

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, December 18, 2004 - - 9:30 a.m.

Present: Mayor William D. Euille, Vice Mayor Redella S. Pepper, Members of Council Ludwig P. Gaines, K. Rob Krupicka, Andrew H. Macdonald, Paul C. Smedberg and Joyce Woodson.

Absent: None.

Also Present: Mr. Sunderland, City Manager; Ms. Evans, Assistant City Manager; Mr. Pessoa, City Attorney; Mr. Jinks, Assistant City Manager; Ms. Fogarty, Director of Planning and Zoning; Mr. Farner, Division Chief, Planning and Zoning; Mr. Baier, Director of Transportation and Environmental Services; Ms. Davis, Director of Office of Housing; Mr. Eiffert, Deputy Director, Office of Housing; Ms. Peterson, Urban Planner, Planning and Zoning; Police Lt. Uzzell; Ms. Smith-Page, Director, Real Estate Assessments; Mr. Johnson, Director of Management and Budget; Mr. Neckel, Director of Finance; Mr. Josephson, Deputy Director of Planning and Zoning; Mr. Skrabak, Division Chief, Environmental Quality, Transportation and Environmental Services; Mr. Kincannon, Director of Parks, Recreation and Cultural Activities; Ms. Federico, Director of Historic Alexandria; Ms. Cressey, Office of Historic Alexandria; Mr. Dahlberg, Code Enforcement Director; and Mr. Sundland, Planning and Zoning.

Recorded by: Jackie M. Henderson, City Clerk and Clerk of Council

OPENING

1. Calling the Roll.

The meeting was called to order by Mayor Euille, and the City Clerk called the roll; all the members of City Council were present.

2. Public Discussion Period.

(a) Chet Avery, 16 E. Linden Street, chair of the Commission on Persons with Disabilities, presented the plaque given by the Endependence Center of Northern Virginia to the Commission on Persons with Disabilities its Lifetime Achievement Award, which he presented to the City Council, and he thanked Council for its support for persons with disabilities.

(b) Richard Stepp, 3303B Commonwealth Avenue, said that since what he wants requires the consent of Council, he would ask for the floor at the end of the meeting today, since it will take more than three minutes.

(c) Pat Troy, 310 Wolf Street, spoke about Phil Sunderland leaving the City, and he said that 98 percent of the business he did for the City was the best, and he was a great steward to the City. He presented the City Manager with three flags to fly on his next desk - the flag of Ireland, the flag of the United States, and the flag of the Commonwealth of Virginia. He also presented a tin of dirt from Waterfront Park, the "no-named" park where there is a no-named statue.

(d) Jim Hurysz, 127 S. Fairfax Street, Arlington, said he is a mobility disabled Veteran and he asked Council to do something about the brick pavers and brick sidewalk paving, as it is too tough on people with mobility disabilities.

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New Business Item No. 1: Mayor Euille said this is City Manager Phil Sunderland's last meeting, and he invited comment from Council to express their goodbyes.

Councilwoman Woodson said she has enjoyed working with Phil and she wished him Godspeed and good success and prosperity where ever he ends up, as she has learned a lot working with him over the years.

Councilman Gaines said integrity and work ethic stand out when he thinks of Phil, and he regretted that he didn't have an opportunity to work with him longer, and he appreciated the help he has received as a new Councilmember.

Mayor Euille said he has enjoyed serving as Mayor the past year and a half and getting together with him every Friday night for meetings. He said the citizens should know that Phil cares about the City and has a genuine heart. He said when a decision or action needs to be made, the City Manager knows the right decision to make. Mayor Euille said he will miss him.

Vice Mayor Pepper said she has spoken twice this week already, and was thinking back that after the City Manager is gone, they will remember his famous quotes, such as "Now what is it we're missing here?" and "As I see it, there are five points here." She said those "Sunderlandisms" are what he will be remembered for. She said she hoped his next job would be fulfilling and makes him feel needed and gives purpose and meaning to his life.

Councilwoman Woodson said she had to add a "Sunderlandlism" to the list--"a couple of three things."

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-8)

Planning Commission

3. SPECIAL USE PERMIT #2004-0098
300 SOUTH PICKETT STREET (Unit Address: 364 South Pickett Street)
MARTIAL ARTS STUDIO
Public Hearing and Consideration of a request for a special use permit to operate a martial arts studio; zoned CDD-8/Coordinated Development District. Applicant: Myung H. Kang

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3, 12/18/04, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2004-0100
85 SOUTH BRAGG STREET
PRIVATE COMMERCIAL SCHOOL
Public Hearing and Consideration of a request for a special use permit to operate a private commercial school (computer training); zoned OCM(100)/Office Commercial Medium. Applicant: Mekuria M. Negia.

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4, 12/18/04, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2004-0092
2419 MT VERNON AVENUE
CABOOSE BAKERY
Public Hearing and Consideration of a request for a special use permit amendment to allow the sale of beer and wine on premises and to extend the hours of operation at a restaurant; zoned CL/Commercial Low. Applicant: Caboose Bakery by Lonnie Rich, attorney

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5, 12/18/04, and is incorporated as part of this record by reference.)

6. SPECIAL USE PERMIT #2004-0103
1551 & 1550 POTOMAC GREENS DRIVE
RUSTICO RESTAURANT
Public Hearing and Consideration of request for a special use permit to operate a restaurant; zoned CDD/Coordinated Development District. Applicant: Neighborhood Restaurant Group by Stephanie Babin

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6, 12/18/04, and is incorporated as part of this record by reference.)

7. SPECIAL USE PERMIT #2004-0096
607 NOTABENE DRIVE
COMMUNITY LODGINGS
Public Hearing and Consideration of a request for a special use permit to expand an existing community center use and for a parking reduction; zoned RA/Residential. Applicant: Gregory Brown, Executive Director

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7, 12/18/04, and is incorporated as part of this record by reference.)

