

# CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting  
Saturday, June 12, 2004 - - 9:30 a.m.

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

Absent: Councilman Andrew H. Macdonald.

Also Present: Mr. Sunderland, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Assistant City Manager; Mr. Jinks, Assistant City Manager; Ms. Fogarty, Director of Planning and Zoning; Ms. Ross, Deputy Director of Planning and Zoning; Mr. Baier, Director of Transportation and Environmental Services; Mr. Dahlberg, Director of Code Enforcement; Mr. Culpepper, Deputy Director of Transportation and Environmental Services; Police Lt. Uzzell; Mr. Tate, Urban Planner; Mr. Farner, Division Chief, Planning and Zoning; Ms. Irps, Urban Planner; Ms. Peterson, Urban Planner; Ms. Durham, Urban Planner; Mr. Weaver, Solid Waste Division Chief; Mr. Kincannon, Director of Parks, Recreation and Cultural Activities; Ms. Davis, Director of Housing; Ms. Jaatinen, Civil Engineer, Transportation and Environmental Services; Mr. Cochran, Housing Program Implementation Division Chief; and Mr. McCobb, Deputy Director of Operations, Maintenance Division.

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; Councilman Macdonald was absent.

**NEW BUSINESS ITEM NO. 1:** Mayor Euille and Councilwoman Woodson welcomed to the Chambers Mayor Seck of the City of Thies of Senegal, West Africa, a City of 250,000 people, whom they met in Caen, France for the D-Day Celebration.

2. Public Discussion Period.

(a) Sarah Becker, 1200 Princess Street, on behalf of Henry Hart and the Stabler Leadbeater Apothecary Museum, announced a grant award from the National

Association of Chain Drug stores foundation in the amount of \$40,000 for retail renovation. That, along with a previously announced pro-bono contribution from RYA Retail Designers and Consultants in Dallas makes the gift approximately \$60,000. She also thanked City Manager Sunderland, as he is departing for an opportunity to teach, and she said that teaching is a natural for him.

(b) Pat Troy, 310 Wolfe Street, thanked the Mayor, City Attorney Pessoa, Councilman Macdonald, Assistant City Manager Evans, and City Manager Sunderland, as the dogs can now sit on the patio at Ireland's Own and can eat with their owners. Mr. Troy said he is sad and shocked to hear the City Manager is leaving, and he wished him good-luck in the future.

(c) Mariella Posey, 915 Second Street, said that she will miss Deputy Director of Planning and Zoning Barbara Ross, as she was patient, thorough and professional in explaining zoning regulations on projects, and she helped her understand the regulations. Ms. Posey said the City Manager has also served the City for a long time and will be missed, and she hoped his future is bright and rewarding.

(d) Randy Stevens, 3801 Mount Vernon Avenue, spoke about the regulation of taxicabs, and he noted that stand dues in the 1980's were \$40, and they are now \$160, which is a three hundred percent increase. He said there is a great disparity in the cost of the dispatch owners doing business and the cost of the drivers doing business. He also noted that he would be sad to see the City Manager leave. He said it is time to stop talking and go to court to find out if the City is negligent and malfeasant in the process of doing business with the taxi industry over the last 20 years by giving the dispatch owners sole control to do business.

(e) Megfin Kebret, 3801 Mount Vernon Avenue, a member of AUTO, spoke about fuel prices and insurance rates going up, and taxi drivers are now working eight hours to meet expenses and working additional hours to feed and shelter their families. He noted the stand dues, insurance, maintenance and fuel being paid by the drivers.

(f) Kathleen Henry, 3801 Mount Vernon Avenue, speaking on behalf of AUTO, showed a chart with wages and noted that cab drivers are making less than \$6.00 per hour, but Alexandria has a living wage that is nearly \$11.00 an hour. She said the driver's wages are substandard due in large part to the City's regulation of fares and the requirement for affiliation with a company. She suggested three options on how to remedy the situation - that the City would subsidize the cab drivers directly by paying their stand dues, that the City subsidize the cab drivers by paying them directly their stand dues and allowing them to pay it into the company, or to pass the cost onto the customers in the form of a fare hike, and that the initial meter charge change from \$2.25 to \$5.25 and the mileage rate change up to \$1.70.

(g) Jim Hurysz, P.O. Box 5191, Arlington, a Democrat Independent candidate for Congress in the Eighth Congressional District, spoke about a rail line to Tyson's Corner and Dulles Airport, and what it will mean for the Route 7 corridor, and what the

new Woodrow Wilson Bridge would mean for the Route 1 corridor, and he spoke about preventing vertical and horizontal sprawl.

Mayor Euille noted that he would be leaving the Chambers around 3:50 for about 20 minutes to attend an event on the Waterfront and will return to complete the meeting.

(h) Mustafah Sayid, 8245 Russell Road, spoke about the Police Department and said the officers have a racial and religious bigotry. He said he has been harassed several times, and he spoke about his car being ticketed for not being registered. He asked what is being done to make sure the Police Officers don't have any racial behavior, why aren't they assigned to their own communities, and why are all the Judges on the bench racists.

(i) Tabatha Sayid, 8245 Russell Road, spoke about the people who obey the law being mistreated, and she asked where is the justice for people of color.

Mayor Euille noted the complaint process for dealing with the Police and Sheriff's Department and that will be outlined in the City Manager's response to them. He said the Alexandria Police Department is a fine Police Department and represents the diversity of the City.

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

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

#### **Planning Commission**

3. DEVELOPMENT SPECIAL USE PERMIT #2004-0014  
1300 NORTH VAN DORN STREET  
JAMESTOWNE VILLAGE  
Public Hearing and Consideration of a request for an extension of a development special use permit to construct a community center and parking lots; zoned RA/Residential. Applicant: Jamestowne Village, LLC.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 6/12/04, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2004-0015  
3400 & 3402 COMMONWEALTH AVENUE  
MARTIAL ARTS ACADEMY  
Public Hearing and Consideration of a request for a special use permit to operate a martial arts school; zoned CSL/Commercial Service Low. Applicant

Kwang Weon Woo, by James C. Pan, agent

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 6/12/04, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2004-0026  
315 MADISON STREET  
A LA LUCIA

Public Hearing and Consideration of a request for a special use permit amendment to increase the space, number of seats and to extend the hours of operation of a restaurant; zoned CRMU-X/Commercial Residential Mixed Use. Applicant: Mehran Nayeri

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 6/12/04, and is incorporated as part of this record by reference.)

6. SPECIAL USE PERMIT #2004-0029  
4656 C KING STREET  
MEAL DEAL, INC.

Public Hearing and Consideration of request for a special use permit to operate a restaurant; zoned OCM(100)/Office Commercial Medium. Applicant: Ozkan Erenoglu

COMMISSION ACTION: Recommend Approval 7-0

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

7. SPECIAL USE PERMIT #2004-0033  
650 SOUTH PICKETT STREET  
RESTAURANT

Public Hearing and Consideration of a request for a special use permit amendment to increase the number of seats and change the hours of operation at a restaurant; zoned I/Industrial. Applicant: Gholamreza Sanjideh

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7;

6/12/04, and is incorporated as part of this record by reference.)

- 8. SPECIAL USE PERMIT #2004-0035  
300 NORTH WASHINGTON STREET  
FITNESS TOGETHER  
Public Hearing and Consideration of a request for a special use permit to operate a personal fitness training studio; zoned CD/Commercial Downtown. Applicant: Matthew McKinnis

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 6/12/04, and is incorporated as part of this record by reference.)

- 9. SPECIAL USE PERMIT #2004-0038  
512-E SOUTH VAN DORN STREET  
QUIZNO'S SUBS  
Public Hearing and Consideration of a request for a special use permit to operate a restaurant; zoned CG/Commercial General. Applicant: Vishal Tandon by Tina Rayner, agent

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 6/12/04, and is incorporated as part of this record by reference.)

- 10. SPECIAL USE PERMIT #2004-0044  
4938 B-C EISENHOWER AVENUE (Parcel address: 4900 Eisenhower Ave)  
AUTOMOBILE REPAIR  
Public Hearing and Consideration of a special use permit to operate a light automobile repair establishment; zoned OCM-100/Office Commercial Medium. Applicant: Carlos Flores

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 6/12/04, and is incorporated as part of this record by reference.)

- 11. SPECIAL USE PERMIT #2004-0046  
4608 KENMORE AVENUE - SEMINARY PLAZA (Parcel Address: 4550 Kenmore Ave)  
QUIZNO'S SUBS  
Public Hearing and Consideration of a request for a special use permit to operate a restaurant; zoned CG/Commercial General. Applicant: Poonam

Sharma by Tina Rayner, agent

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 6/12/04, and is incorporated as part of this record by reference.)

12. SPECIAL USE PERMIT #2004-0025

251 WEST GLEBE ROAD (Parcel Address: 221 West Glebe Road)  
RESTAURANT

Public Hearing and Consideration of a request for a special use permit amendment to change the ownership, hours of operation and increase seating at a restaurant; zoned CG/Commercial General. Applicant: Paula Coletto

COMMISSION ACTION: Recommend Approval 7-0

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

13. SPECIAL USE PERMIT #2004-0032

330 JOHN CARLYLE STREET  
JIMMY JOHN'S - RESTAURANT

Public Hearing and Consideration of a request for a special use permit to operate a restaurant with outdoor seating; zoned CDD-1/Coordinated Development District. Applicant: Karl W. Finkelnburg

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 6/12/04, and is incorporated as part of this record by reference.)

14. ENCROACHMENT #2004-0005

2050 JAMIESON AVENUE AND 400 COURTHOUSE SQUARE  
CARLYLE DEVELOPMENT - BLOCK F

Public Hearing and Consideration of a request for an encroachment of a canopy into the public right-of-way; zoned CDD-1/Coordinated Development District. Applicant: Regent Partners by Jonathan P. Rak, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 6/12/04, and is incorporated as part of this record by reference.)

15. SPECIAL USE PERMIT #2004-0034  
2838 DUKE STREET  
DUKE STREET MOBIL  
Public Hearing and Consideration of a request for a special use permit for a change of ownership of an automobile service station; zoned CG/Commercial General. Applicant: R&N Corporation by Duncan Blair, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 6/12/04, and is incorporated as part of this record by reference.)

### END OF ACTION CONSENT CALENDAR

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Gaines and carried unanimously, City Council approved the Action Consent Calendar, with the removal of items 3, 12 and 13 and considered them under separate action:

4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.
6. City Council approved the Planning Commission recommendation.
7. City Council approved the Planning Commission recommendation.
8. City Council approved the Planning Commission recommendation.
9. City Council approved the Planning Commission recommendation.
10. City Council approved the Planning Commission recommendation.
11. City Council approved the Planning Commission recommendation.
14. City Council approved the Planning Commission recommendation.
15. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

Smedberg "aye"

3. DEVELOPMENT SPECIAL USE PERMIT #2004-0014  
1300 NORTH VAN DORN STREET  
JAMESTOWNE VILLAGE

Public Hearing and Consideration of a request for an extension of a development special use permit to construct a community center and parking lots; zoned RA/Residential. Applicant: Jamestowne Village, LLC.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 6/12/04, and is incorporated as part of this record by reference.)

