

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, October 14, 2006 - - 9:30 a.m.

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

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Deputy City Manager; Mr. Josephson, Acting Director, Planning and Zoning (P&Z); Mr. Baier, Director, Transportation and Environmental Services (T&ES); Ms. Peterson, Urban Planner, P&Z; Mr. Hunt, Urban Planner, P&Z; Mr. Skrabak, Division Chief, T&ES/Environmental Quality; Mr. Spera, Assistant City Attorney; Mr. Farner, Division Chief, P&Z; Mr. Hannigan, Communications Director, City Manager's Office; Mr. Mason, Special Assistant to the City Manager, City Manager's Office; Chief Mesaris, Fire Chief; Ms. Davis, Director, Office of Housing; Ms. McIlvaine, Deputy Director, Office of Housing; Mr. McPike, General Services; Mr. Wagner, Principal Development Planner, P&Z; Ms. Vosper, Landscape Architect Supervisor, Recreation, Parks and Cultural Activities; Mr. Sharma, Program Supervisor, T&ES/Environmental Quality, Captain Reyes, Police; Officer Mitchell-Young, Police; Mr. Brooks, ITS; Ms. Goodwine, ITS; and Mr. Lloyd.

Recorded by: Gloria Sitton, Deputy City Clerk and Clerk of Council.

OPENING

1. Calling the Roll.

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

2. Public Discussion Period.

(a) Lawrence J. Quetsch, 1575 Forest Villa Lane, McLean, Virginia, reminded Council of a request for a proclamation recognizing the work Christ House performs in the City. Mr. Quetsch also noted that Christ House ministry has addressed the

concerns presented to them by the City's Health Department and inquired why there was an investigation initiated by the Health Department.

Mayor Euille presented Mr. Quetsch with a proclamation recognizing the work that Christ House has performed in the City over the years.

Deputy City Manager Evans stated that Christ House was not meeting the requirements of the Federal Food Code adopted by the City, but they have since made corrections to be in compliance.

(b) Michael E. Hobbs, 419 Cameron Street, spoke about the selection of the new Planning and Zoning director and the Code Enforcement director and requested that Council be mindful to maintain the planning process at its high standards.

(c) Richard W. Stepp, 3303B Commonwealth Avenue, delivered a letter to City Council about him being barred from public venues and forums.

(d) Jim Hurysz, 127 South Fairfax Street, #202, spoke about energy conservation and alternative energy sources.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR¹ (3-4)

Planning Commission

3. SPECIAL USE PERMIT #2006-0072
216 EAST BELLEFONTE AVENUE
HOME DAY CARE
Public Hearing and Consideration of a request to operate a home child day care; zoned R-25/Residential. Applicant: Dawn Abate

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 10/14/06, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2006-0078
1026 NORTH CHAMBLISS STREET
HOME DAY CARE
Public Hearing and Consideration of a request to operate a child home day care; zoned R-12/Residential. Applicant: Karina Suazanabar

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 10/14/06, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Macdonald and carried unanimously, City Council approved the action consent calendar, with the removal of docket item #3, as follows:

- 4. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

- 3. SPECIAL USE PERMIT #2006-0072
216 EAST BELLEFONTE AVENUE
HOME DAY CARE
Public Hearing and Consideration of a request to operate a home child day care; zoned R-25/Residential. Applicant: Dawn Abate

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 10/14/06, and is incorporated as part of this record by reference.)

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

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

- 5. SPECIAL USE PERMIT #2005-0042
5601 COURTNEY AVENUE; 730 SOUTH VAN DORN STREET; 750 SOUTH

VAN DORN STREET; 720 SOUTH VAN DORN STREET
VIRGINIA PAVING COMPANY

Public Hearing and Consideration of a request for a special use permit amendment to change the hours by which vehicles may exit and enter an existing asphalt plant and to permit a stack height of 20 meters; zoned I/Industrial. Applicant: Virginia Paving Company by Mary Catherine Gibbs, attorney

PLANNING COMMISSION ACTION: Recommend Approval 6-1

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 10/14/06, and is incorporated as part of this record by reference.)

Acting Director of Planning and Zoning Josephson, Transportation and Environmental Services Director Baier, Assistant City Attorney Spera, as well as environmental consultants, gave a presentation on the amendments to the special use permit (SUP), environmental concerns and other issues. Staff also participated in a lengthy discussion with Council and answered questions from Council regarding the SUP.