8. ENCROACHMENT #2004-0007
833 SOUTH FAIRFAX STREET
FENCE ENCROACHMENT
Public Hearing and Consideration of a request for an encroachment into the public right-of-way for a fence; zoned RM/Residential. Applicant: Tushar Suthar

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8, 12/18/04, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the action consent calendar, with the removal of items 6 and 8 and considered them under separate action, as follows:

3. City Council approved the Planning Commission recommendation.

4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.
7. City Council approved the Planning Commission recommendation.

The voting was as follows:

Gaines	"aye"	Krupicka	"aye"
Pepper	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

6. SPECIAL USE PERMIT #2004-0103
1551 & 1550 POTOMAC GREENS DRIVE
RUSTICO RESTAURANT
Public Hearing and Consideration of request for a special use permit to operate a restaurant; zoned CDD/Coordinated Development District. Applicant: Neighborhood Restaurant Group by Stephanie Babin

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6, 12/18/04, and is incorporated as part of this record by reference.)

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

(a) Silvia Sibrover, 915 Second Street, speaking on her own behalf, spoke about the ending time for the off-premises alcohol sales and asked that the off-premises sales not go beyond 9:00 p.m.

(b) Stephanie Babin, the applicant, in response to a question from Councilman Smedberg, said she thought 10:00 would be fair to end off-premise alcohol sales on the weekends, and while she didn't have an objection to having a closing time for the sale of off-premise alcohol, they did want to be able to keep the shop open for customers who might be doing pick-up to mirror the hours of the restaurant. She said for the outdoor seating, 10:00 on the weekdays and 11:00 on weekends would seem reasonable.

Ms. Fogarty said the new language would be that the sale of liquor will close at 9:00 p.m., but the facility for carry-out will remain open consistent with the restaurant, and the outdoor dining will be 10:00 weeknights and 11:00 weekends.

(c) Jennifer Zydney, 714A Norfolk Lane, asked questions about the bands at

the restaurant, and about parking, which were answered by staff and Mr. Babin.

(d) Allison Taylor, 720B Norfolk Lane, expressed concern about the exhaust from the wood burning grill, the amplified noise from the property line that would come from the band, and the use of plantings to block the parking, which were answered by staff.

Ms. Fogarty read the following wording for the motion: The closing hours for the outdoor seating shall be 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday, and there shall be no off-premise alcohol sales after 9:00 p.m. weekdays and 10:00 p.m. weekends."

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with an amendment to condition #3 to be modified as follows: "The closing hours for the outdoor seating shall be 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday, and there shall be no off-premise alcohol sales after 9:00 p.m. weekdays and 10:00 p.m. weekends." The voting was as follows:

Smedberg	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Woodson		"aye"

8. ENCROACHMENT #2004-0007
833 SOUTH FAIRFAX STREET
FENCE ENCROACHMENT

Public Hearing and Consideration of a request for an encroachment into the public right-of-way for a fence; zoned RM/Residential. Applicant: Tushar Suthar

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8, 12/18/04, and is incorporated as part of this record by reference.)

Questions were asked by Council about allowing encroachments that result in significant improvements such as the fencing, and the passability of the sidewalk. Deputy Planning Director Josephson, City Attorney Pessoa, Director of Transportation Baier and Planning Director Fogarty spoke to the encroachment and the vegetation.

Mr. Tushar Suthar, the owner, spoke to the plantings on the site and noted that they weren't planning on putting additional trees on the corner.

WHEREUPON, upon motion by Councilman Macdonald, seconded by Vice

Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with an amendment to add a condition #4, to add that "vegetation/plantings will be no higher than 36 inches within the encroachment." The voting was as follows:

Macdonald	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

Planning Commission

City Council heard items 9, 10 and 11 together.

9. SPECIAL USE PERMIT #2004-0089
1300 & 1400 NORTH ROYAL STREET
MIRANT POTOMAC RIVER GENERATING STATION
Public Hearing and Consideration of a request for the revocation of Special Use Permit #2296, granted in 1989, which approved the construction and use of 18,000 square feet of administrative offices, laboratories, conference, training and other space at the Mirant Potomac River Generating Station. Applicant: City of Alexandria, City Attorney's Office

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9, 12/18/04, and is incorporated as part of this record by reference.)

10. SPECIAL USE PERMIT #2004-0090
1300 & 1400 NORTH ROYAL STREET
MIRANT POTOMAC RIVER GENERATING STATION
Public Hearing and Consideration of a request for the revocation of Special Use Permit #2297, granted in 1989, which approved the Transportation Management Plan required for the Mirant Potomac River Generating Station. Applicant: City of Alexandria, City Attorney's Office

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in

the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10, 12/18/04, and is incorporated as part of this record by reference.)

11. Public Hearing, Second Reading and Final Passage of an Ordinance to Revoke the Noncomplying Use Status of Coal Fired Power Plants, and to Categorize Such Uses as Nonconforming Uses, Subject to Abatement. (#22, 12/14/04)
(ROLL-CALL VOTE)

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council marked Exhibit No. 1 of Item No. 11, 12/18/04, and is incorporated as part of this record by reference.)

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 11, 12/18/04, and is incorporated as part of this record by reference.)

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

- (a) Allen Benn, 827 Rivergate Place, spoke in favor of the revocation and of the Planning Commission's recommendations.
- (b) Brian Buzzell, 1 Wilkes Street, spoke in favor of the revocation.
- (c) Ann Kaupp, 501 Slaters Lane, #516, spoke in favor of the revocation.
- (d) Robert G. Hull, 501 Slaters Lane, #1010, spoke in favor of the revocation.
- (e) Niels De Terra, 397 S. Pickett Street, spoke in favor of the revocation and to the need for the plant.
- (f) Mary Harris, 501 Slaters Lane, spoke in favor of the revocation and passed out photos of the plant.
- (g) Roger Waud, 501 Slaters Lane, #1203, spoke in favor of the revocation.
- (h) Jim Edmundson, 501 Slaters Lane, spoke in favor of the revocation.
- (i) Don Mela, 501 Slaters Lane, #722, spoke in favor of the revocation.
- (j) Katy Cannady, 20 East Oak Street, speaking on behalf of Alexandrians for Sensible Growth, spoke in favor of the revocation.
- (k) Charles W. Landerman, 512 Putnam Place, spoke in opposition to the revocation.