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

Richard Regal, 5170 Maris Avenue, #300, on behalf of the Alexandria Overlook Condominium Association, spoke about the construction and the preparation of the final site plan, and he didn't think the extension should be automatic and there should be a reexamination of the proposals to ensure the circumstances of the original application are still in existence. He said the reduction of 29 parking spaces will make the problem of the Jamestown Village residents and guests parking their vehicles in a manner that restricts access to the Overlook Condos, as many times the residents park in the Overlook Condo parking lot.

In response to questions from Council, Planning Division Chief Farner and Jonathan Rak, the attorney representing the applicant, answered questions about parking.

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

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

12. SPECIAL USE PERMIT #2004-0025  
251 WEST GLEBE ROAD (Parcel Address: 221 West Glebe Road)  
RESTAURANT

Public Hearing and Consideration of a request for a special use permit amendment to change the ownership, hours of operation and increase seating at a restaurant; zoned CG/Commercial General. Applicant: Paula Coletto

COMMISSION ACTION: Recommend Approval 7-0

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

Deputy Director of Planning Ross answered questions of Council on alcohol sales.

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

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

13. SPECIAL USE PERMIT #2004-0032  
330 JOHN CARLYLE STREET  
JIMMY JOHN'S - RESTAURANT

Public Hearing and Consideration of a request for a special use permit to operate a restaurant with outdoor seating; zoned CDD-1/Coordinated Development District. Applicant: Karl W. Finkelnburg

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 6/12/04, and is incorporated as part of this record by reference.)

Ms. Ross answered questions from Council on the class of restaurants in the area.

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

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

## REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

16. Public Hearing on the City's Proposed Solid Waste Management Plan. (#11,

6/9/04)

(A copy of the City Manager's memorandum dated June 2, 2004, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16, 6/12/04, and is incorporated as part of this record by reference.)

Director of Transportation and Environmental Services Baier, along with Mr. Weaver, Solid Waste Division Chief, and Assistant City Manager Jinks made a presentation of the Solid Waste Management Plan and answered questions of Council.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Solid Waste Management Plan. The voting was as follows:

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

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

##### **Planning Commission (continued)**

17. SPECIAL USE PERMIT #2004-0021

4600 DUKE STREET, SUITE 310

CHILD AND FAMILY NETWORK CENTERS

Public Hearing and Consideration of a request for a special use permit to operate a child care center/preschool; zoned RC/Residential. Applicant: The Child and Family Network Centers by Barbara Mason, Executive Director.

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 6/12/04, and is incorporated as part of this record by reference.)

Vice Mayor Pepper noted that her husband is the president of the civic association and because he will be speaking today, she would recuse herself, even though there is no conflict, but she said she didn't want there to be appearance of a conflict. Vice Mayor Pepper left the proceedings at this point.

Councilman Gaines noted that he spoke to the City Attorney and advised him that him being on the Child and Family Network Center Board presents no conflict, as he receives no financial compensation.

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

(a) James Polk, 4513 Holmes Run Parkway, said he was opposed to the parking for the special use permit at the Planning Commission meeting, but his concern has been alleviated, so he has no reason to oppose the request.

(b) David Halla, 613 S. Columbus Street, spoke in opposition to the request because of parking, noise, crowding and safety.

(c) George Rogachevsky, 4600 Duke Street, #1131, spoke in opposition to the request and requested that the item be tabled.

(d) Lois Gerrity, 4600 Duke Street, #621, vice president of the Board, noted that clarifications of their board actions, including the votes of their board and the parking issue.

(e) Miguel Roncal, 4600 Duke Street, #1109, spoke in opposition to the request and noted the lack of notification from their board.

(f) F.J. Pepper, 4600 Duke Street, president of the Board of First Owners Association of 4600 Duke Condominium, noted that this matter was brought before the group and was posted, and he noted that the board voted for the request.

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

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

Vice Mayor Pepper returned to the proceedings.

**NEW BUSINESS ITEM NO. 2:** Councilwoman Woodson welcomed Adzine Belakbil, from Casablanca, Morocco to the Chambers.

18. SPECIAL USE PERMIT #2004-0037  
1106 & 1108 KING STREET  
LE GAULOIS RESTAURANT

Public Hearing and Consideration of a request for a special use permit amendment to increase outdoor seating at a restaurant; zoned CD/Commercial Downtown. Applicant: Robert Test, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 18;

6/12/04, and is incorporated as part of this record by reference.)

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

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

- 19. SPECIAL USE PERMIT #2004-0039  
710 MADISON STREET, 806 & 815 N. COLUMBUS STREET  
MAX MANAGEMENT, LLC

Public Hearing and Consideration of a request for a special use permit amendment to increase the number of parking spaces, provide tandem spaces and reconfigure three existing parking lots (parking reduction); zoned CD-X/Commercial Downtown. Applicant: Max Management, LLC by Charles Greenberg

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 19; 6/12/04, and is incorporated as part of this record by reference.)

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

(a) Mike Vezzetti, 804 N. Columbus Street, expressed concern about the use of the lots for parking, and said the lots should be used for what they are zoned for - residential property.

(b) Roberto Rameriz, 2 Bethesda Metro Center, Bethesda, Maryland, architect representing Max Management, spoke in favor of the request.

Ms. Ross answered questions of Council.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation, to include conditions on the applicant publicizing contact information to the immediate homeowners and the Northeast Neighborhood Association and Inner City, and to having an impervious type paver for the 806 N. Columbus Street lot, at the approval of the Planning Director. The voting was as follows:

Smedberg	"aye"	Pepper	"aye"
Gaines	"aye"	Krupicka	"aye"

Euille "aye" Macdonald absent  
Woodson "aye"

20. SPECIAL USE PERMIT #2003-0114  
1512 KING STREET  
SUBWAY

Public Hearing and Consideration of a request for a special use permit to operate a restaurant and for a parking reduction; zoned OCH/Office Commercial High Zone. Applicant: Subway Real Estate Corp. c/o Subway Development Corp., by Christopher Decre, agent

COMMISSION ACTION: Recommend Denial 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 20; 6/12/04, and is incorporated as part of this record by reference.)

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

(a) Bill Reap, 927 S. Walter Reed Drive, Arlington, representing the property owner, spoke in favor of the request and noted there were no objections from the neighbors.

(b) Christopher Decre, 8280 Greensboro Drive, #110, McLean, the agent for Subway, spoke in favor of the request and noted that they had worked extensively with staff over the last couple of months.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilwoman Woodson and carried unanimously, City Council reversed the decision of the Planning Commission and approved the request. The voting was as follows:

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

21. SPECIAL USE PERMIT #2004-0028  
1950 DUKE STREET  
CARLYLE DEVELOPMENT

Public Hearing and Consideration of a request for an amendment to the current special use permit conditions to revise the definition of retail; zoned CDD-1/Coordinated Development District. Applicant: Carlyle Development Corporation & LCOR Ballenger Ave., LLC by Jonathan P. Rak, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the

office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 21; 6/12/04, and is incorporated as part of this record by reference.)

Ms. Fogarty made a presentation of the staff report, and she answered questions of Council.

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

(a) Harry Hart, 307 N. Washington Street, spoke in support of the request.

(b) Jonathan Rak, 1750 Tysons Blvd., McLean, representing Carlyle Development, LCOR and Lane Development, spoke in support of the amendments.

(c) Kara Whistler, 2200 Clarendon Blvd., 13th Floor, Arlington, land use planner with Walsh, Colucci, spoke in support of the request.

(d) Stuart Mendelsohn, 1600 Tysons Blvd., Suite 700, McLean, representing the new owners of 333 John Carlyle Street and 1900 Duke Street, said the owners have some concerns on the restrictions, however, they are in agreement with all of it. He spoke of a legal problem with a tenants lease, and they would like to work further with staff on that item.

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with the changes as presented by staff for condition 102D, to add: "Conditions 102A, 102B and 102C of this special use permit shall not apply to the townhouses at 400-412 John Carlyle Street, and the application to amend the retail definition and ground floor retail use requirement for such units remains pending and is deferred. Until further action of the Commission and City Council to amend or repeal this condition 102D, such units, and no other property subject to this special use permit, shall remain subject to the conditions of this special use permit in effect prior to the adoption of conditions 102A, 102B and 102C, and to the following provisions." Also, to delete the following sentence: "This waiver provision shall not apply to blocks G, J, K or P, any retail space allocated to those blocks shall be utilized solely for retail purposes." The voting was as follows:

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

22. DEVELOPMENT SPECIAL USE PERMIT #2003-0030

3737 SEMINARY ROAD

VIRGINIA THEOLOGICAL SEMINARY

Public Hearing and Consideration of a request for a development special use permit, with site plan to construct faculty housing units; zoned R-20/Residential.

Applicant: Virginia Theological Seminary, by Duncan Blair, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 22; 6/12/04, and is incorporated as part of this record by reference.)

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

(a) Paul Zehfuss, 4001 Lawrence Avenue, spoke about a precedent being set for the development of the semi-detached houses on property zoned R-20. He spoke of the difficulty the Virginia Theological Seminary had in maintaining two houses it owned and it currently owns one house on the west side of North Frasier Street. He said there is no consideration of the lack of a storm sewer system in the street and the standing water problem, there is a traffic and engineering safety problem with St. Stephen's Road having no pedestrian crosswalk, and he requested the sidewalk be continued on the north side of Seminary Road.

(b) F. Andrew Carroll, III, attorney representing the applicant, spoke in favor of the request.

Ms. Fogarty spoke to the comments raised by Mr. Zehfuss and answered questions of Council.

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

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

(The following three items were heard together.)

23. DEVELOPMENT SPECIAL USE PERMIT #2004-0020  
1608-1706 WEST BRADDOCK ROAD AND RADFORD STREET  
ALEXANDRIA REDEVELOPMENT AND HOUSING AUTHORITY  
Public Hearing and Consideration of a request for an extension of a development special use permit to construct affordable townhouse units; zoned RB/Residential. Applicant: Alexandria Redevelopment and Housing Authority by Harry Hart, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 23; 6/12/04, and is incorporated as part of this record by reference.)

24. DEVELOPMENT SPECIAL USE PERMIT #2004-0021  
423 SOUTH REYNOLDS STREET  
ALEXANDRIA REDEVELOPMENT AND HOUSING AUTHORITY  
Public Hearing and Consideration of a request for an extension of a development special use permit to construct affordable townhouse units; zoned RB/Residential. Applicant: Alexandria Redevelopment and Housing Authority by Harry Hart, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 24; 6/12/04, and is incorporated as part of this record by reference.)

