. There are also the recurring incidents of public urination in the alleys, public drinking and sometimes intoxication as well as evidence of drug usage.

4) Theft: I have had at least two packages removed from the front of my house so far in

2003. One I found torn open around the corner and a second was reported to USPS.

5) Vandalism: I replaced my auto radio antenna for the fourth time in January 2003 and it was broken off within six weeks. I had to cancel the Washington Post delivery because more copies were stolen than I received.

6) Parking and Damage: Spaces in the block of 712 Pendleton are impossible to get during Ace's hours of operation. I've experienced door dings in my cars due to drop offs going into Ace. I witnessed my car doors being bumped on several occasions in 2003. Ace clients often park in the Bus stop in front of 717 Pendleton.

The above cited problems have all occurred in 2003 and are merely representative of the negative impact of this business on this neighborhood. I noted my call to the police in the vagrancy situation. I'm reluctant to call the police since nothing really changes and my experience with them has not always been pleasant.

The Pendleton Street location is just wrong for the day labor type of operation. No city agency seems to want to address the noise, trash and other situations. I will be happy to discuss my experiences as well as the decline of the quality of living in this neighborhood with you. I thank you for your anticipated support for improving the "quality of living" for those of us who live in this area of Alexandria.

Sincerely,

G. Michael Schlee  
712 Pendleton Street  
Alexandria, Virginia 22314

15  
11-15-03



**WALSH COLUCCI  
LUBELEY EMRICH  
& TERPAK PC**

M. Catharine Puskar  
(703) 528-4700 Ext. 13  
cpuskar@arl.thelandlawyers.com

November 14, 2003

**By Facsimile**

The Honorable William D. Euille  
Mayor  
City of Alexandria  
301 King Street, Room 2300, City Hall  
Alexandria, Virginia 22314

Re: Docket Item #15  
Text Amendment #2003-0006  
Day Labor Agencies

Dear Mr. Mayor and Members of the City Council:

For reasons that have been communicated thoroughly over the past few years, Ace  
Temporaries continues to express its firm opposition to the adoption of the above-referenced  
Text Amendment.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & TERPAK, P.C.

*M. Catharine Puskar*

M. Catharine Puskar

J:\ACE Temporaries\3555.2\city council letter.doc

cc: Chuck Carlton  
John Foote  
Ignacio Pessoa  
Barbara Ross  
Nan E. Terpak  
Martin D. Walsh

15  
11-15-03



**Jackie Henderson**  
11/12/2003 04:39 PM

To: alexvamayor@aol.com, delpepper@aol.com,  
councilmangaines@aol.com, rob@krupicka.com,  
macdonaldcouncil@msn.com, paulcsmedberg@aol.com,  
council@joycewoodson.net  
cc: Phil Sunderland/Alex@Alex, Michele Evans/Alex@Alex, Barbara  
Ross/Alex@Alex, Eileen Fogarty/Alex@Alex  
Subject: letter re: Text amendment #2003-006

----- Forwarded by Jackie Henderson/Alex on 11/12/2003 04:37 PM -----



**"Amy Slack & David  
Fromm"**  
<alsdmf@earthlink.net>  
11/12/2003 04:33 PM

To: Jackie Henderson <jackie.henderson@ci.alexandria.va.us>  
cc:  
Subject: letter re: Text amendment #2003-006

Hi Jackie,

I've attached a letter from the Del Ray Citizens Association about the  
proposed text amendment Council Docket item # 15.  
Would you please see that the members of Council receive it?  
(I know you will ;^ )

Thanks,  
Amy

--  
Amy Slack, Co-chair Land Use committee  
Del Ray Citizens Association  
703-549-3412  
alsdmf@earthlink.net



CC TextAmend#2003-0006.doc

# Del Ray Citizens Association

PO Box 2233

Alexandria VA 22301

Established 1954

---

---

**To:** Honorable Members of City Council  
Eileen Fogarty, Director, Office of Planning and Zoning

**From:** Justin Wilson, President  
Amy Slack, Land Use committee Co-chair  
Sarah Haut, Land Use committee Co-chair

**Date:** November 5, 2003

**Subject:** Text Amendment #2003-0006 Day Labor Agencies  
Consideration of a text amendment to the Zoning Ordinance to define day labor agencies and to require an SUP for day labor agencies in appropriate commercial zones, with abatement for existing agencies.  
Applicant: Department of Planning and Zoning

At our regular membership meeting on Monday, November 10, 2003, we discussed the proposed text amendment as amended by the Planning Commission at the public hearing on November 6, 2003.

Questions arose as to whether it is appropriate to regulate a day labor agency by requiring an agency to obtain a SUP, and whether the proposed standard conditions were a redundancy of current laws. Comments addressed the unfairness of increased regulation of businesses, the use of police or code enforcement to discourage nuisance activities, and the advantages of a SUP process to the community.

The membership overwhelmingly voted to support the recommendations of the Planning Commission .

We request your support for this position and welcome your questions and comments. Please feel free to contact President Justin Wilson at 703-299 1576 and Co-chairs Amy Slack at 703-549-3412 or Sarah Haut at 703-838-9060.

# TEXT AMENDMENT # 2003-0006

ISSUE DESCRIPTION: 1. Day Labor Agencies  
Consideration of a text amendment  
to the Zoning Ordinance to define  
day labor agencies and to require  
an SUP for day labor agencies in appropriate  
Commercial Zones, with abatement for existing  
agencies.

ZONING ORDINANCE SECTION: \_\_\_\_\_

CITY DEPARTMENT: Planning and Zoning

ACTION - PLANNING COMMISSION: 11/06/03 RECOMMEND APPROVAL 6-0

ACTION - CITY COUNCIL: Approved 6 to 0 with an amendment that abatement  
of existing agencies be no more than 12 months.