- (l) Tani Lublin, 501 Slaters Lane, spoke in favor of the revocation.
- (m) Michael E. Hobbs, 419 Cameron Street, spoke in favor of the revocation.
- (n) Lillian J. White, 119 W. Mason, co-president of the League of Women Voters of Alexandria, spoke in favor of the revocation.
- (o) Mariella Posey, 915 Second Street, president of the Northeast Citizens Association, spoke in favor of the revocation.
- (p) Andrea Grimaldi, 404 Bashford Lane, #101, representing the Potomac Shores Condo Association, spoke in favor of the revocation.
- (q) Linda Russell, 501 Slaters Lane, #905, spoke in favor of the revocation.
- (r) Susan Stolpe, 208 E. Glendale Avenue, #4, volunteer with the Mt. Vernon Group of the Virginia Chapter of the Sierra Club, spoke in favor of the revocation on behalf of the 5,000 Sierra Club members across Northern Virginia.
- (s) Thomas A. Hickok, 501 Slaters Lane, #714, spoke in favor of the revocation.
- (t) Mario DiPaolo, 1036 N. Royal Street, spoke in favor of the revocation.
- (u) Sally Ann Greer, 1168 N. Pitt Street, spoke in favor of the revocation.
- (v) Jim Butler, 406 Skyhill Road, speaking as president of the Clover-College Park Civic Association and Board of Directors, spoke in favor of the revocation.
- (w) Elizabeth Chimento, 1200 N. Pitt Street, spoke in favor of the revocation.
- (x) David Cramer, 8711 West Phalia Road, Upper Marlboro, Maryland, spoke in opposition to the revocation.
- (y) Hula Edmonds, 1400 N. Royal Street, director of operations, Mirant Potomac River Generating Station, spoke in opposition to the revocation.
- (z) Harry P. Hart, 307 N. Washington Street, attorney representing Mirant Mid-Atlantic, LLC and Mirant Potomac River Generating Station, spoke in opposition to the revocation.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg, City Council approved the Planning Commission recommendation for items 9 and 10, with the conditions that: 1. the revocation take effect 120 days after City Council action in this matter in order to give the Plant operator a reasonable opportunity to file the necessary special use permit applications as determined by the Director

Planning and Zoning to bring the Plant into compliance with the Zoning Ordinance provisions currently in effect if such applications are approved; 2. that in the event such SUP applications are filed within the 120 day period, the effective date of the revocation shall be stayed until final decision by the City Council on such applications; 3. that in the event such SUP applications are approved by the City Council, the revocation of the 1989 special use permits should be dismissed as moot without further action by the Council; 4. that in the event such SUP applications are not approved by the City Council, the revocation of the 1989 special use permits shall forthwith become effective on and the power plant use shall be categorized as an illegal use from and after the final decision by the City Council on such applications.

There were questions from Council with regard to the legal justification for bringing this forward, which were answered by Mr. Pessoa and Mr. Baier.

The motion carried unanimously and is recorded as follows:

Pepper	"aye"	Gaines	"aye"
Smedberg	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Woodson	"aye"	

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried unanimously by roll-call vote, City Council passed the ordinance to revoke the noncomplying use status of coal fired power plants, and to categorize such uses as nonconforming uses, subject to abatement. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Smedberg	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Woodson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4366

AN ORDINANCE to amend and reordain Section 12-200 (NONCONFORMING USES) of Article XII (NONCOMPLIANCE AND NONCONFORMITY) of the City of Alexandria Zoning Ordinance, by adding thereto a new Section 12-216 (NONCONFORMING ELECTRICAL POWER GENERATING PLANTS) (TA No. 2004-0008).

WHEREAS, THE CITY COUNCIL FINDS AND DETERMINES THAT:

1. Since 1992, when the current City of Alexandria Zoning Ordinance was adopted, substantial evidence of harmful impacts from the continued operation of older, coal fired power plants has become available.

2. Older, coal fired power plants have been shown to emit into the air and water high volumes (up to 10 times dirtier as compared to newer plants with more advanced control technology or different fuel sources) of oxides of nitrogen (NOx) and sulphur dioxide (SO₂ or SO_x), small (PM_{2.5}) and large (PM₁₀) particulate matter, as well as compounds of barium, chromium, copper, lead, manganese, mercury, nickel, selenium, vanadium, zinc and other toxics.

3. The harmful impacts on the surrounding area from such older plants with shorter stacks (as opposed to newer plants with taller stacks) are magnified because short stacks offer less opportunity for dilution and dispersion of pollutants, resulting in higher concentrations in the environs of the plant.

4. These pollutants contribute to summer ozone problems, cause acid rain, increase the incidence of pulmonary, cardiovascular and other diseases, and rain nuisance dusts and toxic metals on a plant's environs and the entire region.

5. Harmful impacts from the continued operation of older, coal fired power plants are causing substantial injury to the public health, safety and general welfare of the residents of Alexandria.

6. Since 1992, other regulatory mechanisms have proven inadequate to control or abate such harmful impacts.

7. Based on the foregoing findings, and on all other pertinent facts and circumstances, of which the City Council hereby takes notice as the duly constituted legislative body of the City of Alexandria, Virginia, adoption of this ordinance is necessary and desirable to protect the public health, safety and general welfare of the residents of Alexandria. Now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 12-200 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto new Section 12-216 to read as follows:

Section 12-216 *Nonconforming electrical power generating plants.*

- (A) Notwithstanding any contrary provision of this ordinance, any electrical power generating plant in existence on December 18, 2004, which produces power through the combustion of coal, and is located in a zone in which such use is neither a permitted or special use permit use, or in a zone in which such use is a special use permit use but for which a special use permit for the entire use, including power generation, has not been granted, shall be deemed a nonconforming use, and shall be subject to abatement as provided in Section 12-214(A) of this ordinance.
- (B) Any nonconforming use subject to this Section 12-216 shall comply with the

following rules regarding repairs, improvements and alterations to the building and the use, unless a special use permit has been granted pursuant to Section 12-214(A), which provides otherwise:

(1) No alteration to a building which directly prolongs the life of the nonconforming use shall be permitted.