25. DEVELOPMENT SPECIAL USE PERMIT #2004-0022  
325 SOUTH WHITING STREET  
ALEXANDRIA REDEVELOPMENT AND HOUSING AUTHORITY  
Public Hearing and Consideration of a request for an extension of development special use permit to construct affordable townhouse units; zoned RB/Residential. Applicant: Alexandria Redevelopment and Housing Authority by Harry Hart, attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 25; 6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendations for items 23, 24 and 25. The voting was as follows:

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

(City Council recessed the meeting from 12:22 p.m .to 12:43 p.m.)

26. SPECIAL USE PERMIT #2004-0036  
107 WEST GLEBE ROAD & 101 LEADBEATER STREET  
ALEXANDRIA VOLKSWAGEN

Public Hearing and Consideration of a request a special use permit review and an amendment to change the hours of operation of an automobile dealership; zoned CSL/Commercial Service Low. Applicant: Robert Test

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 26; 6/12/04, and is incorporated as part of this record by reference.)

Ms. Ross answered questions of Council with regard to the site.

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

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

27. SPECIAL USE PERMIT #2004-0043  
3801 MOUNT VERNON AVENUE  
TENANT AND WORKER'S SUPPORT COMMITTEE (T.W.S.C.)  
Public Hearing and Consideration of a request for a special permit to operate various community (social service) programs; zoned CDD-6/Coordinated Development District. Applicant: Jon Liss  
COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 27; 6/12/04, and is incorporated as part of this record by reference.)

Ms. Ross noted that there was a concern about the ability to have retail on the ground floor, and they had set up a solution to that in the staff report, which said that after two years, the applicant would rearrange the space in an attempt to put retail on the ground floor. He said Jon Liss has asked that they look at lengthening that period of time to 38 months, and staff has no objection to that.

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Krupicka and carried unanimously, City Council approved the Planning Commission recommendation, with an amendment to condition #4 to change two years to 38 months. The voting was as follows:

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

Euille "aye" Macdonald absent  
Smedberg "aye"

(The following two items were heard together.)

28. SPECIAL USE PERMIT #2004-0045  
1501 MOUNT VERNON AVENUE  
FIREFLIES RESTAURANT  
Public Hearing and Consideration of a request for a special use permit amendment to intensify the use of a restaurant and for a parking reduction; zoned CL/Commercial Low. Applicant: Marylisa Damiani and Daniel Lichens

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 28; 6/12/04, and is incorporated as part of this record by reference.)

29. ENCROACHMENT #2004-0003  
1501 MOUNT VERNON AVENUE  
FIREFLIES RESTAURANT  
Public Hearing and Consideration of a request for an encroachment into the public right-of-way for a patio at a restaurant; zoned CL/Commercial Low. Applicant: Marylisa Damiani and Daniel Lichens

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated June 1, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 29; 6/12/04, and is incorporated as part of this record by reference.)

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

(a) Sarah Haut, 228 E. Nelson Avenue, noted that she submitted a letter signed by herself and 15 of her neighbors, and they support the special use permit request. She said there is a concern for the request for increase in seating and the parking associated with that, and she asked Council to approve an increase of 16 seats instead of 32. She also noted concerns with the bar area and asked that they be restricted from installing a bar area.

(b) Daniel Lichens, the owner, said in response to questions about seating, that there are times when the restaurant calls for 100 seats, so if there are less than that, there will be people waiting in line and therefore parked in spaces.

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Krupicka and carried unanimously, City Council approved the Planning

Commission recommendation. The voting was as follows:

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

30. SPECIAL USE PERMIT #2004-0004  
924 QUEEN STREET

Public Hearing and Consideration of a request for a special use permit for a change of ownership and to change a nonconforming office space use to nonconforming personal service use (beauty salon); zoned RB/Residential. Applicant: Dang Van Dong (Deferred from April 17, 2004)

COMMISSION ACTION: Recommend Denial 7-0

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 30; 6/12/04, and is incorporated as part of this record by reference.)

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

- (a) Hollis King, 920 Queen Street, spoke in opposition to the request and noted that she had one more signature to add to the petition she submitted earlier.
- (b) Roxanne Dredger, 918 King Street, spoke in opposition to the request.
- (c) James Pan, 7000 Vantage Drive, spoke in favor of the request.
- (d) Hao Dang, 3302 Annandale Road, the applicant and property owner, spoke in favor of the request.

**A MOTION WAS MADE** by Councilman Smedberg, seconded by Vice Mayor Pepper, to uphold the recommendation of the Planning Commission for denial.

Questions were asked by Council regarding trash on the site, traffic around the area and parking, which were answered by Ms. Dang, Ms. Ross and Director of Code Enforcement Dahlberg.

**WHEREUPON**, a substitute motion was made by Councilwoman Woodson, seconded by Councilman Gaines and carried 4-2, to reverse the Planning Commission recommendation and approve the request for a special use permit, with a change to the days and hours of operation as follows: The beauty salon be open Monday through Saturday (closed Sunday) and the hours of operation four days a week be 10:30 to 7:00 and later on two evenings, with staff to work out the details of which days the salon will be open late. The vote to have the substitute motion was as follows:

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

The vote on the main motion was as follows:

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

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

31. DEVELOPMENT SITE PLAN #2004-0005  
1400 JANNEYS LANE

Public Hearing of an appeal to a decision of the Planning Commission on May 6, 2004, for a development site plan for construction of single family houses at 1400 Janneys Lane; zoned R-20/Residential. Applicant: Elm Street Development, Inc.

(A copy of the Planning Commission report dated June 4, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 31; 6/12/04, and is incorporated as part of this record by reference.)

Ms. Fogarty, Director of Transportation and Environmental Services Baier, and members of the Planning staff made a presentation of the staff report. Planning Commission Chair Eric Wagner was also present to share the Planning Commission perspective.

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

(a) Judy Durand, 1431 Janney's Lane, said she just received a copy of the staff response to the appeal and found it discouraging that it wasn't sent out to the appellants. She spoke in support of the appeal and spoke about the water being gathered and collected on Key Drive, lower Kingston and Francis Hammond Parkway. She said the residents hired a private engineer and learned about the water going into the channel. She noted that they differ with the staff about there not being more run-off going into the channel than is current, and she asked how they know that. She asked how they know the detention system will work and who pays for it if it doesn't. She spoke of the impervious surface and how it will dwindle away. She spoke of the compatibility of the homes. She said she had problems with the honesty of what the staff has presented to Council. She also spoke of the traffic, bus shelters and devaluation of their properties. She said what has been presented does not address the concerns that are alive and growing having to do with the site plan and they submit

it should be turned down by the City. Ms. Durand said she represents a number of residents that Council will hear from.

(b) Suzanne Post, 1408 Key Drive, spoke in support of the appeal concerning the water issues and she spoke about the storm water drainage issues.

(c) Jonathan Rak, 1750 Tysons Blvd., McLean, attorney representing Elm Street Development, Inc., asked Council to affirm the Planning Commission's decision, as the site plan meets the legal criteria of the Zoning Ordinance and it is a good site plan.

(d) Katy Cannady, 20 E. Oak Street, spoke about the oak trees in Cameron Valley and when Quaker Hill came in, the trees were killed, and she said that just because a tree is not under the footprint of a house does not mean it will live. She said if the City can't buy the land, it should reject this and look for an institutional buyer who won't need a building lots.

(e) Julie Crenshaw, 816 Queen Street, spoke about the staff report and said there is nothing from the appeal in the report. She said the appellants should have the same amount of time to give a presentation as the City does, and their concerns needs to be addressed in writing. She said the last time she spoke, she made statements that what Ms. Fogarty and her group had said were different than what she got from the FOIA'd information. She said that if Judy Durand said Ms. Fogarty's not been truthful, she's experienced that. She said the people who made the appeal have the right to have their questions answered. She said the property has a parking lot and useful building on it, which can be used not only for the day care center, but other uses.

(f) Bill Dickenson, 805 Quaker Lane, on the Board of the Seminary Hill Association, and a member of the Open Space Commission, and he said the leadership of Seminary Hill is not here, so he would speak for Seminary Hill, and he will speak as a member of the Open Space Commission, but not for the Commission. Mr. Dickenson said the appeal is on the City's website and on page 6 of the report. He said he didn't find the letter from Seminary Hill Association supporting the development included in the package. He said the idea of the City buying an entity there is something that the time passed on a long time ago. He said a task force was set up four years ago, with representatives from Janney's Lane, Cathedral, Emmanuel Church and Virginia Theological School, and they came up with something that meets all the objectives set forth in the open space plan of the City, and they achieved 1.1 acres of donated open land to the City.

(g) Reverend Jerry Hopkins, 10817 Lynnhaven Place, Oakton, the former president of the National Capital Presbytery, Inc., Board of Directors, asked that Council affirm the Planning Commission decision, and they decided to sell that site and the assets from the sale will be used for mission. He asked for Council's support of it.

Mayor Euille said there were questions of the channel and yard run-off and the

cost incurred, and the detention system. The questions were answered by Mr. Baier on the methods in which staff looked at the drainage issues, due to the lack of a response from Ms. Durand on a request from him to receive a copy of the engineer's report that the appellants hired.

Mr. Wagner, Chair of the Planning Commission, spoke about the consistency with the Master Plan and that the Planning Commission determined that the proposal is entirely consistent with the City's Master Plan, including the open space chapter.

Mayor Euille noted for the record that the matter can be a very contentious one and that has caused a lot of anger and frustration, and for some a sense of joy in that open space will be preserved here. He said that as a citizen and as the Mayor, he needs to state that he holds all of the staff, Planning, Transportation, City Manager, and others in very high esteem for their professionalism, credibility, and for their ethics.

Ms. Durand answered questions from Council on the engineering study.

Mr. Baier, Mr. Wagner, Ms. Jaatinen, Civil Engineer, T&ES, Mr. Kincannon and City Attorney Pessoa answered questions of Council on the impervious area, drainage capacity, water management and problems, the length of the bond, and the central open space conservation area, soil and ground water contamination, traffic numbers, preservation of trees, building of decks, pedestrian improvements and whether the property can be used for other uses.

Councilman Krupicka stated for the record that the City has a very accomplished, experienced staff with high integrity. He said disagreements should not turn into personal accusations.

Jim Perry, vice president of Elm Street Development, answered questions from Council on the drainage system proposed for the site.

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

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

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Gaines and carried 5-1, City Council deferred action until June 22, 2004, so that Council and staff has the opportunity to see the official statement from the Engineer the citizens have hired that refutes what the City staff and the City's Engineer has stated, and that information would have to be to City staff by close of business on Monday, June 14, 2004.

