

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

**Public Hearing Meeting
Saturday, January 21, 2006 - - 9:30 a.m.**

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

Absent: None

Also Present: Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Mr. Baier, Director, Transportation and Environmental Services; Mr. Caton, Legislative Director; Mr. Mason, Acting Public Information Officer and Special Assistant to the City Manager; Ms. Fogarty, Director, Planning and Zoning; Mr. Josephson, Deputy Director, Planning and Zoning; Mr. Phipps, Planning and Zoning; Mr. Webb, Historic Preservation Manager, Planning and Zoning; Mr. Neckel, Director, Finance; Mr. Dahlberg, Director, Code Enforcement; Ms. Davis, Director, Housing; Mr. Blakeley, Deputy Director, Parks, Recreation and Cultural Activities; Ms. Vosper, Landscape Architect Supervisor, Parks, Recreation and Cultural Activities; Dr. Gilmore, Director, Mental Health, Mental Retardation and Substance Abuse; Ms. Layer, Director, Extended Care Services, Mental Health, Mental Retardation and Substance Abuse; Police Lt. Uzzell; and Mr. Farid, Information Technology.

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

OPENING

1. Calling the Roll.

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

2. Public Discussion Period.

(a) Jane Kachulis, 375 S. Reynolds Street, said she is a member of the Alexandria Commission on Persons with Disabilities but is speaking as a private citizen.

She spoke to the letter the City Manager sent to Laura Lantzy dated December 21, 2005, and found it to be laughable. Ms. Kachulis said she would like to see the social workers for persons with disabilities Mr. Hartmann said exists in the Department of Human Services/Adult Services. She said when she needs assistance, she contacts the Endependence Center of Northern Virginia in Arlington, as do others with disabilities. Ms. Kachulis asked for elaboration on the quote about the impressive track record with which Mr. Hartmann credits the Alexandria Commission on Persons with Disabilities, as she has been a member of that Commission for five years and has yet to see anything impressive. She said she found Mr. Hartmann's letter to be both shallow and insulting.

(b) Laura Lantzy, 433 Old Town Court, said that a couple of months ago, her husband looked at Jane Kachulis's computer printer, as it wasn't working right, and he told her the reason Jane's printer didn't work was that it was filled with cockroaches. She said that while the City is purchasing and refurbishing a residential property for the Community Services Board that is more expensive than 99 percent of the homes in Alexandria, Jane, who is severely mobility impaired, lives on public assistance in Alexandria in conditions she was loath to describe. She said that while the City spends a lot of money on mental retardation, mental health and substance abuse, it does very little to help persons with physical and sensory disabilities. She asked Council to remedy the disparity and to get rid of the cockroaches.

(c) Charles White, 5 W. Rosemont Avenue, asked Council to solve a problem of unintended consequences to something they never thought would happen, which involves 1520-1524 King Street, which he owned for 14 years and has been a tenant there for 21 years. He said they all agree with DF Long's plan to enhance King Street with the condos, and it works, with one exception - the controversy is about five feet of the 13 feet of open space, which is causing the demolition of the back third of that building. He said that last Wednesday, the BAR turned down the rear elevation plan submitted by the developer, as they made no sense. He spoke about preserving a viable, historic building, the same goal the BAR has and the said goal the Council espouses. He submitted that one could not preserve a viable building by merely looking at the elevations, as they must breath, support the commerce on King Street, must be preserved in the context it was originally enjoyed and it must pay taxes and business licenses. He said 1520-1522 was rescued as a derelict building and with City approval and an historic designation, it was renovated on the same footprint - it was repaired, structurally secured, had heating and air conditioning, was rented and the buildings made alive and viable. To tear back the third of the building is to remove all of the bathrooms, all of the heating and air conditioning, the electrical systems and to force three businesses in the building to leave, and he said they will all leave the City, and the building will sit vacant.

(d) Jim Canavan, 908 Cameron Street, said his back garden and driveway back up to the same alley and rear lot as 115 N. Patrick Street. He said he is against the Safe Haven project being located at 115 N. Patrick Street since they first received notification of the project's existence several days after it had been presented and

approved by Council. He said the letter stated they would have no say as to the location of the housing for 12 dangerously mentally ill, drug addicted individuals in their neighborhood and that no special use permit was required and they were informed as a courtesy by the Community Services Board after the fact and inviting them to a neighborhood meeting. Mr. Canavan said the witnesses for the CSB berated them at the meeting for their lack of compassion, but these were parents who admittedly threw their own children out of the house from fear, but yet wanted to put them in their neighborhood and threaten their safety. He said the CSB has admitted that the potential residents include a murderer, several unconvicted child molesters and other seriously mentally ill people who cannot exist in normal society, who will be able to come and go as they please, are not required to take mediation and will not have their names made public. He said he was told two years ago that the building would be offices, and he asked that it be in a better place to serve the clients and the residents.