(2) Fixtures used in connection with the generation of power, such as turbines, generators, boilers, smokestacks, fuel or ash receiving or handling facilities, control systems and pollution control equipment, may not be installed, replaced or upgraded, although ordinary repairs and maintenance to such fixtures as existed on December 18, 2004, is permitted; provided, however, that the installation, replacement or upgrade of pollution control equipment may be permitted if approval therefor is obtained by special use permit issued pursuant to the Section 11-500 of this ordinance.

(3) Ordinary repairs and maintenance to building components, such as HVAC equipment, electrical service, siding, shingles and roofing, are permitted.

Section 2. That Section 12-200 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage, and shall apply to all applications for land use or land development approval provided for under the City of Alexandria Zoning Ordinance which are filed on and after December 18, 2004, and are pending on and after the effective date before any city department, agency or board, or before city council, or on judicial review, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance.

12. TEXT AMENDMENT #2004-0009

Public Hearing and Consideration of a text amendment to Section 11-511 of the Zoning Ordinance to authorize the Director of P&Z to approve, as a minor amendment to an existing special use permit, a temporary extension in the hours of operation of a business, to coincide with the hours of operation of a City-sponsored program or event in which the business is participating.
Applicant: City of Alexandria

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 7-0

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12, 12/18/04, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Krupicka and carried unanimously, City Council approved the Planning Commission

recommendation.

Pepper	"aye"	Gaines	"aye"
Krupicka	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	absent	

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(City Council took a 15 minutes recess at this time.)

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City Council heard items 13, 14 and 15 together.

13. MASTER PLAN AMENDMENT #2004-0001

1323 DUKE STREET
BEASLEY SQUARE

Public Hearing and Consideration of a request to amend the Old Town Small Area Plan chapter of the Master Plan to change the land use designation from single-family residential to multi-family residential; zoned CD/Commercial Downtown. Applicant: Harambee Community and Economic Development Corp. by Jonathan Rak, attorney

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 6-0-1

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13, 12/18/04, and is incorporated as part of this record by reference.)

14. REZONING #2004-0002

1323 DUKE STREET
BEASLEY SQUARE

Public Hearing and Consideration of a request to rezone the subject property from CD/Commercial Downtown to CRMU-L/Commercial Residential Mixed Use Low. Applicant: Harambee Community and Economic Development Corp. by Jonathan Rak, attorney

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 6-0-1

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14, 12/18/04, and is incorporated as part of this record by reference.)

15. DEVELOPMENT SPECIAL USE PERMIT #2004-0015

1323 DUKE STREET

BEASLEY SQUARE

Public Hearing and Consideration of a request for a development special use permit, with site plan and modifications, to construct a residential building; zoned CD/Commercial Downtown. Applicant: Harambee Community and Economic Development Corp. by Jonathan Rak, attorney

PLANNING COMMISSION ACTION: RECOMMEND APPROVAL 6-0-1

(A copy of the Planning Commission report dated December 7, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15, 12/18/04, and is incorporated as part of this record by reference.)

A presentation of the staff reports were given by Planning Director Fogarty and Housing Director Davis.

Questions were asked by Council regarding parking, the amount of rent, zoning, and the allotment of money, which were answered by Planning and Zoning Division Chief Farner, Ms. Fogarty and Mr. Pessoa.

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

(a) Jonathan Rak, 1750 Tysons Blvd., attorney representing Harambee Community and Economic Development Corporation, spoke in favor of the application and went over the concerns of the neighborhood.

(b) Loretta Young, 1400 Duke Street, spoke in favor of the request.

(c) Carolyn Harvey, 1400 Duke Street, spoke in favor of the request and she asked those who were in support of the project to stand. Approximately 30-40 people stood.

(d) Nancy Carson, 301 West Masonic View, representing Housing Action, spoke in favor of the request.

(e) Lee Weber, 604 Pendleton, representing the Alexandria Affordable Housing Advisory Committee, spoke in favor of the request.

(f) Muriel Garr, 1445 New York Avenue, Washington, D.C., representing the Northern Virginia Affordable Housing Alliance, spoke in favor of the request.

(g) William Harris, 1106 Tuckahoe Lane, representing the Commission on Aging, spoke in favor of the request.

(h) Mabel Price, 2203 Shiver Drive, spoke in favor of the request.

(i) Bertha Woods, 115 E. Walnut Street, spoke in favor of the request.

(j) Bert Ranson, no address given, co-president of the Alexandria Interfaith Association, spoke in favor of the request.

(k) Lillian Patterson, 1034 Woods Place, spoke in favor of the request.

(l) Michael E. Hobbs, 419 Cameron Street, speaking for the Old Town Civic Association, spoke against the request as proposed.

Mayor Euille noted that because Mr. Hobbs spoke for a duly noted civic association, he was given additional time to speak, as there is a new policy on speaking on behalf of civic associations.

(m) Lillian J. White, 119 W. Mason Avenue, co-president of the League of Women Voters of Alexandria, spoke in favor of the request.

(n) John Fonte, 205 S. West Street, spoke in opposition to the request. He presented a list of the neighbors in opposition to the request.

(o) Jane Gardner, 211 S. West Street, spoke in opposition to the request.

(p) Kimberley Horning, 219 S. West Street, spoke in opposition to the request.

(q) Russell George, 220 S. West Street, asked that the letter from Carlton Fund, president of the Alexandria Society for the Preservation of Black Heritage be included in the record, and he spoke in opposition to the request.

(r) Pamela Barr, 221 S. West Street, spoke in opposition to the request.

(s) A. Melvin Miller, 3928 Colonel Ellis Drive, spoke in favor of the request.