Mr. Rak, speaking for the record, said he would prefer Council to take action.

The voting was as follows:

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

\* \* \* \* \*

Mayor Euille left the proceedings at this time.

\* \* \* \* \*

Council took the following items out of turn.

### ORDINANCES AND RESOLUTIONS

33. Public Hearing, Second Reading and Final Passage of an Ordinance to Make Supplemental Appropriations for the Support of the Government of the City of Alexandria for FY 2004. (#12, 6/9/04) **[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. 33, 6/12/04, 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. 33, 6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously by **roll-call vote**, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4351

AN ORDINANCE making supplemental appropriations for the support of the government of the City of Alexandria, Virginia, for fiscal year 2004.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the funds hereafter named the amounts hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2004, the source of such amount being external grant awards for which revenues were authorized and adjusted after July 1, 2003, but not appropriated, and further that the Council does hereby allot the amount so appropriated to the several city departments for fiscal year 2004, as follows:

**SPECIAL REVENUE FUND**

ESTIMATED REVENUE:

Office on Women	\$ 21,870
Commonwealth's Attorney	<129,997>
Sheriff	<557,646>
Clerk of the Court	35,444
Court Service Unit	125,008
Voter Registration	106,250
Transportation and Environmental Services	962,149
Fire	750,634
Police	811,765
Housing	1,459,415
Mental Health/Mental Retardation/Substance Abuse	45,842
Human Services	3,530,861
Historic Alexandria	99,000
Recreation	<u>74,105</u>
Total Estimated Revenue	<u>\$ 7,334,700</u>

APPROPRIATION:

Office on Women	\$ 21,870

Commonwealth's Attorney	<129,997>
Sheriff	<557,646>
Clerk of the Court	35,444
Court Service Unit	125,008
Voter Registration	106,250
Transportation and Environmental Services	962,149
Fire	750,634
Police	811,765
Housing	1,459,415
Mental Health/Mental Retardation/Substance Abuse	45,842
Human Services	3,530,861
Historic Alexandria	99,000
Recreation	74,105
Total Estimated Revenue	<u>\$ 7,334,700</u>

Section 2. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2004, the source of such amount being intergovernmental revenue, and further that the council does hereby allot the amount so appropriated for fiscal year 2004, as follows:

**COMPONENT UNIT**

**ESTIMATED REVENUE:**

Intergovernmental Revenue	<u>\$ 2,834,857</u>
Total Estimated Revenue	<u>\$ 2,834,857</u>

**APPROPRIATION:**

Component Unit Schools	<u>\$ 2,834,857</u>
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Total Appropriation	<u>\$ 2,834,857</u>
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Section 3. That the Council of the City of Alexandria, Virginia, does hereby authorize the transfer from the General Fund (Designated General Fund Balance) to the Capital Projects Fund (Reserved Capital Project Fund Balance), and does make provision for and appropriate to the latter fund, the amount hereafter stated that is required to defray certain expenditures and liabilities for the city in fiscal year 2004, and further, that the council does hereby allot the amount so appropriated as follows: (i) to capital projects which are included in the city's government fiscal year 2004 - 2009 capital improvement program, adopted by city council April 29, 2003.

**GENERAL FUND**

FINANCING USE:

Transfer Out to Capital Project Fund	<u>\$ 4,200,000</u>
Total Transfer Out	<u>\$ 4,200,000</u>

**CAPITAL PROJECT FUND**

ESTIMATED REVENUE:

Transfer In From General Fund	<u>\$ 4,200,000</u>
Total Financing Source	<u>\$ 4,200,000</u>

APPROPRIATION:

Capital Projects	<u>\$ 4,200,000</u>
Total Appropriation	<u>\$ 4,200,000</u>

Section 4. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter stated the amount hereafter stated that are required to defray certain expenditures and liabilities of the city in fiscal

year 2004, the source of such amount being Equipment Replacement Retained Earnings, and further, that the council does hereby allot the amount so appropriated to the various city departments for fiscal year 2004, as follows:

**EQUIPMENT REPLACEMENT FUND**

APPROPRIATION:

Office of Management and Budget	\$ 12,000
Police	111,944
Mental Health/Mental Retardation/Substance Abuse	20,333
Health	30,000
Recreation	<u>25,000</u>
Total Appropriation	<u>\$ 199,277</u>

Section 5. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures of the city for fiscal year 2004, the source of such amount being Component Unit - School Fund Balance, and further, that the council does hereby allot the amount so appropriated, as follows:

**COMPONENT UNIT**

APPROPRIATION:

Component Unit Schools	<u>\$ 929,055</u>
Total Appropriation	<u>\$ 929,055</u>

Section 6. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2004, the source of such amount being Property Tax revenue, Intergovernmental revenues, and Charges for Service revenues and further, that the council does hereby allot the amount so appropriated for fiscal year 2004 as follows:

**GENERAL FUND**

**ESTIMATED REVENUE:**

Property Tax Revenues	\$ 248,382
Intergovernmental Revenues	1,328,872
Charges for Services	<u>100,000</u>
Total Estimated Revenues	<u>\$ 1,677,254</u>

**APPROPRIATION:**

Sheriff	\$1,273,872
Clerk of the Court	100,000
Registrar of Voters	55,000
Non-Departmental	<u>248,382</u>
Total Appropriation	<u>\$ 1,677,254</u>

Section 7. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city in fiscal year 2004, the source of such amounts being Transfer In from the General Fund, and further, that the council does hereby allot the amount so appropriated for fiscal year 2004, as follows:

**CAPITAL PROJECTS FUND**

**ESTIMATED REVENUE:**

Transfer In From General Fund	<u>\$ 179,435</u>
Total Estimated Revenue	<u>\$ 179,435</u>

**APPROPRIATION:**

Capital Projects	<u>\$ 179,435</u>
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Total Appropriation	<u>\$ 179,435</u>
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Section 8. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2004, the source of such amount being Developer contribution, and further, that the council does hereby allot the amount so appropriated for fiscal year 2004, as follows:

**COMPONENT UNIT**

**ESTIMATED REVENUE:**

Developer Contribution	<u>\$ 400,000</u>
Total Estimated Revenue	<u>\$ 400,000</u>

**APPROPRIATION:**

Component Unit DASH	<u>\$ 400,000</u>
Total Appropriation	<u>\$ 400,000</u>

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

34. Public Hearing, Second Reading and Final Passage of an Ordinance to Make Appropriations For the Support of the Government of the City of Alexandria for FY 2005. (#13, 6/9/04) **[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. 34, 6/12/04, 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. 34, 6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously by **ROLL-CALL VOTE**, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4352

AN ORDINANCE making appropriations for the support of the government of the City of Alexandria, Virginia, for fiscal year 2005.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That, pursuant to section 6.07 of the city charter, the sum of \$579,458,294 be, and the same hereby is, appropriated for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005.

Section 2. That, pursuant to section 6.07 of the city charter, the sum of \$579,458,294 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005 be, and the same hereby is, further appropriated to the following city departments, major operating units, component units and major categories of expenditures in the amounts set forth below:

Department/Unit/Component Unit/  
Category of Expenditure

Appropriation

18th Circuit Court	\$1,218,075
18th General District Court	84,638
18th Juvenile Court	33,609
Citizens Assistance	622,159
City Attorney	1,506,405
City Clerk and Clerk of Council	301,692
City Council	536,569
City Manager	1,939,072
Clerk of Court	1,492,296

Commonwealth's Attorney	2,485,971
Contingent Reserves	3,648,435
Court Services Unit	1,199,383
Finance	7,774,285
Fire	30,654,592
General Debt Service	22,876,399
General Service	10,369,369
Health	7,229,489
Human Rights	481,999
Human Services	45,596,911
Human Services Contributions	1,155,001
Information Technology Services	6,564,009
Internal Audit	190,032
Law Library	134,150
Mental Health/Mental Retardation/Substance Abuse	24,681,335
Non-Departmental	9,240,827
Office of Historical Alexandria	2,500,580
Office of Housing	3,838,618
Office of Management and Budget	976,816
Office on Women	1,551,319
Other Correctional Activities	4,064,407
Other Educational Activities	13,299
Other Planning Activities	2,560,369
Personnel	2,633,390
Planning & Zoning	3,550,167
Police	42,744,022
Real Estate Assessments	1,027,914
Recreation, Parks & Cultural Activities	17,388,423
Registrar of Voters	954,197

Sheriff	20,517,748
Transit Subsidies	12,258,321
Transportation and Environmental Services	23,393,230
Capital Projects	75,650,407
Component Unit-Library	6,366,648
Component Unit-Schools	171,582,431
Internal Services	<u>3,869,286</u>
<b>TOTAL APPROPRIATIONS</b>	<b><u>\$579,458,294</u></b>

Section 3. That, pursuant to section 6.07 of the city charter, the sum of \$579,458,294 appropriated in section 1 of this ordinance for the support of the City of Alexandria in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005 be, and the same hereby is, further appropriated to the following principal objects of city expenditures:

Object of Expenditures Appropriation

<u>Personnel Service</u>	<u>\$184,423,823</u>
<u>Non-Personnel Services</u>	<u>129,840,977</u>
<u>Capital Outlay</u>	<u>174,002</u>
<u>Component Unit-Library</u>	<u>6,366,648</u>
<u>Component Unit-Schools</u>	<u>171,582,431</u>
<u>Component Unit-Alexandria Transit Company</u>	<u>7,550,720</u>
<u>Equipment Replacement</u>	<u>3,869,286</u>
<u>Capital Projects</u>	<u>75,650,407</u>
<b><u>TOTAL APPROPRIATIONS</u></b>	<b><u>\$579,458,294</u></b>

Section 4. That the sum of \$579,458,294 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005 is estimated to be derived from the following sources of revenue:

Source of Revenue Amount

General Property Taxes	\$262,505,157
Other Local Taxes	94,342,500

Permits, Fees and Licenses	3,636,528
Fines and Forfeitures	3,952,000
Intergovernmental Revenue	120,483,502
Charges for Services	20,124,931
Revenue from Use of Money and Property	5,232,900
Miscellaneous Revenue	2,517,457
Bond Proceeds	44,826,655
Unreserved Fund Balance - General Fund: Subsequent Year's Budget	11,870,116
Unreserved Fund Balance - Capital Projects Fund: Subsequent Year's Budget	1,805,636
Schools' Fund Balance	2,361,906
Retained Earnings - Internal Services	3,799,006
<b>TOTAL ESTIMATED REVENUE</b>	<b><u>\$579,458,294</u></b>

Section 5. That, pursuant to section 6.14 of the city charter, the sum of \$75,650,407 be, and the same hereby is, appropriated for capital improvement project expenditures of the City of Alexandria and the Alexandria City Public Schools in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005. This sum, which consists of the \$75,650,407 appropriated as Capital Projects in section 2 of this ordinance, is appropriated as follows: (i) \$33,973,669 to capital projects which are included in the city's government fiscal year 2004-2009 capital improvement program adopted by city council on May 3, 2004, \$39,380,738 to the capital projects identified in the Alexandria City Public Schools' capital budget approved by the school board on February 19, 2004 and \$2,296,000 for the Open Space Trust Fund.