(e) Dr. Walter Grace, 908 Cameron Street, voiced his concern over the candescent practices of the Community Services Board. The change to 115 N. Patrick Street should have required a special use permit, as any other individual or business in the City would have needed one. The purpose of a SUP is to allow everyone to openly discuss the proposed changes and examine the impact the changes will have on the community--the impact on safety, the impact on tourism, and the impact on their right to a piece of mind. He said the whole process was wrongfully bypassed and Mary Riley of the CSB admits that it was done to keep it under the radar screen, and he said it sets a dangerous precedent. Dr. Grace said this decision now can be used in the future to justify other hastily conceived ideas that are requested by other individuals and businesses. He said that as elected officials, they have a moral responsibility to guarantee that their rights and safety are preserved. He asked Council to not be hoodwinked or bullied by a few groups or individuals who are either appointed or elected who throw around in a threatening manner such terms as fair housing and civil rights improperly. He said the issue has nothing to do with fair housing and if any persons civil rights are being denied, it is theirs, and if it is such a good idea, let the citizens have their voice in public before such big decisions are made.

(f) Charles Trozzo, chair of the Historical Restoration and Preservation Commission, 209 Duke Street, said that at its regular meeting this past Tuesday, it was the sense of the Commission that he come before Council with two objectives. He thanked Council for the understanding and support Council has displayed on matters of historic preservation. He said on the Gunston Hall Apartments, they are coming to another milestone of that saga and it is the sense that the Commission hopes they will stay the course and that the Council continue to support that effort to prevent the demolition of Gunston Hall Apartments. If Gunston Hall can't be preserved, there are few properties in the City that can go through that process that can be saved. He encouraged Council and said they have appreciated the efforts that have gone out of the City Manager's and City Attorney's Office to forward this.

(g) Jim Hurysz, 127 S. Fairfax Street, #202, said he is running for Congress in the 8th Congressional District as an Independent. Mr. Hurysz said it was time to retire

the Mirant Generating Station and similar coal fired generating stations across America. Mr. Hurysz spoke to Congress funding energy conservation legislation that will make that possible and he spoke to the amount spent by both NASA and the Defense Department. He spoke to the need for much greater emphasis for conservation and of his commitment, if elected to Congress, of the retirement of the Mirant Station.

Mayor Euille told Mr. Hurysz that he has every right to speak at the open meetings and voice his opinions on issues, but this is not a venue for campaigning, so he asked him to restrain in his remarks.

(h) Andy Kunz, Patrick Street, said Old Town is in trouble, as there are a record number of businesses closed and empty storefronts along King Street. There is a lot of competition from Georgetown, Pentagon Row, Clarendon, Shirlington, Bethesda, Dupont Circle, Eastern Market and other areas, and the City needs to do everything it can to make Old Town better to keep the tourists and businesses. Mr. Kunz suggested looking at Eastern Market in D.C., as the City needs to expand its Saturday market into an all-day event, staying open until 6:00 or 7:00 p.m., it needs to pack in more vendors, put in 20-30 different artists from the Torpedo Factory, it needs bands playing, more food vendors and needs to make it a more exciting event. It will bring tourists who will patronize the shops and restaurants well into the evening, and he said he would be happy to volunteer to make this happen. Mr. Kunz said his second suggestion for making Old Town great is to not locate a dangerous homeless shelter in the heart of the tourist district.

Mayor Euille invited Mr. Kunz and others to the Economic Summit to be held on Saturday, January 28, at 8:30 a.m. at the Radisson Hotel in Old Town.

Councilman Gaines asked for clarification on a comment from an earlier speaker on whether minor alterations require a special use permit.

City Attorney Pessoa said when it is talking about architectural alterations to the building that requires a certificate of appropriateness, the special use permit typically is not required for alterations to a building.

Councilman Macdonald said the question was broader than that, it was dealing with the use itself or changes to the use.

Mr. Pessoa said if it were categorized as a use that required a special use permit, changes to that use would require an amendment to the special use permit. he said this was categorized several years ago as multi-family residential, and that use does not require a special use permit.

(i) Julie Crenshaw, 816 Queen Street, said she attended all of the three-day sessions, *Mirant v. City of Alexandria*, and she was there when the Judge made his ruling. She said the lawyers the City hired did not lose the case - Council did. She said Council was cited as a Council as not giving them due process and was cited as having

an agenda before everyone was heard, and the Mayor was cited specifically with his words in quotes. Ms. Crenshaw said there are many for a long time who have wanted someone to take Council to court with the process and lack of process and have it brought back as they cannot do that. She said she hoped that Mr. Pessoa gives Council a copy of the Judge's decision and the specific elements Council was cited on as having been inappropriate. She said the political process does not hold up in Court.