(t) Ellen Pickering, 103 Roberts Lane, spoke about Harambee coming up with something better and hoped they could come up with something more for affordable housing.

(u) H. Alan Young, 1301 Duke Street, spoke in opposition to the request.

(v) Sharon Young, 1301 Duke Street, spoke in opposition to the request.

WHEREUPON, upon motion by Councilwoman Woodson, seconded by Vice Mayor Pepper and carried unanimously, City Council closed the public hearing. The voting was as follows:

Woodson	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"aye"

Euille	"aye"	Macdonald	"aye"
	Smedberg	"aye"	

Questions were asked by Council with regard to the construction parking, worker vehicles, unloading of materials, the anticipated projected time schedule for the Beasley project and how that parallels the on-going construction at West and Prince Street, the rodent problem in the area, the condition of having meetings with the neighbors on the hauling routes, the square footage of the units meeting Federal guidelines, and the density for the project with the change in zoning, which were answered by Mr. Farnier, Mr. Baier, Mr. Dahlberg, Mr. Rak, Ms. Davis and Ms. Fogarty.

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation for docket item 13, the master plan amendment. The voting was as follows:

Gaines	"aye"	Krupicka	"aye"
Pepper	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

Mayor Euille reminded Council that the rezoning requires a super majority vote of Council - 6 of the 7 members of Council being in favor - because of the protest petition received.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation for docket item 14, the rezoning. The voting was as follows:

Pepper	"aye"	Krupicka	"aye"
Gaines	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation for docket item 15, the development special use permit. The voting was as follows:

Gaines	"aye"	Krupicka	"aye"
Pepper	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

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

CASE NO. 2004-0013

Public Hearing and Consideration of an Appeal of the decision of the Board of Architectural Review, Old and Historic Alexandria District, denying a request for a certificate of appropriateness for an after-the-fact replacement door located at 1302 Michigan Avenue, zoned RB Residential. Applicant and appellant: Heather Eilers-Bowser.

This item was deferred until January at the request of the applicant.

ORDINANCES AND RESOLUTIONS (continued)

16. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Minimum Acreage Devoted to Open Space Use That is Required to Qualify For Open Space Use Value Assessment. (#15, 12/14/04) **(ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated December 9, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 12/18/04, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council marked Exhibit No. 2 of Item No. 16, 12/18/04, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 16, 12/18/04, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Macdonald and carried unanimously, the public hearing on the ordinance was deferred until after staff has compared this to the new State regulations, and staff will review it with the Open Space Committee to give the Committee time to comment. The voting was as follows:

Krupicka	"aye"	Pepper	"aye"
Macdonald	"aye"	Gaines	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

17. Public Hearing, Second Reading and Final Passage of an Ordinance to Increase the Maximum Parcel Size Excluded From Net Worth For Real Estate Exemptions and Deferrals For the Elderly and Disabled. (#16, 12/14/04) **(ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated December 9, 2004, is on file

in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 12/18/04, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council marked Exhibit No. 2 of Item No. 17, 12/18/04, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 17, 12/18/04, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Macdonald, seconded by Councilman Gaines, Council moved to pass the ordinance.

A question was asked by Council with regard to the home value limitations, which was answered by Assistant City Manager Jinks.

Councilman Krupicka asked that Council revisit the caps related to the senior program during the budget process.

The motion carried unanimously by roll-call vote, as follows:

Macdonald	"aye"	Pepper	"aye"
Gaines	"aye"	Krupicka	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4367

AN ORDINANCE to amend and reordain Section 3-2-161 (DEFINITIONS) of Article L (REAL ESTATE TAX RELIEF), Chapter 2 (TAXATION), Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Subsection (6) of Section 3-2-161 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

(6) Net combined financial worth of applicant. The value of all assets of an applicant, of an applicant's spouse and of any other person who is an owner of and resides in the applicant's dwelling, calculated as of December 31 of the calendar year

immediately preceding the taxable year; provided, that the value of the applicant's dwelling, of household furnishings in the dwelling and of up to two acres of the land on which the dwelling is situated shall be excluded.

Section 2. That this ordinance shall become effective on January 1, 2005.

- 18. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the City's Snow Removal Regulations. (#17, 12/14/04) **(ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated December 9, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 18; 12/18/04, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council marked Exhibit No. 2 of Item No. 18, 12/18/04, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 18, 12/18/04, and is incorporated as part of this record by reference.)

A question was asked by Council if WMATA would be covered on this ordinance, which was answered by Mr. Baier.

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously by roll-call vote, City Council passed the ordinance. The voting was as follows:

Krupicka	"aye"	Pepper	"aye"
Smedberg	"aye"	Gaines	"aye"
Euille	"aye"	Macdonald	"aye"
	Woodson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4368

AN ORDINANCE to amend and reordain Section 5-2-21 (REMOVAL OF SNOW, SLEET AND ICE), of Article A (GENERAL PROVISIONS), Chapter 2 (STREETS AND SIDEWALKS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-2-21 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-2-21 Removal of snow, sleet and ice.