Section 6. That the sum of \$75,650,407 appropriated in section 5 of this ordinance for capital improvement project expenditures of the City of Alexandria and the Alexandria City Public Schools in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005 is estimated to be derived from the following sources of revenue:

Source of Revenue

Amount

<u>Transfer In from General Fund</u>	<u>18,882,000</u>
<u>Permits, Fees and Licenses</u>	<u>2,000,000</u>
<u>Bond Interest Earnings</u>	<u>600,000</u>

<u>Designated General Fund Balance</u>	<u>7,536,116</u>
<u>Designated Capital Fund Balance</u>	<u>1,805,636</u>
<u>Bond Proceeds</u>	<u>44,826,655</u>
<b><u>TOTAL ESTIMATED REVENUE</u></b>	<b><u>\$75,650,407</u></b>

Section 7. That the sum of \$186,982,038 be, and the same hereby is, authorized to be transferred between the following funds maintained by the city, as set forth below:

<u>From</u>	<u>Amount</u>	<u>To</u>	<u>Amount</u>
<u>General Fund</u>	<u>\$26,320,452</u>	<u>Special Revenue Fund - General</u>	<u>\$26,320,452</u>
<u>General Fund</u>	<u>18,882,000</u>	<u>Capital Projects Fund</u>	<u>18,882,000</u>
<u>General Fund</u>	<u>130,109,722</u>	<u>Component Unit-Schools</u>	<u>130,109,722</u>
<u>General Fund</u>	<u>5,700,720</u>	<u>Component Unit-Alexandria Transit Company</u>	<u>5,700,720</u>
<u>General Fund</u>	<u>5,969,144</u>	<u>Component Unit-Library</u>	<u>5,969,144</u>
<b><u>TOTALS</u></b>	<b><u>\$186,982,038</u></b>	<b><u>TOTALS</u></b>	<b><u>\$186,982,038</u></b>

Section 8. That the sum of \$579,458,294 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005 is, for accounting purposes and in accordance with accepted accounting principles generally accepted in the United States of American, attributed, for each city department, major operating unit, component unit and major category of expenditure, to the funds maintained by the city as shown in Table I on the following page of this ordinance.

Section 9. That the sum of \$579,458,294 appropriated in section 1 of this ordinance for the support of the government of the City of Alexandria in the fiscal year beginning on the first day of July 2004 and ending on the thirtieth day of June 2005 is, for accounting purposes and in accordance with generally accepted accounting principles, attributed, for each major source of revenue, to the funds maintained by the city as shown in Table II on the following page of this ordinance.

Section 10. That this ordinance shall become effective upon the date and at the time of its final passage.

35. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish the Employee Homeownership Incentive Program (EHIP). (#14,

6/9/04) [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. 35, 6/12/04, 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. 35, 6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Gaines and carried unanimously by **ROLL-CALL VOTE**, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4353

AN ORDINANCE to amend Title 2 (GENERAL GOVERNMENT), Chapter 5 (OFFICERS AND EMPLOYEES), of The Code of the City of Alexandria, 1981, as amended, by adding thereto a new Article C (EMPLOYEE HOMEOWNERSHIP INCENTIVE PROGRAM).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Title 2, Chapter 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Article C, to read as follows:

Article C  
Employee Homeownership Incentive Program

Sec. 2-5-31 Definitions.

The following words and phrases shall, for the purposes of this article, have the following respective meanings, except where the context clearly indicates a different meaning:

- (1) Applicant. Any person who applies for a loan under this article.

- (2) Covered entity. The City of Alexandria, the Alexandria City Public Schools, the Alexandria Commonwealth Attorney, the Alexandria Clerk of Court, the Alexandria Sheriff, the 18th Circuit Court, the 18th General District Court, the 18th Juvenile and Domestic Relations District Court, the Alexandria Court Services Unit, the Alexandria Law Library, the Alexandria Registrar of Voters, the Alexandria Public Library and the Alexandria Health Department.
- (3) Dwelling. A building, or portion of a building, together with an associated interest in the land, located in the City of Alexandria, which is to be purchased by an applicant, alone or with others, to be used as the principal residence of the applicant.
- (4) Household. The spouse, partner, children, parents, brothers and sisters and any other person living in the same dwelling as the applicant.
- (5) Loan. A loan in aid of the purchase of a dwelling, as provided under this article.

#### Sec. 2-5-32 Loans-provided.

There are hereby provided employee homeownership incentive loans, to assist the employees of covered entities with the purchase of real estate located in the City of Alexandria, to be occupied as a dwelling. Such loans shall be subject to the restrictions, limitations and conditions prescribed by this article.

#### Sec. 2-5-33 Same-eligibility; restrictions generally.

A loan under this article shall be subject to the following restrictions and conditions:

- (1) The applicant shall be, at the time of approval of his or her application, a full or part time (at least 20 hours per week, or equivalent), but not a seasonal, employee of a covered entity.
- (2) The assessed value of the dwelling to be purchased by the applicant shall not exceed one and one-third times the average assessed value for all housing types of residentially assessed property in the City, as determined by the director of real estate assessments.
- (3) The applicant shall own at least 50 percent interest in the dwelling.
- (4) The applicant, together with any member of the applicant's household, shall not concurrently own the dwelling and 50 percent or more interest in other residential property in the City or elsewhere, unless such other property is actively marketed for sale in conjunction with the purchase of the dwelling.

- (5) The applicant must at all times occupy the dwelling for which the loan is sought as his or her principal residence.
- (6) An applicant shall submit the application required by section 2-5-35 prior to closing on the purchase of the dwelling, and within such time as established by regulation to permit the orderly processing of such application.
- (7) An applicant for a loan provided under this article may apply for and receive benefits under other homeownership assistance programs administered by the City or any other entity, to the extent permitted by the regulations applicable to such other programs.
- (8) Only one application shall be made per household, irrespective of the number of eligible applicants residing in the household.
- (9) In the case of an applicant who is an employee of a covered entity other than the City of Alexandria, the applicant, in addition to complying with the provisions of this article, shall comply with any additional terms and conditions, not in conflict with the provisions of this article, as the covered entity may provide by general rule or regulation.

Sec. 2-5-34 Same-administration by city manager.

The loan program provided under this article shall be administered by the city manager according to the provisions of this article. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce such rules and regulations in conformance with the provisions of this article, including the requirement of answers under oath, as may be reasonably necessary to administer the program.

Sec. 2-5-35 Same-procedure for application.

- (a) Any applicant for a loan under this article shall file with the city manager, in such manner as the manager shall prescribe and on forms to be supplied by the city, an affidavit or written statement providing the following:
  - (1) the name of the applicant;
  - (2) the address of the dwelling to be purchased;
  - (3) such additional information as the city manager reasonably determines to be necessary to determine eligibility for a loan pursuant to this article.
- (b) If, after audit and investigation, the city manager determines that the applicant is eligible for a loan, the manager shall so certify to the director of

finance, who shall issue a check in the approved amount payable jointly to the applicant and the applicant's settlement company, and the applicant shall execute a note evidencing such loan at closing.

Sec. 2-5-36 Same-amount limitations.

- (a) The maximum amount of each loan under this article shall be as follows:
  - (1) Applicant who is a full time (40 hours per week or equivalent) employee – \$5,000.
  - (2) Applicant who is a part time (less than 40 hours but at least 20 hours per week or equivalent) employee – \$5,000 times the ratio of the number of hours per week the applicant is regularly employed over 40 (or equivalent denominator).
- (b) For each covered entity, the total amount of loans under this article in any fiscal year shall not exceed the sum lawfully appropriated therefor or allocated thereto by the Alexandria City Council, from funds other than state funds, and for covered entities other than the City of Alexandria, shall in addition not exceed the sum approved for such loans by such covered entity. Loans under this article shall be subject to such funding availability, and provided on a first-come, first-served basis.

Sec. 2-5-37 Same-interest, repayment, unsecured loan.

- (a) No interest shall accrue on the principal of any loan authorized pursuant to this article; provided, however, that interest on any past due amount shall accrue at the rate specified in the note evidencing such loan.
- (b) Any loan under this article shall become due, and shall be repaid to the City in full, upon the sale of the dwelling, or when the applicant otherwise ceases to own and occupy the dwelling as his or her principal residence, which ever shall occur first; provided, however, that in the event an applicant voluntarily terminates his or her employment by a covered entity within a period of 36 months following closing on the purchase of the dwelling, the amount calculated by multiplying one thirty sixth of the loan balance by the number of months of such 36 month period remaining at the time of termination, shall become due and payable upon such termination of employment; and provided further, that in the event a qualifying applicant sells such applicant's dwelling and purchases another qualifying dwelling within 30 days, the loan shall become due and payable upon the sale of, or other event which triggers repayment with respect to, such other qualifying dwelling.
- (c) Any loan under this article shall be a personal loan, and no security for the repayment thereof shall be required.

Sec. 2-5-38 Penalty for false statement.

Any person willfully making a false statement in applying for a loan under this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$500 for each offense.

Section 2. That this ordinance shall become effective July 1, 2004.

- 36. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Floodplain Regulations in the Zoning Ordinance. (#15, 6/9/04) [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. 36, 6/12/04, 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. 36, 6/12/04, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Councilman Krupicka and carried unanimously by roll-call vote, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4354

AN ORDINANCE to amend and reordain Section 6-300 (FLOODPLAIN DISTRICT), of Article VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance (TA No. 2004-0002).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-300 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as shown in the text attached hereto and incorporated herein fully by reference.

Section 2. That Section 6-300 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 June 12, 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.

37. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Political Sign Regulations in the Zoning Ordinance. (#16, 6/9/04)  
**[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. 37, 6/12/04, 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. 37, 6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Councilman Krupicka and carried unanimously by **roll-call vote**, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

**ORDINANCE NO. 4355**

AN ORDINANCE to amend and reordain Section 9-100 (GENERAL PROVISIONS), of Article IX (SIGNS, MARQUEES AND AWNINGS), by adding thereto a new Section 9-108 (POLITICAL SIGNS), and to repeal Section 9-210(A)(10) (POLITICAL SIGNS), all of the City of Alexandria Zoning Ordinance (TA No. 2004-0004).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 9-100 of the City of Alexandria Zoning Ordinance

be, and the same hereby is, amended by adding thereto a new Section 9-108 to read as follows:

9-108 *Political signs.* Political signs are permitted in the following locations, and for the following periods of time, subject to the following limitations:

- (A) *Private property.* Political signs may be posted on private property with the permission of the property owner or lawful occupant of the property. Such signs shall not exceed the size of the largest sign permitted on such property pursuant to Section 9-200.
  