Councilman Smedberg asked to hear from the City Attorney on what happened.

Mr. Pessoa said he disagreed with Ms. Crenshaw about the basis for the Judge's decision. He said the Judge did mention the hearing process, and the rapidity with which it moved and that people have a limited amount of time to speak in terms of one part of the case dealing with whether they had to exhaust the special use permit before they went forward. The basis of the Judge's decision was not the way the Council conducted the process so much as the fact that he thought the City was overstepping a local governments bounds in terms of regulating the air quality emissions from the plant, rather than focusing on traditional zoning issues. He said he would speak to Council in executive session this coming Tuesday evening, but he thought there was a good zoning basis for the decision and that outlook he took on the case was not correct. He said the trial lawyers and the witnesses did an outstanding job in presenting a cogent case of the health concerns that gave rise to Council's action. He said he did not feel it was a fair characterization to say it was attributable to the Council's hearing process.

Ms. Crenshaw said she disagreed and asked for a copy of what the Judge said, and said Mirant was never issued notification of violations and that was part of the process.

(j) Amy Slack, 2307 E. Randolph Avenue, said she enjoys listening to this portion of the meeting, as the activists show up and the people who have a particular issue show up, and she encouraged them to not stop here and to continue to get to know their City more and become more active in their City. She said she looks forward to attending the various meetings that are held on so many topics, and she knew Council attended so many of the meetings and she appreciated the amount of effort and energy Council puts into doing that. Ms. Slack encouraged anyone to take advantage of the various opportunities they have to get to know Council, the candidates for Council, the various boards and commissions that volunteer their time, and that they do it in such a fashion that shows respect for a difference of opinion, respect for the person they are talking about and respect for the office they hold.

(k) Kim Peale, 917 Cameron Street, said the Fair Housing Act as it pertains to the Safe Haven project is irrelevant, and Ms. Peale said it has been brought up repeatedly as a diversion and a means for bypassing the normal channels and the Fair Housing Act has nothing to do with this appeal. She said the CSB continually reminds Council and citizens that they would be in violation of the FHA if they don't push the program through. At the same time, in an email on January 7 to Council, they are still

careful to say that the FHA does not preempt local authority over zoning laws. On December 9, the Safe Haven information summary was mailed to the neighbors and it states that if an apartment building for 12 individuals without disabilities would be permitted at this location, then Federal law protects the rights of 12 individuals with disabilities to live there. She said an apartment with 12 individuals and around the clock staff would not be permitted at this location for anyone else without a special use permit. She asked Council, when it considers the issue, to ask CSB to get a special use permit, as it can then talk about fair housing at that hearing.

In response to a request from Vice Mayor Pepper, Mr. Pessoa said in terms of the Fair Housing Act, the determination was that it was a multi-family use, and whether it is publicly or privately owned, it needs to get the same treatment under the Zoning Ordinance, which is what the City is doing to it. If, whether it was the CSB or some other service provider or type of entity that were providing a service that required a special use permit, the City would require that entity to go through the SUP process as well. In short, the Zoning Ordinance does not treat the use differently based on the nature of the people who are enjoying the benefit of that use. He said there is nothing that even comes close to a violation of the Fair Housing Act in anything the City has done.

(l) Cynthia Shartzter, 113 N. Patrick Street, said she is a former board member of the Oakland Heritage Alliance in Oakland, California, and she spoke to appropriate adaptive re-use and said she often used the Torpedo Factory as an example of successfully and appropriate adaptive re-use when in Oakland. She quoted from the December, 2005, *Alexandria Times* about older buildings in Alexandria.

(m) Trey Hanbury, 1504 Cameron Street, spoke to the coordination between the City and the Schools in terms of managing public assets, open space and parks. He said one of the issues they faced in their community was trying to get everyone on the same page and trying to break down bureaucratic barriers that separated the assets, even though they might be located in the same place. He said he was thinking about the complex at the corner on Cameron Street, Jefferson Houston, the Durant Center, there is a pool, two playgrounds, two soccer fields and a number of community assets in one place. What they have seen is the School Board has one plan for that facility, the City has another plan and there is no over-arching coordinated plan on how to address that and make sure the landscape use, the educational gardens for children, and the playgrounds all come together in a coherent whole. He said they are looking for leadership from the City to help them help the community and bring the various assets together for something that can be an asset to the community.

Mayor Euille invited Mr. Hanbury, and anyone who wanted to attend, to the City Council/School Board monthly meeting on Monday evening at 5:30 p.m., where he would put this issue on the agenda for discussion.