- (a) Whenever snow shall fall and lie on the sidewalks of the city, it shall be the duty of each owner or occupant to clean same from the public sidewalk abutting the place owned or occupied by him within 24 hours after the snow shall have ceased to fall. It shall be unlawful for any person to move into any city street any snow that has fallen on such person's property. The same requirements shall exist with respect to ice or sleet on sidewalks or footways; except, when it cannot be removed without injury to the sidewalk or footway, it shall be covered within 24 hours with sand, ashes or some other substance which will render it safe for travel. Whenever any building or lot is owned by the Alexandria Redevelopment and Housing Authority, contains four or more rental units, or is unoccupied, it shall be the duty of the owner, or the agent of the owner thereof, to have the snow or ice removed from the sidewalk or footway, as above required of occupants. It shall be unlawful for any person to fail, refuse or neglect to comply with the provisions of this subsection.
- (b) The director of the department of transportation and environmental services, or the director's duly authorized agent, may give notice in writing to the owner or occupant of land in the city abutting a sidewalk where there is snow, sleet or ice, that such snow, sleet or ice must be removed or covered as prescribed above within 24 hours from the receipt of the notice or the city will (1) remove or cover the snow, sleet or ice, bill the owner or occupant for the costs and collect the costs like taxes in the event of nonpayment by the owner, and/or (2) issue a civil penalty citation to the owner or occupant pursuant to subsection (e) of this section. Mailing to the last known post office address shall constitute sufficient service upon owners who cannot be found after a reasonably diligent search .
- (c) Whenever the owner refuses, neglects or fails to remove or cover the snow, sleet or ice after being notified in the manner prescribed above, the department of transportation and environmental services may choose to act. The expense thereof shall be forthwith computed, and a bill for such expense shall be prepared by the department of finance and mailed to the owner at his last known post office address within a reasonable time after the work is done.
- (d) In the event the city does not receive payment of the bill within 30 days after mailing, the director of finance shall see that the expense is charged to the owner and collected in the same manner as city taxes. Every charge with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property.

- (e) A person shall be assessed a civil penalty of \$50 for violating any provision of this section; provided, however, that no such penalty shall be assessed until the written notice required by subsection (b), and an additional period of 24 hours to comply after such notice, shall have been given. The provisions of Section 1-1-11 of this code shall apply to the enforcement of such penalty.

Section 6. That this ordinance shall become effective at the time and on the date of final passage.

19. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the City's Dog License Regulations and Fees. (#19, 12/14/04) **(ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated December 10, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 19; 12/18/04, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council marked Exhibit No. 2 of Item No. 19, 12/18/04, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 19, 12/18/04, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed the ordinance. The voting was as follows:

Gaines	"aye"	Krupicka	"aye"
Pepper	"aye"	Macdonald	"aye"
Euille	"aye"	Smedberg	"aye"
	Woodson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4369

AN ORDINANCE to amend and reordain Sections 5-7-47 (LICENSE – REQUIRED; DISPOSITION OF REVENUE), 5-7-48 (SAME – TAX IMPOSED; TAX RATES; WHEN TAX PAYABLE) and 5-7-49 (SAME – APPLICATION; ISSUANCE; RECORDS TO BE KEPT) of Article C (DOGS AND OTHER ANIMALS), Chapter 7 (ANIMALS AND FOWL), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), of The Code of the City of Alexandria, Virginia,

1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-7-47 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-7-47 License--required; disposition of revenue.

- (a) It shall be unlawful for any person to own a dog or cat four months old or older within the city unless such dog or cat is licensed, as required by the provisions of this article.
- (b) All dog and cat license taxes collected pursuant to this article shall be paid into the general fund from which sufficient funds for the operation and maintenance of the animal shelter may be provided, as authorized by council.
- (c) The owner of a dog or cat required to be licensed by this article shall obtain the license and pay the license tax within 30 days of moving into the city, acquiring the animal, or attainment of the required age by the animal, which ever is later.
- (d) The owner of a dog or cat with an existing license required by this article shall renew the animal's license and pay the license tax within 10 days after expiration of such animal's license.

Section 2. That Section 5-7-48 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-7-48 Same--tax imposed; tax rates; expiration.

- (a) There is hereby imposed a license tax on dogs and cats required to be licensed by this article, as follows:
 - (1) For any male or female dog or cat the license tax for a one year license shall be \$30 for a dog, and \$10 for a cat, and the license tax for a three year license shall be \$75 for a dog and \$25 for a cat, except as provided in paragraphs (2), (3) or (4) below.
 - (2) For any spayed or neutered dog or cat, the license tax for a one year license shall be \$10 for a dog, and \$2 for a cat, and the license tax for a three year license shall be \$25 for a dog and \$5 for a cat.
 - (3) For any hearing dog, seeing eye dog or service dog, a license shall be required but no license tax shall be charged.

- (4) For any dog owned by a person 65 years of age or older, there shall be a \$5 discount in the applicable license tax for a one year license, and a \$15 discount in the license tax for a three year license.
- (5) The owner of an animal required to be licensed by this article may elect to obtain a one year license or a three year license, and shall pay the corresponding license tax at the time the license is obtained.

(b) A one year license shall be valid for a maximum period of 12 months from the date of issuance; provided, however, that the license shall expire on the last day of the month in which the rabies vaccination of the licensed animal expires.

(c) A three year license shall be valid for a maximum period of 36 months from the date of issuance; provided, however, that the license shall expire on the last day of the month in which the rabies vaccination of the licensed animal expires.

Section 3. That Section 5-7-49 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 5-7-49 Same--application; issuance; records to be kept.

Any owner may obtain a dog or cat license by making a signed written application to the city manager or the manager's designee. The application shall contain the name, sex, age, breed and description of the dog or cat and the name and address of the owner, and shall be accompanied by the amount of the license tax and a certificate of vaccination or other evidence from a licensed veterinarian showing that the dog or cat is inoculated against rabies and the expiration date of the vaccination, or . Upon receipt of a proper application, accompanied by the amount of the license tax and a proper certificate of vaccination or other evidence, the city manager or the manager's designee shall issue a license receipt and an appropriate tag to the owner, and shall record upon the receipt and upon records maintained by the city the name and address of the owner, the date of issuance, the period of time for which issued and date of expiration of the rabies vaccination, the serial number of the license and the sex, age, breed and description of the dog or cat.

Section 4. That this ordinance shall become effective at the time and on the date of final passage; provided, however, that for one year licenses issued prior to December 18, 2005, the license tax shall be one twelfth of the license tax otherwise established, for each month for which the license shall remain valid, and provided further that for three year licenses issued prior to December 18, 2007, the license tax shall be one thirty sixth of the license tax otherwise established, for each month for which the license shall remain valid.

20. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Composition of the Potomac Yard Design Advisory Committee. (#20, 12/14/04) **(ROLL-CALL VOTE)**

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council marked Exhibit No. 1 of Item No. 20, 12/18/04, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 20, 12/18/04, and is incorporated as part of this record by reference.)