- (B) *Public right-of-way .* Political signs may be posted within the public right-of-way subject to the following rules:
  - 1. Such signs may be posted in the grass portion of the public right-of-way, adjacent to a street, road, highway, alley or sidewalk.
  - 2. No such sign may be posted in any public garden or landscaped area.
  - 3. No such sign may be placed within the public right-of-way of Washington Street, or the George Washington Memorial Parkway.
  - 4. No such sign shall be placed within 15 feet of any point at which the curb or curb line of any two intersecting streets meet, within 15 feet of the end of any street median, or within any traffic channelization island.
  - 5. Any political sign erected or displayed within the public right-of-way shall be free standing, shall have no part of the sign or support thereof extending more than 42 inches above ground level, and shall be supported by no more than two supports, each support having dimensions of no more than one inch by two inches.
  - 6. Prior to the display of any political sign within the public right-of-way, a cash bond in the amount of \$100 shall be deposited with the city manager. The bond will be refunded unless there has been a violation of the provisions of this article, in which case the City shall retain the entire amount of the bond to defray the cost of enforcing the provisions of this article.
  - 7. No political sign shall be erected or displayed within the public right-of-way more than 90 days prior to the nomination or election to which it pertains. Signs, including sign posts or stakes, shall be removed within 15 days after the announced results of the nomination, or primary, special or general election to which the sign

pertains. Successful candidates in nominations or primary elections may continue to display their signs during the interval between the nomination or primary, and the ensuing special or general election, and without posting any additional bond, except where the interval exceeds 90 days.

Section 2. That Section 9-201(A)(10) of the City of Alexandria Zoning Ordinance be, and the same hereby is, repealed.

Section 3. That Section 9-100 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 4. That this ordinance shall become effective upon the date and at the time of its final passage.

38. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Fine Schedule For SUP Violations, and Revise the SUP Change in Ownership Procedures in the Zoning Ordinance. (#17, 6/9/04) **[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. 38, 6/12/04, 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. 38, 6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously by **roll-call vote**, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4356

AN ORDINANCE to amend and reordain Section 11-207 (CIVIL VIOLATIONS), under Section 11-200 (ENFORCEMENT AND PENALTIES), and Section 11-503 (PROCEDURE), under Section 11-500 (SPECIAL USE PERMITS), of Article XI

(DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance (TA No. 2004-0003).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 11-207 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-207 Civil violations.

- (A) General. Any person who, as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, who commits, permits, assists in or attempts any of the following violations of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:
- (1) Violation of any use or occupancy regulation or performance standard applicable under this ordinance, including the failure to obtain a special use permit where so required: class five civil violation.
  - (2) Violation of any frontage regulation applicable under this ordinance: class five civil violation.
  - (3) Violation of any yard regulation applicable under this ordinance: class five civil violation.
  - (4) Violation of any floor area ratio regulation applicable under this ordinance: class five civil violation.
  - (5) Violation of any coverage, open space or landscaping regulation applicable under this ordinance: class five civil violation.
  - (6) Violation of any height regulation applicable under this ordinance: class five civil violation.
  - (7) Violation of any off-street parking or loading regulation applicable under this ordinance: class five civil violation.
  - (8) Violation of any floodplain district regulation applicable under section 6-300 of this ordinance: class five civil violation.
  - (9) Violation of any sign, marquee and awning regulation applicable under sections 9-100, 9-200 or 9-400 of this ordinance: class five civil violation.

- (10) Violation of any specific statement, proffer, representation or plan made or submitted in connection with any application, permit or approval granted under the provisions of this ordinance, and violation of any condition imposed by the approving authority: class five civil violation.
  - (11) Violation of any regulation of this ordinance punishable as a civil violation and not set forth above and not subject to section 11-207(B): class five civil violation.
  - (12) The transfer, sale, offer to sell, or agreement to sell any land or portion of land by reference to or display of an unapproved and unrecorded plat, regardless of whether the land is described by metes and bounds; class five civil violation.
- (B) Historic districts. Any person who, as the owner of any land, building or structure located within the Old and Historic Alexandria District, the Parker-Gray District, or listed for preservation pursuant to section 10-300 of this ordinance, or as the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, assists in or attempts any violation of Article X or section 9-300 of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:
- (1) Violation of any sign, marquee, or awning regulation of section 9-300 of this ordinance: class four civil violation.
  - (2) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which no building permit under the Uniform Statewide Building Code is required: class three civil violation.
  - (3) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which a building permit is required under the Uniform Statewide Building Code: class two civil violation.
  - (4) Violation of section 10-103(B), 10-203(B) or 10-305, involving the unauthorized demolition of any building or structure: class one civil violation.
- (C) Penalties.
- (1) For a class one civil violation, the penalty for each individual offense shall be \$1,500.00.

- (2) For a class two civil violation, the penalty for each individual offense shall be \$500.00 for the first violation, \$1,000.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$1,500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.
- (3) For a class three civil violation, the penalty for each individual offense shall be \$100.00 for the first violation, \$150.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.
- (4) For a class four civil violation, the penalty for each individual offense shall be \$50.00 for the first violation, \$100.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.
- (5) For a class five civil violation, the penalty for each individual offense shall be \$50.00 for the first violation, and \$100.00 for each subsequent violation of the same regulation or requirement arising from the same set of operative facts; provided, however, that in the case of a third violation of a special use permit condition within any one 12 month period, the penalty shall be \$500.
- (6) Each day during which any class one civil violation exists shall constitute a separate individual offense. A class one civil violation shall be deemed to exist until such time as the director certifies to the board of architectural review that the unlawfully demolished building or structure has been reconstructed to the pre-existing footprint, envelope, configuration and appearance, using original materials and techniques of construction to the extent possible; provided, however, that, after a public hearing for which notice has been given pursuant to section 11-300, the board of architectural review may determine that a class one civil violation shall cease to exist at such time as the person responsible therefor shall have paid to the city a sum equivalent to the cost of reconstruction required under this section 11-207(C)(6), such sum to be used exclusively for the purpose of promoting historic preservation within the city as determined by the director. The civil penalty for a class one violation shall in no case exceed the market value of the property, which shall include the value of any improvements together with the value of the

land upon which any such improvements are located, and shall be determined by the assessed value of the property at the time of the violation.

- (7) Each day during which any class two, three or four civil violation exists shall constitute a separate individual offense.
- (8) Each day during which any class five civil violation exists shall constitute a separate individual offense. In no event shall a series of charges for the same class five civil violation arising from the same set of operative facts result in civil penalties which exceed a total of \$3,000.00.

(D) Procedures.

- (1) If the director determines that a civil violation enumerated in section 11-207(A) or (B) has occurred, he may cause a notice of the violation to be served on any or all persons committing or permitting such violation.
- (2) The notice shall provide that the person served may elect to make an appearance in person, or in writing by mail, to the treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.
- (3) If a person charged with a violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Alexandria General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law. In the event the violation exceeds the jurisdictional limits of the General District Court, the violation shall be tried in the Alexandria Circuit Court. In any such proceeding, the interpretation of the zoning ordinance made by the director, by the board of zoning appeals, or by the Alexandria Circuit Court on writ of certiorari to the board of zoning appeals, as the case may be, shall be conclusive.
- (4) A finding or admission of liability or a plea of no contest to a civil violation shall not be deemed a criminal conviction for any purpose.

Section 2. That Section 11-503 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-503 Procedure.

- (A) Application. An application for a special use permit shall be submitted to the director on such forms as the director may prescribe and shall include the following:
- (1) A statement identifying the applicant, who shall be the owner, contract purchaser, lessee or other party having a legal interest in the subject property. It shall include a clear and concise statement identifying the applicant and, if different, the owner of the property, including the name and address of each person or entity owning an interest in the applicant or owner and the extent of such ownership interest unless any of such entities is a corporation or a partnership, in which case only those persons owning an interest in excess of ten percent in such corporation or partnership need be identified by name, address and extent of interest. For purposes of this section 11-503(A)(1), the term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.
  - (2) A map showing the location of the property in question as well as all property within 300 feet of the boundaries of the property for which the special use permit is sought, including as to all property identified, the following information:
    - (a) Existing uses;
    - (b) Existing zoning;
    - (c) Land use designation contained in the master plan.
  - (3) A detailed description of the operation of the proposed use.
  - (4) Plans to control any potential impacts of the proposed use on the nearby community, including:
    - (a) Noise.
      - (1) Noise levels anticipated from all mechanical equipment.
      - (2) A statement as to whether the anticipated noise complies with the levels permitted by chapter 5 of title 11 of the city code.
      - (3) Plans to control these anticipated noise levels.
      - (4) Plans to control noise levels emanating from patrons.

- (b) Odors. Methods to be used to control odors emanating from the use.
- (c) Trash and litter.
  - (1) The type and volume of trash and garbage the proposed use will generate.
  - (2) The planned frequency of trash collection.
  - (3) Planned methods to prevent littering on the property, streets and nearby properties.
- (d) Loading/unloading.
  - (1) Availability and adequacy of off-street loading facilities.
  - (2) Hours and frequency of off-street loading.
- (e) Parking.
  - (1) Location of parking either on the site or within 300 feet of the site.
  - (2) Number of spaces available to serve residents, employees and patrons during the hours of operation.
- (f) Streets. The design capacity of all streets providing access to the property.
- (g) Use capacity.
  - (1) The estimated number of patrons, clients, pupils and other such users.
  - (2) The proposed number of employees, staff and other personnel.
- (h) Hours. The proposed hours and days of operation of the use.
- (i) Signs. Existing and proposed signage to be erected or utilized on the property.
- (j) Hazardous materials. Name, monthly quantity and specific disposal method of any state or federally defined hazardous

materials or waste to be handled, stored, or generated on the property.

(k) Organic compounds. Name, monthly quantity and specific disposal method of any paint, ink or lacquer thinner, cleaning or degreasing solvent to be handled, stored, processed or generated on the property.

(l) Security. Methods proposed to ensure the safety of residents, employees and patrons.

(5) Where new construction is proposed, a site plan consistent with the requirements for same in section 11-400 shall be submitted and reviewed and approved as part of the special use permit application and pursuant to the procedures and standards of this section 11-500.

(6) Plans and other documents exhibiting compliance with any other requirements contained in this ordinance for the special use proposed.

(7) Such additional plans and information as the director determines are necessary and desirable for adequate review.

(8) The fee prescribed by section 11-104.

(B) Review by staff. The director shall review the application to determine if the application's contents are complete and adequate for appropriate review and shall send the application to other relevant departments for their review and recommendation. Upon receipt of the departments' recommendations, the director shall prepare a staff report indicating the departments' judgment on the merits of the application. If the director does not agree with a recommendation prepared by another department, that recommendation shall be set down separately and the reasons for the director's disagreement shall be included in the report.