(n) Malica Ahmad, member of the Alexandria Chapter of Zeta Phi Beta Sorority, Inc., said the local chapter represents close to 50 area women who are

concerned about the Alexandria community. She spoke to the issue of premature births and the dramatic increase in premature births, and the direct health care costs to employees for premature babies during the first year of their lives averages over \$41,000, compared to \$2,800 for babies born healthy and full-term. She noted the percentages of premature births in the area and the country. She said their sorority has partnered with the March of Dimes to help educate low-income women about the importance of prenatal care through their Storks Nest program.

(o) Allen Snook, 123 S. Henry Street, said his house is two blocks from the proposed Safe Haven on N. Patrick Street. Mr. Snook said he has been impressed over the last 30 years with the improvements and the Council has made good planning decisions in the way it approaches the City and its development, and it has made decisions that increase public safety, create a better business environment, and increase urban amenities. Mr. Snook asked Council to look in its heart and say, does the Safe Haven do those things for this neighborhood. If Council was to take a survey of the neighbors who live there, he asked what it thought the response would be. He asked if Council would advise its brother or sister or would they buy a property next to the Safe Haven.

(p) Cathy Puskar, 215 E. Oak Street, said she is on the board of the trustees of the Scholarship Fund of Alexandria, and she encouraged everyone to shop at Whole Foods today, as they will donate 5 percent of its proceeds today to the Scholarship Fund.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-8)

Planning Commission

3. SPECIAL USE PERMIT #2005-0113
901 NORTH ROYAL STREET
MONTGOMERY PARK
Public Hearing and Consideration of a request for a special use permit to install a new picnic shelter and informational signs; zoned POS/ Public Open Space and Community Recreation. Applicant: Department of Recreation, Parks and Cultural Activities

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 3, 1/24/06, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2005-0116
1108 JEFFERSON STREET

NANNIE J. LEE RECREATION CENTER PARK

Public Hearing and Consideration of a request for a special use permit to renovate the playground at the Nannie J. Lee Recreation Center Park; zoned POS/Public Open Space and Community Recreation. Applicant: Department of Recreation, Parks and Cultural Activities

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 4, 1/24/06, and is incorporated as part of this record by reference.)

5. **SPECIAL USE PERMIT #2005-0120**
213 EAST WINDSOR AVENUE
ALEXANDRIA FIRE DEPARTMENT
Public Hearing and Consideration of a request for a special use permit to allow a temporary trailer to be used as housing for fire department personnel during renovations of the fire station; zoned R-2-5/Residential. Applicant: Department of General Services and Fire Department

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 5, 1/24/06, and is incorporated as part of this record by reference.)

6. **SPECIAL USE PERMIT #2005-0121**
908 WEST GLEBE ROAD
SALES TRAILER
Public Hearing and Consideration of a request for a special use permit to allow a sales trailer for the West Glebe Road townhouse development; zoned RB/Residential. Applicant: NV Homes by Todd Stafford

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 6, 1/24/06, and is incorporated as part of this record by reference.)

7. **SPECIAL USE PERMIT #2005-0122**
4948 C EISENHOWER AVENUE
AUTOMOBILE REPAIR
Public Hearing and Consideration of a request for a special use permit to operate an automobile repair garage; zoned OCM (100)/Office Commercial Medium. Applicant: Rodolfo A. Herbel and Nelly E. Herbel.

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 7, 1/24/06, and is incorporated as part of this record by reference.)

- 8. SPECIAL USE PERMIT #2005-0118
605 & 607 KING STREET
LA TASCA RESTAURANT AND BAR
Public Hearing and Consideration of request for a special use permit to operate a full-service restaurant with on-premise alcohol service and live entertainment; zoned CD/Commercial Downtown. Applicant: La Tasca, Inc., by M. Catharine Puskar, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 8, 1/24/06, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Macdonald and carried unanimously, City Council approved the action consent calendar, with the removal of item #4 and considered it under separate motion:

- 3. 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.

The voting was as follows:

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

- 4. SPECIAL USE PERMIT #2005-0116
1108 JEFFERSON STREET
NANNIE J. LEE RECREATION CENTER PARK

Public Hearing and Consideration of a request for a special use permit to renovate the playground at the Nannie J. Lee Recreation Center Park; zoned POS/Public Open Space and Community Recreation. Applicant: Department of Recreation, Parks and Cultural Activities

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4, 1/24/06, and is incorporated as part of this record by reference.)