City Attorney Pessoa passed out a paper with three possible amendments to the ordinance. The first references the service on PYDAC and other standing committees; the second more closely follows the language of the Potomac Yard CDD to add that the recommendations of the committee go to the Planning Commission and City Council through the director; and the third is to pick-up language from the existing CDD condition and provides for a monthly meeting schedule to have a meeting once per calendar quarter with additional meetings scheduled by the chair of the committee in consultation with the Planning Director.

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

(a) M. Catharine Puskar, 2200 Clarendon Blvd., Arlington, attorney on behalf of the owner of Potomac Yard, said that with the amendments, they are satisfied that they maintain the roll of PYDAC and they are in favor of the expansion of PYDAC. Monthly meetings may be a little too often, but a regular schedule is good, she said.

A question was asked by Council with regard to the applicant seeking discussion from the committee for approval of preliminary development plan prior to the filing of an application, which was answered by Ms. Fogarty and Ms. Puskar.

Councilman Smedberg spoke about better defining what Potomac East is, as Potomac West is clearly defined. He said it was clear that the consensus of Council was that Potomac East would be inner-city and northeast only.

Ms. Fogarty said that was their understanding.

Councilman Gaines said that with regard to sharing of information with the community, he thought it was important that the applicant go through the City with any new materials and the City serve as the conduit with the community and with the important board.

Ms. Puskar said they have said that they agreed that they agree they should have a process where everyone is hearing the same information at the same time, but

what they have also said is that if a civic association calls and asks them to meet with them, she would not say no to the civic associations. Ms. Puskar said that when that happens, they usually inform staff or the civic association informs staff.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Councilman Gaines and carried unanimously, City Council passed the ordinance, with the following amendments: Page 2, line 34, insert the following new language: (D) Section 2-4-7(f) of the City Code, which prohibits a person from serving on more than one standing committee, shall not apply to service on the Potomac Yard Design Advisory Committee; provided, however, that this subsection shall expire on December 18, 2007; on page 2, line 33, after "to" and before "the" insert: "to the planning commission and city council through the director"; on page 2, line 34, insert the following new language: (E) The director shall send a copy of any proposed preliminary development plan for the CDD to the committee, and the committee shall send its comments to the director in time to be sent to the planning commission together with the staff report on the proposed plan. Each applicant for a preliminary development plan approval shall be encouraged to discuss its proposal with the committee, including prior to the filing of an application for approval of a preliminary development plan. (F) The committee shall establish a regular schedule which provides for meetings at least once per calendar quarter. Additional meetings may be scheduled by the chair of the committee, in consultation with the director." The voting was as follows:

Smedberg	"aye"	Pepper	"aye"
Gaines	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Woodson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4370

AN ORDINANCE to amend and reordain Section 5-600 (CDD/COORDINATED DEVELOPMENT DISTRICT), of Article V (MIXED USE ZONES) of the City of Alexandria Zoning Ordinance by adding there to a new Section 5-610 (POTOMAC YARD DESIGN ADVISORY COMMITTEE) (TA No. 2004-0001)

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-600 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Section 5-010, to read as follows:

5-610 Potomac Yard Design Advisory Committee.

(A) There is hereby established by ordinance the Potomac Yard Design Advisory Committee.

(B) The Potomac Yard Design Advisory Committee shall consist of nine members appointed by the City Council, pursuant to Title 2, Chapter 4 of the Code of the City of Alexandria, Virginia, 1981, as amended, for staggered terms of two years. The Committee shall include two members representing the Potomac East area; two members representing the Potomac West area; two members representing the Potomac Yard area; one member representing the business community, and two qualified professionals skilled in architecture or urban design.

(C) The purpose of the Potomac Yard Design Advisory Committee is to review applications for preliminary development plan special use permit approval under this ordinance, within CDD No. 10 Potomac Yard/Greens, for compliance with the urban design guidelines applicable therein, and make recommendation on such applications to the planning commission and city council through the director.

(D) The director shall send a copy of any proposed preliminary development plan for the CDD to the committee, and the committee shall send its comments to the director in time to be sent to the planning commission together with the staff report on the proposed plan. Each applicant for a preliminary development plan approval shall be encouraged to discuss its proposal with the committee, including prior to the filing of an application for approval of a preliminary development plan.

(E) The committee shall establish a regular schedule which provides for meetings at least once per calendar quarter. Additional meetings may be scheduled by the chair of the committee, in consultation with the director.

(F) Section 2-4-7(f) of the city code, which prohibits a person from serving on more than one standing committee, shall not apply to service on the Potomac Yard Design Advisory Committee; provided, however, that this subsection shall expire on December 18, 2007.

Section 2. That Section 5-600 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage, and shall apply to all applications for land use or land development approval provided for under the City of Alexandria Zoning Ordinance which are filed on and after December 18, 2004, and are pending on and after the effective date before any city department, agency or board, or before city council, or on judicial review, 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 said Ordinance; provided, however, that the members of the Potomac Yard Design Advisory Committee, heretofore appointed and serving as such on December 18, 2004, shall continue in office for the remaining term of their appointment.

21. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Floor Area Ratio in the CD-X Zone. (#21, 12/14/04) **(ROLL-CALL VOTE)**

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council marked Exhibit No. 1 of Item No. 21, 12/18/04, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 21, 12/18/04, and is incorporated as part of this record by reference.)

City Attorney Pessoa said there is one requested amendment on page 3, line 30, to strike the word "commercial" from that line.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried 6-1 by roll-call vote, City Council passed the ordinance, as amended on page 3, line 30, to strike the word "commercial." The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Smedberg	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"no"
	Woodson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4371

AN ORDINANCE to amend and reordain Section 4-606 (BULK REGULATIONS), under Section 4-600 (CD-X/COMMERCIAL DOWNTOWN ZONE – OLD TOWN NORTH), of Article IV (COMMERCIAL, OFFICE AND INDUSTRIAL ZONES) of the City of Alexandria Zoning Ordinance (TA No. 2004-0007)

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 4-606 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

4-606 Bulk regulations.