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

(a) Mary Catharine Gibbs, 307 North Washington Street, attorney for the applicant, spoke in support of the application and reviewed the changes that Virginia Paving Company would be willing to make in order to address the concerns of the City and the surrounding community.

(b) Dr. Laura Green, 58 Charles Street, Cambridge, Massachusetts, spoke in support of the application and addressed the environmental concerns and air quality issues surrounding Virginia Paving Company.

(c) Mr. Bob Alger, 925 East Main Street, Meriden, Connecticut, representing Lane Construction Company, spoke in support of the application and assured all the conditions would be fulfilled by the company.

(d) David Sullivan, 1900 Elkin Street, Suite 240, Sullivan Environmental, stated that the Virginia Paving Company meets the requirements under the existing scenario as well as with the proposed application conditions.

(e) Joseph Bennett, 5108 Donovan Drive, #402, speaking on behalf of the Cameron Station Civic Association, spoke in opposition of the application and presented Council with a petition from the community for the record.

(f) Arthur Impastato, 2301 Medlock Lane, spoke in opposition of the application.

(g) Mike Waite, 5233 Brawner Place, spoke support in opposition of the application.

(h) John H. Sullivan, 4300 Ivanhoe Place, spoke in opposition of the application.

(i) Janet Gregor, 2813 Davis Avenue, speaking on behalf of the Eisenhower Partnership, spoke in support of the application.

(j) Richard Ward, 5247 Tancreti Lane, spoke in opposition of the application.

(k) Andres Domeyko, 1312 Kingston Avenue, spoke in support of the application.

(l) Burke Wilson, 5205 Brawner Place, spoke in opposition of the application and requested that Council review the petition submitted earlier.

(m) Penny Waite, 5233 Brawner Place, spoke in opposition of the application.

(n) George Lowe, 324 Cameron Station Boulevard, spoke in opposition of the application.

(o) Michael Hobbs, 419 Cameron Street, speaking on behalf of the Alexandria Federation of Civic Associations, noted that many of the civic associations would like for Council to consider the impact of the proposed application on the redevelopment of the West End.

(p) Patricia McCombie, 5020 Waple Lane, spoke in opposition of the application.

(q) Kim Canter, 427 Cameron Station Boulevard, spoke in opposition of the application.

(r) Marianne Mikalic, 5007 Barbour Drive, spoke in opposition of the application.

(s) Ingrid Sanden, 5238 Bessley Place, spoke in opposition of the application.

(t) Linda Bolton, 5601 Courtney Avenue, spoke in support of the application.

(u) Dr. Mary Harper, Medlock Lane, spoke in opposition of the application.

City Council took a break at 12:35 p.m.

City Council resumed the meeting at 12:45 p.m.

(v) Christine Donnell, 4916B Barbour Drive, spoke in opposition of the application.

(w) Donald Burdett, 5203 Brawner Place, spoke in opposition of the application.

(x) Cynthia L. Clemmer, 2303 Commonwealth Avenue, spoke in opposition of the application.

(y) Pat Miller, 1806 North Cliff Street, representing the Potomac West Business Association, spoke in support of the application.

(z) Roger Willis, 5009 John Ticer Drive, spoke in opposition of the application.

(aa) Zina Raye, 5839 Pearson Lane, spoke in opposition of the application.

(bb) A.G. Gomez-Bennett, 5108 Donovan Drive, #402, spoke in opposition of the application.

(cc) Annabelle Fisher, spoke in opposition of the application.

(dd) Ken Nahigian, 5006 John Ticer Drive, spoke in opposition of the application.

(ee) John Johnson, 5242 Tancreti Lane, spoke in opposition of the application.

(ff) Ashley Profaizer, 5115 Knapp Place, spoke in opposition of the application.

(gg) Keith Nahigian, 331 Cameron Station Boulevard, spoke in opposition of the application.

(hh) Manuel Avila, 5116 Donovan Drive, #403, spoke in opposition of the application.

(ii) Bruce Kreidler, 5027 Waple Lane, spoke in opposition of the application.

(jj) Kerri Chase, 4920 Brenman Park Drive, owner of Bright Start Day Care, spoke in opposition of the application.

(kk) Linda Baker, 8703 Rolling Hill Road, spoke in support of the application.

(ll) Nadine Bacaj, 5116 Donovan Drive, #204, spoke in opposition of the application.