In response to a question from Councilman Smedberg about the missing park and adding on to it, Mr. Blakeley noted what happened over the last seven months with the way they look at facilities and the way they address capital improvements, and he noted that this was on hold because of the Woodrow Wilson Bridge construction. Ms. Vosper added that in the late 1990's, it did a plan and prepared it for the special use permit process for that playground, and it was put on hold due to the Woodrow Wilson Bridge project and the Route 1 interchange design had not been completed.

Councilman Gaines recommended that when it came to allocating gifts for capital improvements where it is not specific to a site but a general dedication to playground material, the process list priority sites and give Council options to select and choose, so Council can make sure they are allocating the resources where they are most needed. He also thanked Whole Foods for being a tremendous corporate citizen in the gift.

Councilman Macdonald said he would like to hear, in the budget process, whether it needs to add a little more money throughout the City and expand its effort.

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

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

9. Public Hearing on the Proposed Minor Amendments to the City Council's Strategic Plan and the Strategic Plan Status Report. (#16, 1/10/06)

(A copy of the City Manager's memorandum dated January 5, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 01/10/06, and is incorporated as part of this record by reference.)

Vice Mayor Pepper noted the additions to the Plan that were made.

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

(a) Kathleen Pepper, 5320 Phayer Avenue, chair of the Alexandria Archeological Commission, said they were pleased that the history principle has the goals and objectives added. Ms. Pepper said the Commission had suggested four minor revisions to the history principle, which are noted in their letter submitted previously.

(b) Ellen Stanton, 2600 King Street, chair of the Historic Alexandria Resources Commission, spoke in support of the amendments to the Plan for their historic resources. She said the Commission was concerned that there were no goals and objectives related to principle C, which states that the City is historic and they are pleased that goal 2 has been modified to include the historic resources and a new objective had been added to that goal.

WHEREUPON, upon motion by Vice Mayor Pepper and seconded by Councilman Macdonald, a motion was made to approve the amendments as recommended by the Committee, to include the four changes from the Archeology Commission in its letter of January 4, 2006: (1) Means 2: Delete "from the 19th Century to today;" (2) Means 3: Rewording to "We preserve our historic resources including neighborhoods, buildings, structures, places, and archaeological sites;" (3) Means 4: Replace "structures" at the end with "neighborhood character;" and (4) Means 5: Replace "colonial roots" with "heritage."

Councilwoman Woodson said new goal #7 is missing actions and projects and it is just objectives, and she wondered if it might be better incorporated under goal #6, perhaps it should be revisited, and when it comes back for final adoption, staff should take the action items and put the means in.

The voting was as follows:

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

10. Public Hearing and Consideration of Proposed Amendment to the FY 2006 Community Development Block Grant Program to Provide Funding for Improvements to the Hopkins-Tancil Courts.

(A copy of the City Manager's memorandum dated January 13, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 01/10/06, and is incorporated as part of this record by reference.)

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

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

The following item was taken out of turn:

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

12. SPECIAL USE PERMIT #2005-0117
444 SWANN AVENUE
ACE TEMPORARIES

Public Hearing and Consideration of a request for a special use permit for operation of a day labor agency; zoned I/Industrial. Applicant: Ace Temporaries, Inc. represented by M. Catharine Puskar, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated January 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 12, 1/24/06, and is incorporated as part of this record by reference.)

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

(a) Amy Slack, 2307 E. Randolph Avenue, representing the Del Ray Citizens Association, said they are concerned about the ever changing plan and square footage that will be allowed for the waiting area of the laborers, and the space should be a space that does not adversely impact the neighborhood, and they ask that the applicant provide at least an 830 square foot area and that it provide restrooms for the men.

(b) David Fromm, 2307 E. Randolph Avenue, spoke about the concern with noise and there is a request in #11 in the report on the signs and #17 requests that the applicant avoid using a back-up beeper in the area. He said his intent with that was that if commercial trucks were there to pick up employees at 4:00 or 5:00 a.m., that they refrain from backing up. He also spoke to the design of the space and that it anticipate future need, for instance, for the Potomac Yard project using day laborers.

Mr. Pessoa said on the vehicles using back-up beepers, Council could modify condition

#17 to say "if the applicant *or clients of the applicant* use..."

Councilman Gaines asked that the conditions reflect that the signs be in Spanish and English.

(c) M. Catharine Puskar, 2200 Clarendon Blvd., Suite 1300, Arlington, attorney representing the applicant, spoke in favor of the request and noted they had worked with the Del Ray Civic Association on the conditions.

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with amendments to the conditions to include: items #10, 11 and 12 reflect that signage be in Spanish as well as English; and #17 to read, "If the applicant or clients of the applicant use commercial vehicles in their business, they are encouraged to refrain from using any audio reverse gear warning device prior to 7 a.m." The voting was as follows:

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

The following item was taken out of turn:

ORDINANCES AND RESOLUTIONS

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Design-Build and Construction Management Contract Provisions of the City Code. (#14, 1/10/06) **(ROLL-CALL VOTE)**

(A copy of the City Manager's Memorandum dated January 5, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14, 1/21/06, and is incorporated as part of this record by reference.)