(C) Docketing. At the time the director determines that an application is complete, he shall schedule the matter for public hearing before the planning commission and shall confer with the city manager who shall schedule the matter for public hearing before the city council.

(D) Recommendation by planning commission. The planning commission shall hold a public hearing, shall review the application and shall recommend to the city council that the application be approved, disapproved, or approved with conditions. The planning commission shall submit its recommendation to the city council together with its reasons therefor not later than three days

prior to the city council hearing on the application. If the planning commission determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.

(E) Action by city council. The city council shall hold a public hearing, shall review the application and recommendation of the planning commission and shall act on the application by approving it, disapproving it, or approving it with conditions. If the city council determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.

(F) Change in ownership only. Where an application under this section 11-500 is necessitated solely by a change in ownership of the use that is subject to the special use permit, and the circumstances set forth in paragraph (1) below apply, the director may administratively approve such application and transfer the special use permit to the new applicant only.

(1) The circumstances which are a condition to such administrative approval are as follows:

(a) The applicant is not requesting a change in the conditions of the special use permit.

(b) There have been no substantiated violations of the special use permit conditions which were not corrected immediately, constitute material or repeat violations or which created a material and direct adverse impact on the surrounding community.

(c) There are no changes proposed or anticipated in the operation of the use involved.

(d) The director has concluded that no new conditions, and no amendments to existing conditions are necessary, other than as may be required by the following:

(1) Standard conditions promulgated by the director, approved by City Council and agreed to by the applicant in writing; or

(2) Such additional conditions as the director finds necessary for the Public benefit, in keeping with the use and the special use permit approved therefor, and agreed to by the applicant in writing.

(e) Following notice of the application in a newspaper of general circulation in the city, no person has requested the director to forward the application to city council.

(2) Where the director approves an application under this section 11-503(F), sections 11-503(A) through (E) shall not apply to the application. However, where such application is not approved by the director, it shall be subject to the same procedural requirements of any other application for a special use permit. The director is authorized to issue regulations governing administrative approvals issued under this section 11-503(F).

Section 3. That Section 11-207 and Section 11-503 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective upon the date 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 June 12, 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.

39. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Procedures in the Zoning Ordinance For Development Cases Heard By the Boards of Architectural Review. (#18, 6/9/04) **[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. 39, 6/12/04, 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. 39, 6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Councilman Krupicka and carried unanimously by **roll-call vote**, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4357

AN ORDINANCE to amend and reordain Section 10-104 (BOARD OF ARCHITECTURAL REVIEW) and Section 10-106 (ISSUANCE AND EXPIRATION OF CERTIFICATES OF APPROPRIATENESS OR PERMITS), under Section 10-100 (OLD AND HISTORIC ALEXANDRIA DISTRICT), and Section 10-204 (BOARD OF ARCHITECTURAL REVIEW) and Section 10-206 (ISSUANCE AND EXPIRATION OF CERTIFICATES OF APPROPRIATENESS OR PERMITS), under Section 10-200 (PARKER-GRAY DISTRICT), of Article X (HISTORIC DISTRICTS AND BUILDINGS) of the City of Alexandria Zoning Ordinance (TA No. 2004-0005).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 10-104 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

10-104 Board of architectural review.

- (A) Board of architectural review established. There is hereby established the Old and Historic Alexandria District board of architectural review to be composed of seven members.
- (B) Powers and duties. The board of architectural review shall:
  - (1) Develop and recommend to city council the adoption of rules, regulations and procedures pursuant to section 9.09(j) of the city charter.
  - (2) Develop, adopt and publish criteria and guidelines, within the standards developed by city council under section 10-105, to be considered in granting or denying certificates of appropriateness and permits to move, remove, capsulate or demolish in whole or in part, provided that such criteria and guidelines shall be consistent with the provisions of this Article X and with such standards, rules, regulations, and procedures as city council may establish pursuant to section 9.09(j) of the city charter.
  - (3) Develop, adopt and publish administrative procedures which shall not be in conflict with the procedures established in this Article X.
  - (4) Be responsible for making effective the provisions of this Article X with respect to the Old and Historic Alexandria District and with respect to the provisions of section 10-300 relating to the preservation of certain buildings and structures over 100 years old outside the Old and Historic Alexandria District and the Parker-Gray District.

- (C) **Composition.** The Old and Historic Alexandria District board of architectural review shall be composed of seven members who are residents of the city and have resided in the city for at least one year immediately preceding their appointment. Two members shall be architects. Members shall have a demonstrated interest, experience, or education in history, architecture or historic preservation. The members shall be appointed by city council for terms of three years. The term of each member shall run from July 1 of the year of appointment. Any vacancy shall be filled for the balance of the unexpired term. Any member of the Old and Historic Alexandria District board of architectural review may be removed by city council for cause after having been given a written statement of the cause and an opportunity to be heard thereon.
- (D) **Conflicts of interest.** Each member of the board of architectural review shall be under a continuous duty to remain conscious of and sensitive to any possible conflict of interest which may arise by virtue of his membership on the board. A member, promptly upon his determining he has a conflict of interest relative to any matter brought, shall disqualify himself from participating, in any manner, publicly or privately, in the presentation, discussion or deliberation of and the voting on any such matter. The State and Local Government Conflicts of Interest Act, section 2.1-639.1 et seq. of the Code of Virginia, shall, where applicable, control the actions of all members of the board.
- (E) **Chairman and secretary.** The Old and Historic Alexandria District board of architectural review shall elect its chairman from its membership and the director or his designee or designees, shall be the board's secretary.
- (F) **Procedure for meetings.**
- (1) The chairman of the board of architectural review shall conduct its meetings and the secretary shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. All members of the board shall be entitled to vote, and the decisions of the board shall be determined by a majority vote. A quorum of four members present is required before the board may take any official action. The board shall meet within 40 days after a complete application for a certificate of appropriateness or permit requiring action by the board has been received by the director. The meetings of the board shall be open to the public, and a full and impartial hearing shall be granted. No proxy shall be allowed at any time. The board shall vote and announce its decision on any matter properly before it no later than at its next regularly scheduled meeting, not to exceed 60 days, after the conclusion of the public hearing on the matter unless the time is extended by

mutual agreement between the board and the applicant; the failure of the board to vote and announce its decision within the required time, or within such longer period of time extended by mutual agreement between the board and the applicant, shall constitute approval of the application. Notwithstanding the provisions stated above, an application for a certificate of appropriateness or antecedent permit for a project which requires a site plan under Section 11-400 of this ordinance shall be heard and determined by the board within a reasonable time.

- (2) No application for a certificate of appropriateness required by section 10-103(A) which has been denied by the board of architectural review shall be heard again by it within one year of the date of its denial of the application, except under such terms and conditions as shall be established by the board, within the scope of section 10-105, for rehearing the application at the time of its denial of same.
  - (3) In the case of a disapproval of the moving, removing, capsulating or demolition in whole or in part of a building or structure in the Old and Historic Alexandria District, the board of architectural review shall state its reasons therefor in writing in some detail. No application for a permit required by section 10-103(B) which has been denied shall be heard again within one year from the date of the denial of the application.
  - (4) If there is an appeal taken to the city council from any denial of a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part, the board of architectural review shall forward its reasons in writing to the council.
  - (5) The board of architectural review may establish its own rules of procedure for the conduct of its meetings provided that such rules are not in conflict with procedures established in section 9.09(j) of the city charter or this Article X.
- (G) Notice of hearing on permits. No application for a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part in the Old and Historic Alexandria District shall be considered unless and until the secretary to the board of architectural review has given notice of the proposed hearing before the board according to the provisions of section 11-300.

Section 2. That section 10-106 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

10-106 Issuance and expiration of certificates of appropriateness or permits.

(A) Issuance.

- (1) Upon approval by the Old and Historic Alexandria District board of architectural review of any erection, reconstruction, alteration or restoration, a certificate of appropriateness, signed by the secretary of the board and bearing the date of issuance, but subject, however, to the provisions of section 10-107, shall be made available to the applicant.
- (2) Upon approval by the Old and Historic Alexandria District board of architectural review of any application to move, remove, capsulate or demolish in whole or in part, a permit for same, signed by the secretary of the board of architectural review and bearing the date of issuance, but subject, however, to the provisions of section 10-107 shall be made available to the applicant.
- (3) In instances where the city council on appeal approves any erection, reconstruction, alteration or restoration, or where the city council on appeal approves the moving, removing, capsulating or demolition in whole or in part of, a certificate of appropriateness or a permit to move, remove, capsulate, or demolish in whole or in part, bearing the date of issuance but subject, however, to the provisions of section 10-107(B), shall forthwith be signed by the mayor and made available to the applicant.

- (B) Expiration. Any certificate of appropriateness issued pursuant to section 10-106(A) and any permit to move, remove, capsulate or demolish in whole or in part in the Old and Historic Alexandria District issued pursuant to section 10-106(B) shall expire of its own limitation 12 months from the date of issuance if the work authorized thereby is not commenced and diligently and substantially pursued by the end of such 12 month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced and diligently and substantially pursued. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this Article X shall be excluded from the computation of the 12 months. In the case of a certificate or permit for a project that requires a site plan under Section 11-400 of this ordinance, the 12 month period of time shall be stayed until final approval thereof by the Planning Commission or City Council, as the case may be.

Section 3. That Section 10-204 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

10-204 Board of architectural review.

- (A) Board of architectural review established. There is hereby established the Parker-Gray District board of architectural review to be composed of seven members.
- (B) Powers and duties. The board of architectural review shall:
  - (1) Develop and recommend to city council the adoption of rules, regulations and procedures pursuant to section 9.09(j) of the city charter.
  - (2) Develop, adopt and publish criteria and guidelines, within the standards developed by city council under section 10-205, to be considered in granting or denying certificates of appropriateness and permits to move, remove, capsulate or demolish in whole or in part, provided that such criteria and guidelines shall be consistent with the provisions of this Article X and with such standards, rules, regulations, and procedures as city council may establish pursuant to section 9.09(j) of the city charter.
  - (3) Develop, adopt and publish administrative procedures which shall be as uniform as practicable and shall not be in conflict with the procedures established in this Article X.
  - (4) Be responsible for making effective the provisions of section 10-200 with respect to the Parker-Gray District.
- (C) Composition. The Parker-Gray District board of architectural review shall be composed of seven members who are residents of the city and have resided in the city for at least one year immediately preceding their appointment. Two members shall be architects. Members shall have a demonstrated interest, experience, or education in history, architecture or historic preservation. The members shall be appointed by city council for terms of three years. The term of each member shall run from July 1 of the year of appointment. Any vacancy shall be filled for the balance of the unexpired term. Any member of the Parker-Gray District board of architectural review may be removed by city council for cause after having been given a written statement of the cause and an opportunity to be heard thereon.
- (D) Conflicts of interest. Each member of the board of architectural review shall be under a continuous duty to remain conscious of and sensitive to any possible conflict of interest which may arise by virtue of his membership on the board. A member, promptly upon his determining he has a conflict of interest relative to any matter brought, shall disqualify himself from participating in any manner, publicly or privately, in the presentation,

discussion or deliberation of and the voting on any such matter. The State and Local Government Conflicts of Interest Act, section 2.1-639.1 et seq. of the Code of Virginia, shall, where applicable, control the actions of all members of the board.