(mm) Michael Eads, 5239 Brawner Place, spoke in opposition of the application.

(nn) Sara Reid, 5236 Bessley Place, spoke in opposition of the application.

(oo) Katy Cannady, 20 East Oak Street, spoke in opposition of the application.

(pp) Glenn Donnellan, 5152 California Lane, spoke in opposition of the application.

(qq) Jan Chong, 5152 California Lane, spoke in opposition of the application.

(rr) Janet Bowden, 6040 Richmond Highway, #402, spoke in support of the application.

(ss) Utah Crum, 1376 Longview Drive, spoke in support of the application.

(tt) Gwendolyn Hubbard Lewis, 5246 Tancreti Lane, spoke in opposition of the application.

(uu) Blanche Hall, 18301 Shaun Road, spoke in support of the application.

(vv) Mark Shwartz, 5109 Gardner Drive, spoke in opposition of the application.

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

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

City Council continued the discussion with City staff, consultants and the attorney for the applicant on the proposed application. Council offered commentary on the public hearing and issues that were raised by members of the public.

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously, City Council deferred consideration of this item until a Council work session has been scheduled to discuss specific concerns and conditions and will bring the item back to a legislative meeting in November. The voting was as follows:

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

Please Note: Docket Items #8, #9, and #10 were considered following docket item #5.

8. DEVELOPMENT SPECIAL USE PERMIT #2005-0022
 901 WYTHE STREET
 CHARLES HOUSTON RECREATION CENTER
 Public Hearing and Consideration of a request for approval of a development special use permit, with site plan and modifications, to construct a new community recreation center, and swimming pool and playground, as well as a request for a building height increase and a parking reduction; zoned POS/Public Open Space and Recreation. Applicant: City of Alexandria, Department of General Services

PLANNING COMMISSION ACTION: Recommend Approval 6-0-1

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 10/14/06, and is incorporated as part of this record by reference.)

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

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

9. SPECIAL USE PERMIT #2006-0075
 923 KING STREET
 RESTAURANT
 Public Hearing and Consideration of a request to operate a restaurant; zoned CD/Commercial Downtown. Applicant: Allen E. Ramazon

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 10/14/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman

Gaines and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

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

10. SPECIAL USE PERMIT #2006-0054 (B)
1125 NORTH ROYAL STREET
WINDOWS OF OLD TOWN CONDOMINIUM
Public Hearing and Consideration of a request for a special use permit request for a parking reduction; zoned CD-X/Commercial Downtown. Applicant: Holladay-1125 North Royal, LLC by J. Howard Middleton, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 10/14/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilmember Lovain and carried unanimously, City Council approved the Planning Commission recommendation. The voting was as follows:

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

6. DEVELOPMENT SPECIAL USE PERMIT #2004-0048
POTOMAC YARD LANDBAY H AND PARTIAL I
2501 JEFFERSON DAVIS HIGHWAY
Public Hearing and Consideration of a request for approval of a development special use permit, with site plan, for the construction of residential, retail and office uses on Landbay H and part of Landbay I; zoned CDD-10/Coordinated Development District. Applicant: Potomac Yard Development, LLC by Duncan Blair and M. Catharine Puskar, attorneys

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 10/14/06, and is incorporated as part of this record by reference.)

Deputy City Manager Evans, Fire Chief Mesaris, Deputy Director McIlvaine and

Mr. Farner, Planning & Zoning, gave a comprehensive presentation on the proposal for Landbay H and part of Landbay I in Potomac Yard, including the proposal for a new fire station. City staff participated in a discussion with Council and answered questions from Council.

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

(a) Duncan W. Blair, 524 King Street, attorney for the applicant, spoke in support of the application.

(b) Andrew Hall, 420 East Windsor Avenue, speaking on behalf of the Potomac Yard Fire Station Affordable Housing Task Force, spoke in support of the application and requested that the City proceed with building the new fire station. Mr. Hall also presented other findings that the Task Force identified.

(c) Jay Johnson, 9 West Caton Avenue, speaking on behalf volunteer firefighters, spoke in support of the keeping the Windsor Fire Station open.

(d) Sarah Haut, 228 East Nelson Avenue, spoke in support of keeping the Windsor Fire Station open, as well as the construction of new fire station and affordable housing units in Potomac Yard.

(e) William Macmillan, 1728 Price Street, spoke in support of keeping the Windsor Fire Station open.