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 14, 1/21/06, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 14, 1/21/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to revise the design-build and construction management contract provisions of the City

Council. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4435

AN ORDINANCE to amend and reordain Section 3-3-70, Division 2 (COMPETITIVE NEGOTIATION) of Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION) of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Division 2 (Competitive Negotiation) of Article D (Contract Formation and Methods of Source Selection) of Chapter 3 (Purchases and Contractual Services) of Title 3 (Finance, Taxation and Procurement) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by enacting an amended Section 3-3-70, to read as follows:

Sec. 3-3-70 Design-build and construction management contracts.

(a) While the competitive sealed bid process remains the preferred method of construction procurement for the city, the city may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis, provided the city complies with the requirements of this section and has obtained the approval of the Commonwealth of Virginia Design-Build/Construction Management Review Board (the Review Board) pursuant to section 2.2-2406 of the Code of Virginia (1950), as amended. Provided, however, that projects undertaken pursuant to subdivision D 2 of section 2.2-4303 of the Code of Virginia (1950), as amended, shall be exempt from approval of the Review Board.

(b) Prior to making a determination as to the use of design-build or construction management for a specific construction project, the city shall employ or contract with a licensed architect or engineer with professional competence appropriate to the project to advise the city regarding the use of design-build or construction management for that project and to assist in the preparation of the request for qualifications and the request for proposals and the evaluation of such proposals.

(c) The following procedures shall be followed in the selection and evaluation of

offerors and award of design-build and construction management contracts:

(1) Prior to the issuance of a request for qualifications, the purchasing agent shall:

(i) determine that a design-build or construction management contract is more advantageous for the construction project than a competitive sealed bid construction contract, that there is benefit to the city in using a design-build or construction management contract, and that competitive sealed bidding is not practical or fiscally advantageous. The basis for this determination shall be documented in writing; and

(ii) obtain approval by the review board of the use of a design-build or construction management contract for the construction project.

(2) Upon approval by the review board of the use of a design-build or construction management contract for the specific construction project presented to the Review Board, the purchasing agent shall appoint an evaluation committee of not less than three members, one of whom shall be the architect or professional engineer employed by or under contract with the city pursuant to subsection (b).

(3) Prequalification of potential offerors:

(i) The purchasing agent shall issue a notice of request for qualifications from potential offerors by posting on a public bulletin board and advertising in a newspaper of general circulation in the city at least 10 days preceding the last day set for the receipt of qualifications. In addition, qualifications may be solicited directly from potential offerors. The request for qualifications shall indicate in general terms that which is sought to be procured, specifying the criteria which will be used in evaluating the potential offerors' qualifications, and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of offerors. The request for qualifications shall request of potential offerors only such information as is appropriate for an objective evaluation of all potential offerors pursuant to such criteria. The purchasing agent shall receive and consider comments concerning specifications or other provisions in the request for qualifications, prior to the time set for receipt of qualifications.

(ii) The evaluation committee shall evaluate each responding potential offeror's qualifications submittal and any other relevant information, and shall select a minimum of two offerors deemed fully qualified and best suited on the basis of the criteria contained in the request for qualifications. An offeror may be denied prequalification only upon those

grounds specified in section 2.2-4317 of the Code of Virginia (1950), as amended. At least 30 days prior to the date established for the submission of proposals, the purchasing agent shall advise in writing each potential offeror whether that offeror has been selected. In the event that a potential offeror is not selected, the written notification to such potential offeror shall state the reasons there for.

(4) Request for proposals.

(i) The purchasing agent shall issue a request for proposals to the selected offerors at least 10 days prior to the date set for receipt of proposals. The request for proposals shall include and define the requirements of the specific construction project in areas such as site plans, floor plans, exterior elevations, basic building envelope materials, fire protection information plans, structural, mechanical (HVAC) and electrical systems, and special telecommunications. The request for proposals may also define such other requirements as the purchasing agent deems appropriate for the construction project. In the case of a construction management contract, the request for proposals shall also define the pre-design, design phase, bid phase and/or construction phase services to be performed by the construction manager. The request for proposals shall specify the evaluation criteria to be used by the evaluation committee to evaluate proposals. The purchasing agent shall receive and consider comments concerning specifications or other provisions in the request for proposals, prior to the time set for receipt of proposals.