(A) Yards and open space.

(1) Nonresidential. For nonresidential uses, there are no yard or open space requirements except as may be applicable pursuant to the supplemental yard and setback regulations of section 7-1000 and

the zone transition requirements of section 7-900.

- (2) Residential. For residential uses the following yard and open space requirements apply:

- (a) Yards. Each single-family and two-family dwelling shall provide a front yard of 20 feet; a rear yard based on a 1:1 setback ratio and a minimum of eight feet; and side yards based on a 1:3 setback ratio and a minimum of eight feet. Each townhouse dwelling shall provide a rear yard based on a 1:2 setback ratio and a minimum of 16 feet, and each interior end unit townhouse shall provide a side yard based on a 1:3 setback ratio and a minimum of eight feet. Each multifamily dwelling shall comply with these townhouse yard requirements except that side yards shall be based on a setback ratio of 1:2 and a minimum of 16 feet.

- (b) Open space. Multifamily residential development shall provide 25 percent and single-family and two-family residential development shall provide 40 percent of the area of the lot as open and usable space, the location and shape of which shall be subject to the director's determination that it is functional and usable space for residents, visitors and other persons. Such open space may be located on landscaped roofs or other areas fully open to the sky which are not at ground level if the director determines that such space functions as open space for residents to the same extent that ground level open space would.

- (3) Mixed use. When a development includes both residential and nonresidential uses, the residential yard and open space regulations shall be applicable to the residential component of the development.

(B) Floor area ratio.

- (1) Nonresidential. The maximum permitted floor area ratio for nonresidential uses is 1.5, except that (1) the floor area ratio may be increased to an amount not to exceed 2.5 with a special use permit and (2) in the case of a lot or parcel developed under common ownership or control, which is 12,000 square feet or less in area and located in a retail focus area, the floor area ratio may be increased to 2.5 without a special use permit if underground parking is provided consistent with section 6-504.

- (2) Residential. The maximum permitted floor area ratio for residential uses is 1.25, not to exceed 35 units per acre except that for properties within the area bounded by First, Third, North Royal and North Fairfax Streets the floor area ratio may be increased to 2.0,

not to exceed 100 units per acre with a special use permit subject to the following standards:

(a) A minimum of 5% affordable housing shall be provided, or the proposal shall meet the requirements of the city wide affordable housing policy in effect at the time the application is submitted, whichever requirement is greater. The location of the affordable housing (on or off site) shall be determined by the city.

(b) No parking reductions for residential and office uses shall be granted, and all such parking shall be located below grade.

(c) All overhead utilities (existing and proposed) on all public street frontages shall be located underground.

(d) Notwithstanding the provisions of subsection (C) of this section 4-606, the maximum height shall not exceed 50 feet, with portions of the buildings and/or townhouses providing significant variation in building heights less than 50 feet.

(e) All units shall orient their facades with main entries toward a public street, and mews units are discouraged.

(f) The buildings or townhouses shall be consistent with traditional architectural style, scale and treatment. Exterior materials shall be limited to masonry (brick, stone or precast), wood and comparable high quality materials.

(g) Notwithstanding the provisions of subsection (A)(2)(b) of this section 4-606, a minimum of 25% ground level open and usable space shall be provided. Such space shall be visually and physically accessible from a public street. A portion of such space shall be subject to a public access and use easement. Public art and/or sculpture shall be provided within such space.

(h) Pedestrian and streetscape improvements shall be provided, including but not limited to the provision of continuous brick sidewalks, street trees and public connections to the waterfront or existing parkland, to the extent possible.

(i) Green and sustainable building technologies shall be incorporated as part of the building and building systems.

(j) The development shall comply with the Old Town North Urban Design Guidelines.

(k) The retail requirement within a retail focus area shall be a minimum of 10% of the area of each lot in the retail focus area, and subject to the provisions of section 6-500 of this ordinance.

(C) Height. The maximum permitted height of a building is that height indicated

in the Old Town North Small Area Plan.

Section 2. That Section 4-606 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage, and shall apply to all applications for land use or land development approval provided for under the City of Alexandria Zoning Ordinance which are filed on and after December 18, 2004, and are pending on and after the effective date before any city department, agency or board, or before city council, or on judicial review, 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 said Ordinance.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (22)

Planning Commission (continued)

22. ENCROACHMENT #2004-0011
315 NORTH PAYNE STREET
RETAINING WALL
Public Hearing and Consideration of a request for an encroachment into public right-of-way for retaining wall and fence; zoned RB/Residential. Applicant: Linda Lewis by C. Kaya Biron, AIA

PLANNING COMMISSION ACTION: DEFERRED

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

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New Business Item No. 2: After discussion of the Boat Club building property, Council asked to have it docketed at the first legislative meeting in January, where it will affirmatively indicate that the City will take no action regarding condemnation of both the Boat Club building property, as well as the Boat Club parking lot, until such time as those conversations have commenced and gone their course.

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New Business Item No. 3: Councilwoman Woodson asked that Mr. Stepp be heard at this time.

Mr. Richard Stepp, 3303B Commonwealth Avenue, said that under the City

Charter, Section 1, Article B, Section 2-148, he thought he had to have the consent of the majority of the Council to speak to the never-ending issues he has had on the fourth floor, and would withdraw his request under Section 2-1.27 of the City Code until the next public hearing. He said if any member of Council wanted to have an hour's conversation, he would drop the issue.

Mayor Euille noted that he had a meeting with Mr. Stepp about 10 days ago for about 15-20 minutes, and if there is an opportunity for either Legal and Code Enforcement to bring closure to this matter, it is his preference that it happen as soon as possible.

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WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried unanimously, the City Council meeting of December 18, 2004, was adjourned at 3:30 p.m. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Smedberg	"aye"	Krupicka	"aye"
Euille	"aye"	Macdonald	"aye"
	Woodson	"aye"	

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APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jackie M. Henderson, CMC, City Clerk