(f) James Schwartz, 22 West Mount Ida Avenue, spoke in support of the application.

(g) Sylvia Sibrover, 915 Second Street, spoke in support of the application.

(h) Mariella Posey, 915 Second Street, spoke in support of the application.

(i) Lana Slack, 311 East Nelson Avenue, spoke in support of keeping the Windsor Fire Station open.

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

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

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

Commission recommendation. The voting was as follows:

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

7. SPECIAL USE PERMIT #2006-0051
4007 MOUNT VERNON AVENUE
24 EXPRESS

Public Hearing and Consideration of a request for the continuance of a nonconforming convenience store; zoned NR/Neighborhood Retail Overlay. Applicant: UAC Land & Building, LLC t/a 24 Express by William C. Thomas, Jr.

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 10/14/06, and is incorporated as part of this record by reference.)

Acting Planning Director Josephson made a presentation of the staff report and responded to questions from Council. Officer Mitchell-Young and Captain Reyes, Police, also responded to questions from Council.

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

(a) Mr. William C. (Tom) Thomas, Jr., attorney for the applicant, spoke in favor of the application.

In response to a question from Mayor Euille, Captain Reyes stated that condition no. 26, regarding security by off-duty police officers, provided a way to deter crime from occurring at the site. Captain Reyes stated that the calls for service in Arlandria peak at 10 p.m. to 2 a.m., and ceasing alcohol sales at 10 p.m., could help curtail some of that activity and make this business' policy mirror others who close at 10 p.m., with the exception of the CVS and two other 7-Eleven stores.

(b) Mark Maurice, 505 Shorter Lane, spoke in support of the application.

(c) Patricia Anne Myers, 3910 Bruce Street, #106, spoke in support of the application and against restrictions and conditions.

(d) Sherry Bolden, 510 Four Mile Road, #102, spoke in support of the application.

(e) Martin Franco, 3910 Bruce Street, #106, vice president of the Arlandria Chirilagua Housing Cooperative, spoke in support of the application.

(f) Kathleen Henry, 3910 Bruce Street, #106, a board member of the Arlandria Chirilagua Housing Cooperative, spoke in support of the application.

(g) Sharon Blackwell, 3832 Elbert Avenue, representing Lennox Place at Sunnyside Homeowners Association, noted the community's desire for a safe neighborhood and noted that the association was not opposed to continued operation of 24 Express.

(h) Pamela S. Williams, 3802 Elbert Avenue, vice president of Lennox Place at Sunnyside Homeowners Association, spoke about the alcohol in relation to crimes in the neighborhood and requested that Council weigh the convenience of the sale of alcohol against the impact of alcohol on the surrounding areas.

(i) Kevin Beekman, 3905 Elbert Avenue, Lennox Place at Sunnyside Homeowners Association, spoke about neighborhood crime in Arlandria.

(j) Tom Fitzgerald, 3803 Charles Avenue, board member of Lennox Place at Sunnyside Homeowners Association, spoke about the entrance to Four Mile Run Park, the traffic by 24 Express and the unused property nearby.

(k) Nathalie Simon, 3905 Elbert Avenue, spoke about the litter from the business and the efforts in the neighborhood to clean up the litter. Ms. Simon noted that she supported the conditions relating to litter, which include the installation of two new trash receptacles and picking up trash within 75 feet of the property.

(l) Paul Cox, 3822 Charles Avenue, commented on the alcohol abuse in the area and stated that putting sensible restrictions on 24 Express would be a good first step toward rehabilitation of the area.

(m) Johnny Brent, 4603 Apple Tree Drive, an employee of 24 Express, spoke in support of the application.

(n) Jeffrey Luemrung, 6106 Rocky Way Court, spoke in support of the application.

(o) Chai Samatha, 7510 Ramblewood Court, Annandale, spoke in support of the application.

(p) Norman Oakley, 511 Four Mile Road, #815, spoke in support of the application.

(q) Charles Niphadkabin, 6032 Picketts Walk, spoke in support of the application.

Mr. Thomas gave rebuttal remarks, noting the proposed conditions of the

application and pointing out that the business would suffer if the customers went to other businesses.