(ii) Each selected offeror shall submit a cost proposal and a technical proposal. Cost proposals shall be sealed separately from technical proposals and, in the case of a construction management contract, shall include the offeror's lump sum price for all requested pre-construction phase services. A lump sum price or guaranteed maximum price shall be established for all requested construction services. Upon receipt of an offeror's technical and cost proposals, the offeror's cost proposal shall be secured by the purchasing agent and kept sealed until evaluation of all technical proposals is completed.

(iii) The evaluation committee shall evaluate each technical proposal based on the criteria set forth in the request for proposals. As a part of the evaluation process, the evaluation committee shall grant each of the offerors an equal opportunity for direct and private communication with the evaluation committee. Each offeror shall be allotted the same fixed amount of time. In its conversations with offerors, the evaluation committee shall exercise care to discuss the same owner information with all offerors. In addition, the evaluation committee shall not disclose any trade secret or proprietary information for which the offeror has invoked protection pursuant to section 2.2-4342 F of the Code of Virginia. Based

upon its review of each offeror's technical proposal, the evaluation committee shall determine whether any changes to the request for proposals should be made to correct errors or omissions or to clarify ambiguities in the request for proposals, or to incorporate project improvements or additional details identified by the committee during its review. Any such changes shall be set out in an addendum to the request for proposals. Each offeror shall be provided an opportunity to amend or supplement its technical proposal to address the changes.

(iv) Based on final technical proposals, the evaluation committee shall conduct negotiations with the offerors. After negotiations have been conducted, offerors may submit sealed additive and/or deductive modifications to their cost proposals.

(v) Following receipt of the cost proposal modifications, the evaluation committee shall publicly open, read aloud and tabulate the cost proposals including any modifications submitted by an offeror.

(5) Final selection of design-builder.

(i) Following opening of cost proposals, the evaluation committee shall make its recommendation to the purchasing agent based upon its evaluation and negotiations.

(ii) Following receipt of the recommendation of the evaluation committee, the purchasing agent shall award the design-build contract, as specified in the request for proposals, to (a) the offeror which has submitted an acceptable technical proposal at the lowest cost, (b) the offeror which, in the opinion of the purchasing agent, has made the best proposal, or (c) the offeror meeting the criteria otherwise specified in the request for proposals.

(6) Final selection of construction manager.

(i) Following the opening of cost proposals, the evaluation committee shall make its recommendation to the purchasing agent based on its evaluation and negotiations. In making its recommendation, price shall be considered, but need not be the sole determining factor.

(ii) Following receipt of the recommendation of the evaluation committee, the purchasing agent shall select the offeror which, in the opinion of the purchasing agent, has made the best proposal, and shall award the contract to that offeror. Should the purchasing agent determine in writing that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the other offerors under consideration, a contract may be negotiated and awarded to that offeror.

(iii) For any guaranteed maximum price construction management contract, the contract shall provide that not more than 10 percent of the construction work (measured by the cost of the work) shall be performed by the construction manager with its own forces, that the remaining 90 percent of the construction work shall be performed by subcontractors of the construction manager, and that the construction manager shall procure such work by competitive sealed bidding or competitive negotiation.

(7) Trade secrets or proprietary information provided by an offeror in response to a request for qualifications or a request for proposals shall not be disclosed to the public or to competitors, provided the offeror has invoked protection pursuant to section 3-3-33.

(8) The city shall submit information for post-project evaluation when requested by the Review Board.

(d) Subject to the approval of the city manager, the purchasing agent may promulgate such additional procedures, not inconsistent with the provisions of this section or the rules and regulations of the Review Board, and consistent with the procedures for the procurement of nonprofessional services through competitive negotiation, as he deems necessary and appropriate to effect the selection and evaluation of offerors and the award of design-build and construction management contracts.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

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Council took a 10 minute break.

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REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Board of Architectural Review

11. Public Hearing and Consideration of an Appeal of the Board of Architectural Review for Case No. BAR-2005-0273, an Appeal of the Board's decision approving demolition/encapsulation and for Case No. BAR 2005-0274, a decision approving alterations at 115 N. Patrick Street, zoned CD Commercial. Applicant: City of Alexandria Community Services Board by L. Michael Gilmore. Appellant: Craig S. Miller, Jr., on behalf of petitioners.

(A copy of the Planning Commission report dated January 21, 2006, is on file in

the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11, 1/21/06, and is incorporated as part of this record by reference.

A copy of the appeal is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11, 1/21/06, and is incorporated as part of this record by reference.)

Ms. Fogarty and members of the Planning staff made a presentation of the staff report. Ms. Lynn Neihardt, with the BAR, also explained the BAR's reason for its decision to approve.