- (E) Chairman and secretary. The Parker-Gray District board of architectural review shall elect its chairman from its membership and the director or his designee or designees, shall be the board's secretary.
- (F) Procedure for meetings.
  - (1) The chairman of the board of architectural review shall conduct its meetings and the secretary shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. All members of the board shall be entitled to vote, and the decisions of the board shall be determined by a majority vote. A quorum of four members present is required before the board may take any official action. The board shall meet within 40 days after a complete application for a certificate of appropriateness or permit requiring action by the board has been received by the director. The meetings of the board shall be open to the public, and a full and impartial hearing shall be granted. No proxy shall be allowed at any time. The board shall vote and announce its decision on any matter properly before it no later than at its next regularly scheduled meeting, not to exceed 60 days, after the conclusion of the public hearing on the matter unless the time is extended by mutual agreement between the board and the applicant; the failure of the board to vote and announce its decision within the required time, or within such longer period of time extended by mutual agreement between the board and the applicant, shall constitute approval of the application. Notwithstanding the provisions stated above, an application for a certificate of appropriateness or antecedent permit for a project which requires a site plan under Section 11-400 of this ordinance shall be heard and determined by the board within a reasonable time.
  - (2) No application for a certificate of appropriateness required by section 10-203(A) which has been denied by the board of architectural review shall be heard again by it within one year of the date of its denial of the application, except under such terms and conditions as shall be established by the board, within the scope of section 10-205, for rehearing the application at the time of its denial of same.
  - (3) In case of a disapproval of the moving, removing, capsulating or demolition in whole or in part of a building or structure in the

Parker-Gray District, the board of architectural review shall state its reasons therefor in writing in some detail. No application for a permit required by section 10-203(B) which has been denied shall be heard again within one year from the date of the denial of the application.

- (4) If there is an appeal taken to the city council from any denial of a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part, the board of architectural review shall forward its reasons in writing to the council.
- (5) The board of architectural review may establish its own rules of procedure for the conduct of its meetings provided that such rules are not in conflict with procedures established in section 9.09(j) of the city charter or this Article X.
- (G) Notice of hearing on permits. No application for a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part in the Parker-Gray District shall be considered unless and until the secretary to the board of architectural review has given notice of the proposed hearing before the board according to the provisions of section 11-300.

Section 4. That Section 10-206 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

10-206 Issuance and expiration of certificates of appropriateness or permits.

- (A) Issuance.
  - (1) Upon approval by the Parker-Gray District board of architectural review of any erection, reconstruction, alteration or restoration, a certificate of appropriateness, signed by the secretary of the board and bearing the date of issuance, but subject, however, to the provisions of section 10-207, shall be made available to the applicant.
  - (2) Upon approval by the Parker-Gray District board of architectural review of any application to move, remove, capsulate or demolish in whole or in part, a permit for same, signed by the secretary of the board of architectural review and bearing the date of issuance, but subject, however, to the provisions of section 10-207, shall be made available to the applicant.
  - (3) In instances where the city council on appeal approves any erection, reconstruction, alteration or restoration, or where the city council on appeal approves the moving, removing, capsulating or demolition in

whole or in part, a certificate of appropriateness or a permit to move, remove, capsulate or demolish in whole or in part bearing the date of issuance but subject, however, to the provisions of section 10-207(B), shall forthwith be signed by the mayor and made available to the applicant.

- (B) Expiration. Any certificate of appropriateness issued pursuant to section 10-206(A) and any permit to move, remove, capsulate or demolish in whole or in part issued pursuant to section 10-206(A) shall expire of its own limitation 12 months from the date of issuance if the work authorized thereby is not commenced and diligently and substantially pursued by the end of such 12-month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced and diligently and substantially pursued. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this Article X shall be excluded from the computation of the 12 months. In the case of a certificate or permit for a project that requires a site plan under Section 11-400 of this ordinance, the 12 month period of time shall be stayed until final approval thereof by the Planning Commission or City Council, as the case may be.

Section 5. That Sections 10-104, 10-106, 10-204 and 10-206 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 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 June 12, 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.

40. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Chesapeake Bay Protection Act Regulations in the Zoning Ordinance. (#19, 6/9/04) **[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. 40, 6/12/04, 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. 40,

6/12/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously by **roll-call vote**, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4358

AN ORDINANCE to repeal Article XIII (ENVIRONMENTAL MANAGEMENT) of the City of Alexandria Zoning Ordinance, and adopt in lieu thereof Revised Article XIII (CHESAPEAKE BAY ENVIRONMENTAL MANAGEMENT) (TA No. 2004-0006).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article XIII (Environmental Management) of the City of Alexandria Zoning Ordinance be, and the same hereby is, repealed.

Section 2. That Revised Article XIII (Chesapeake Bay Environmental Management), attached hereto and incorporated herein fully by reference, be, and the same hereby is, adopted 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 February 24, 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, as provided in Section 13-118 of Revised Article XIII.

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

##### **DEFERRAL/WITHDRAWAL CONSENT CALENDAR (41-45)**

##### **Planning Commission (continued)**

41. SPECIAL USE PERMIT #2004-0040  
3209 COLVIN STREET  
LEE'S AUTO BODY AND PAINT

Public Hearing and Consideration of a request for a special use permit to operate an automobile body repair establishment; zoned I/Industrial. Applicant: Issac Youngho Kim

COMMISSION ACTION: Deferred

42. SPECIAL USE PERMIT #2004-0048  
1225 POWHATAN STREET  
RUFFINO'S RESTAURANT  
Public Hearing and Consideration of a request for a review of a special use permit for a restaurant; zoned RB/Residential. Applicant: Department of Planning and Zoning

COMMISSION ACTION: Deferred

43. SPECIAL USE PERMIT #2003-0115  
301 LAVERNE AVENUE  
SUBSTANDARD LOT DEVELOPMENT  
Public Hearing and Consideration of a request for a special use permit to construct a single family dwelling on a substandard lot and for a parking reduction; zoned R/Residential. Applicant: Brett D. Rice

COMMISSION ACTION: Deferred (Applicant's request)

44. SPECIAL USE PERMIT #2004-0041  
721 KING STREET  
POTBELLY SANDWICH WORKS  
Public Hearing and Consideration of a request for a special use permit to operate a restaurant; zoned CD/Commercial Downtown. Applicant: Potbelly Sandwich Works by Kitty Carlson

COMMISSION ACTION: Withdrawn

45. ENCROACHMENT #2004-0003  
TEMPORARY OUTDOOR RESTAURANT SEATING IN OLD TOWN  
Public Hearing and Consideration of a request for an encroachment into the right-of-way on King Street in Old Town (between the waterfront and the Metro station plus one block in either direction on each cross street) for outdoor restaurant seating. Applicant: Department of Planning and Zoning

COMMISSION ACTION: Deferred (Staff's request)

**END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

City Council noted the deferrals.

\* \* \* \* \*

Council recessed from 4:13 to 4:29 p.m.

\* \* \* \* \*

Mayor Euille returned to the proceedings at this time.

\* \* \* \* \*

32. DEVELOPMENT SITE PLAN #2004-0008  
SUBDIVISION #2003-0011

Public Hearing of an appeal to a decision of the Planning Commission on May 4, 2004, for a development site plan and subdivision for construction of single family homes at 1900, 1904 and 1910 Russell Road; zoned R-12/Single-Family Residential. Applicant: Renaissance Custom Communities, LLC by Harry P. Hart attorney

(A copy of the Planning Commission report dated May 4, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 32; 6/12/04, and is incorporated as part of this record by reference.)

Ms. Fogarty made a presentation of the staff report. Mr. Wagner presented the Planning Commission perspective.

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

(a) Harry Hart, 307 N. Washington Street, attorney representing Renaissance Custom Communities, spoke in favor of affirming the decision of the Planning Commission.

(b) Kenneth Cureton, 2000 Russell Road, spoke in favor of the appeal.

(c) Janice Shaffer, 216 W. Windsor Avenue, spoke in favor of the appeal and said the neighbors on West Windsor are unanimously opposed to the development plan.

(d) Sam Del Brocco, 216 W. Windsor Avenue, spoke in favor of the appeal and said there are other options available to the builder.

(e) Dave Brown, 503 Woodland Terrace, a member of the executive board of the North Ridge Citizens Association, and chair of its zoning committee, spoke in support of the Planning Commission decision.

(f) Ellen Pickering, 103 Roberts Lane, spoke in favor of the Planning Commission decision.

(g) Barbara Harslen, 113 W. Bellefonte Avenue, spoke in support of the plan.

(h) Julie Crenshaw, 816 Queen Street, said Kenyon Larson asked her to speak on preserving as many trees as possible and the safety hazards of the corner at Russell Road. Ms. Crenshaw said the space between houses is not something to be concerned about.

(i) George Tuttle, 113 W. Bellefonte Avenue, read Mr. Larson's statement for the record to deny the appeal. Speaking for himself, he said it is a public issue and Council should vote to support the public interest and deny the appeal.

(j) Robert Cooper, 207 Lloyds Lane, spoke in support of the plan the way it is.

(k) Robert Test, 918 Prince Street, asked Council to defer the vote on this until June 22, so it can consult with staff and with him on viable alternatives, and to take another visit to the site. He said there are far more opportunities to be explored that would allow the full development of the property and not have the negative impact on the select neighbors.

Division Chief Farner clarified the intent of the Open Space Plan, the number of units, the size of the houses, the lots of record and the involvement of the community.

In response to a question from Mayor Euille, Mr. Hart stated that for lot 903, they have taken 12 and a half square feet out of it, and the house is now approximately 4,500 and 5,000 square feet, the house on lot 901 is approximately 5,500 square feet, and the house that will replace the Shepardson house is the largest and is between 8,000 and 10,000 square feet.

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Smedberg and carried unanimously, City Council denied the appeal. The voting was as follows:

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

\* \* \* \* \*

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Pepper, and carried unanimously, at 5:30 p.m., the Public Hearing Meeting of June 12, 2004, was adjourned. The voting was as follows:

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

**APPROVED BY:**

**WILLIAM D. EUILLE MAYOR**

ATTEST:

Jacqueline M. Henderson, City Clerk