WHEREUPON, upon motion by Councilman Gaines, seconded by Councilmember Lovain and carried unanimously, City Council closed the public hearing. The vote was as follows:

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

WHEREUPON, a motion was made by Councilman Krupicka, seconded by Councilman Smedberg, to approve the Planning Commission recommendation with the following amendments: (1) Condition No. 26 shall state, "**The applicant shall hire a uniformed and licensed security firm Monday through Thursday and shall hire off-duty police officers Friday through Sunday, from 6:00 p.m. until closing,**" and (2) Condition No. 29 shall state, "**The applicant shall cease alcohol sales at 10 p.m. daily.**"

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried 5-2, City Council amended the motion to read, "Condition No. 29 shall state, "**The applicant shall cease alcohol sales at 11 p.m. daily.**" The voting was as follows:

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilmember Lovain and carried 5-2, City Council amended the motion adding an additional condition to develop a comprehensive alcohol policy for the Arlandria area that the applicant will be required to abide by without another public hearing. The voting was as follows:

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried 6-1, City Council approved the Planning Commission recommendation with the following amendments: (1) Condition No. 26 shall state, "**The applicant shall hire uniformed and licensed security firm Monday through Thursday and shall hire off-duty police officers Friday through Sunday, from 6:00**

p.m. until closing; (2) Condition No. 29 shall state, " **The applicant shall cease alcohol sales at 11 p.m. daily;**" and (3) an add an additional condition to develop a comprehensive alcohol policy for the Arlandria area that the applicant will be required to abide by without another public hearing. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSION AND COMMITTEES (continued)

11. CITY CHARTER 9.06 CASE #2006-0004
4630 RALEIGH AVENUE

Consideration of the acquisition of 6,223 square feet of property at 4630 Raleigh Avenue to expand Holmes Run Park as part of the Open Space Master Plan, and pursuant to the provisions of Section 9.06 of the City Charter; zoned R-12/Residential. Applicant: City of Alexandria.

PLANNING COMMISSION ACTION: APPROVED 7-0

(THIS ITEM IS NOT SET FOR PUBLIC HEARING BUT IS FOR CITY COUNCIL'S INFORMATION ONLY - NO APPROVAL IS NECESSARY.)

(A copy of the Planning Commission report dated October 3, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 10/14/06, and is incorporated as part of this record by reference.)

City Council received the information.

ORDINANCES AND RESOLUTIONS

12. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Eisenhower East Small Area Plan to Allow Height Increases in CDD No. 2 (Lane Development/ATA Site.) (#9, 10/10/06) **(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. 12; 10/14/06, 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. 2 of Item No. 12; 10/14/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by

Councilwoman Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to amend the Eisenhower East Small Area Plan to Allow Height Increases in CDD No. 2. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4464

AN ORDINANCE to amend and reordain the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to such master plan as Master Plan Amendment No. 2005-0005 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

WHEREAS, the City Council of the City of Alexandria finds and determines that:

1. In Master Plan Amendment No. 2005-0005, an application has been made to amend the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, to increase the maximum height for Block 19 from 150 to 250 feet, for the project approved as DSUP No, 2004-0016.
2. The said amendment has heretofore been approved by the planning commission and city council after full opportunity for comment and public hearing.
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, be, and the same hereby is, amended to increase the maximum height for Block 19 from 150 to 250 feet, for the project approved as DSUP No. 2004-0016.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing amendment to the Eisenhower East Small Area Plan Chapter of 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 3. That all provisions of the of the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this

ordinance be, and same hereby are, repealed.

Section 4. That the 1992 Master Plan (1998 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 5. That the city clerk shall transmit a duly certified copy of this ordinance to the Clerk of the Circuit Court of the City of Alexandria, Virginia, and that the said Clerk of the Circuit Court shall file same among the court records.

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

- 13. Public Hearing, Second Reading and Final Passage of an Ordinance to Authorize the Encroachment into the Public Right-of-Way at 2203 Mill Road (Lane Development/ATA Site.) (#10, 10/10/06) (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. 13; 10/14/06, 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. 2 of Item No. 13; 10/14/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to authorize the encroachment into the public right-of-way at 2203 Mill Road. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4465

AN ORDINANCE authorizing Eisenhower Lane CFRI Venture, LLC, and its successors in interest, to establish and maintain an encroachment for an entrance canopy over the public right-of-way.