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

- (a) Jack Sullivan, 4300 Ivanhoe Place, spoke in opposition to the appeal.
- (b) Harry "Bud" Hart, 4604 Newcomb Place, spoke in opposition to the appeal and noted those residents who were at the BAR hearing to speak in favor of the request.
- (c) Mary Riley, 202 E. Alexandria Avenue, chair of the Community Services Board, spoke in opposition to the appeal and asked those in the audience in favor of the BAR decision to stand, to which approximately 70 people stood.
- (d) Victor M. Glasberg, 6 E. Alexandria Avenue, spoke in opposition to the appeal.
- (e) Jane Kachulis, 375 S. Reynolds Street, a member of the Alexandria Commission on Persons with Disabilities, said she is speaking on her own behalf and said the letter from Amanda Babcock, the chair of the Commission, was not discussed by the full Commission and in fact the members were polled over the telephone. She said she did not approve the letter.
- (f) Andy Kunz, Patrick Street, spoke in support of the appeal.
- (g) Terence Everitt, 719 S. Alfred Street, spoke in opposition to the appeal.
- (h) Leonard Rubenstein, 17 W. Cedar Street, spoke in opposition to the appeal.
- (i) Craig S. Miller, Jr. 915 Cameron Street, spoke in support of the appeal.
- (j) Lisa S. Brock, 915 Cameron Street, spoke in support of the appeal.
- (k) Dr. Walter Grace, 908 Cameron Street, spoke in support of the appeal.
- (l) Tom Hinely, 540 Great Falls Street, owner of 113 N. Patrick Street, spoke

in support of the appeal.

(m) Don Mela, 501 Slaters Lane, #722, spoke about the need for due process on the use.

(n) Julie Crenshaw, 816 Queen Street, spoke about the use and said it should be deferred so there can be a public hearing on the location.

(o) Kim Peale, 917 Cameron Street, spoke in support of the appeal.

(p) Cynthia Shartzter, 113 N. Patrick Street, Apt. 1, spoke in support of the appeal.

(q) Amanda Lenk, 922 Cameron Street, speaking on behalf of her husband, Boyd Walker and her child, spoke in opposition to the appeal.

(r) Gregory Vogt, 3920 Colonel Ellis Avenue, spoke in opposition to the appeal.

(s) Gerry Hebert, 5019 Waple Lane, president of ALIVE, spoke in opposition to the appeal.

(t) Bob Eiffert, 1418 Juliana Place, spoke in opposition to the appeal.

(u) Michael J. Chamowite, 118 N. Alfred Street, spoke in opposition to the appeal.

(v) Tom Call, 116 N. Patrick Street, spoke in support of the appeal.

(w) Cathy Coone-McCrary, 2721 Ice House Road, spoke in opposition to the appeal.

(x) John B. Savage, 218 N. Lee Street, Suite 204-A, the project architect, spoke in opposition to the appeal and noted the architectural details of the building.

Mr. Hart, speaking again, spoke of the many people here in support of the project, noted that it was unanimously approved by the BAR and the appeal should be denied.

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously, City Council closed the public hearing and moved to uphold the decision of the Board of Architectural Review. The voting was as follows:

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

Woodson "aye"

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Board of Architectural Review (continued)

13. Public Hearing and Consideration of an Appeal of the Board of Architectural Review for Case No. 2005-0130, a decision denying after-the-fact approval of painting previously unpainted masonry at 727 S. Pitt Street, zoned RM/Residential. APPELLANT: Linda Cole. (Deferred from the October 15, 2005 meeting at the request of the applicant.)

This item was withdrawn at the request of the appellant.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (15-16)

Planning Commission (continued)

15. SPECIAL USE PERMIT #2005-0119
4600 KING STREET SUITE 5A
ULTIMATE HEALTH SCHOOLS
Public Hearing and Consideration of a request for a special use permit to operate a training school for nurses (commercial school); zoned OCM (100)/Office Commercial Medium. Applicant: Arangu L.N. Tomdio

PLANNING COMMISSION ACTION: Deferred

16. DEVELOPMENT SPECIAL USE PERMIT #2002-0054
1261 MADISON STREET
BRADDOCK METRO PLAZA CONDOMINIUM
Public Hearing and Consideration of request for a development special use permit, with site plan, to increase density to construct a residential condominium building and for a bonus height increase for affordable housing; zoned CRMU/Commercial Residential Mixed Use High. Applicant: Madison Street, LLC by Harry P. Hart, attorney

PLANNING COMMISSION ACTION: Deferred (applicant's request)

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferrals.

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THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Vice Mayor Pepper, seconded by Councilman Macdonald and carried unanimously, the public hearing meeting of January 21, 2006, was adjourned at 1:32 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jacqueline M. Henderson, CMC City Clerk