WHEREAS, Eisenhower Lane CFRI Venture, LLC, and its successors in interest, ("Owners") are or will be the Owners of the property located at 2203 Mill Road,

in the City of Alexandria, Virginia; and

WHEREAS, Owners desire to establish and maintain an entrance canopy which will encroach over the public right-of-way along the Port Street facade of the building at 2203 Mill Road; and

WHEREAS, the public right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owners be, and the same hereby are, authorized to establish and maintain an encroachment over the public right-of-way in the City of Alexandria, said encroachment consisting of an entrance canopy, extending approximately eight feet over the public right-of-way of Port Street, on the facade of the building at 2203 Mill Road, as approved by DSUP No. 2004-0016, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owners of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owners maintaining, at all times and at their own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owners as named insureds and shall provide for the indemnification of the City of Alexandria and Owners against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein

to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owners shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owners. Nothing in this section shall relieve Owners of their obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

- (a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Owners' property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.
- (b) The Owners shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owners maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owners the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owners, and shall not be liable to Owners for any loss or damage to the structure of the encroachment or personal property within the

encroachment area, caused by the removal.

Section 8. That this ordinance shall be effective upon the date and at the time of its final passage.

- 14. Public Hearing, Second Reading and Final Passage of an Ordinance to Vacate a Portion of the Public Right-of-Way at 418 West Braddock Road. (#11, 10/10/06) (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. 14; 10/14/06, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in 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. 14; 10/14/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to vacate a portion of the public right-of-way at 418 West Braddock Road. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4466

AN ORDINANCE to vacate a portion of the public right-of-way adjacent to 418 West Braddock Road (VAC No. 2005-0003).

WHEREAS, Richard and Elizabeth Tonner (Owners) have applied for the vacation of a portion of the public right-of-way at the northwest corner of West Braddock and Ruffner Roads, on the west side of West Braddock Road, adjacent to 418 West Braddock Road, in the City of Alexandria, Virginia; and

WHEREAS, the Planning Commission of the City of Alexandria at one of its regular meetings recommended approval of the vacation of such public right-of-way at this location; and

WHEREAS, the Council of the City of Alexandria has approved the recommendation of the Planning Commission; and

WHEREAS, viewers, V. Rodger Digilio, chair, Bill Brandon and Kellie Meehan, have been, and again by this ordinance are, duly appointed by the Council of the City of Alexandria, to make their report in conjunction with this vacation; and

WHEREAS, the procedures required by law, including the publication of notice in a newspaper of general circulation in the City of Alexandria, have been followed in conjunction with this vacation; and

WHEREAS, in consideration of the report of the viewers, of other evidence relative to this vacation and of compliance with the conditions set forth in this ordinance, the Council of the City of Alexandria, has determined that the portion of the public right-of-way to be vacated is no longer desirable for public use and that the public interest will not be harmed by this vacation; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the vacation of the public right-of-way to Owners, as shown on the plat of vacation attached hereto and incorporated herein by reference, be, and the same hereby is, approved.

Section 2. That the vacation made and provided by the preceding section of this ordinance be, and the same hereby is, subject the conditions set forth below:

1. Owners shall prepare a plat of consolidation, showing the property vacated and all easements therein, and consolidating such property with their abutting property, and the plat of consolidation shall be filed with the director of planning and zoning and among the land records of the City.
2. Easements shall be reserved for all existing public and private utilities within the area vacated. Owners shall show all easements on the plat of consolidation.
3. Owners may not construct any buildings, or improvements, including driveways, parking spaces, on the vacated area and may not use the vacated land area to derive any increased development rights for the lands adjacent to the vacated area, including increased floor area, subdivision rights or additional dwelling units. This restriction shall appear as part of the deed of vacation and shall also appear as a note on the consolidated plat, both of which shall be approved by the director of planning and zoning prior to recordation.
4. Owners shall pay the sum of \$7,300.00 to the City for the vacated land.

Section 3. That the city manager be, and hereby is, authorized to do on behalf of the City of Alexandria all things necessary or desirable to carry into effect this

vacation, including the execution of documents.

Section 4. That the city clerk be, and hereby is, authorized to attest the execution by the city manager of all documents necessary or desirable to carry into effect this vacation, and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 5. That this ordinance shall be effective upon the date and at the time of its final passage; provided, however, that no recordation of this ordinance shall have any force or effect unless and to the extent annexed to a deed, executed by the city manager and attested by the city clerk, conveying the property vacated to Owners. The execution of such deed shall constitute conclusive evidence of compliance with the provisions of this ordinance. Such deed shall be recorded and indexed in the name of the City of Alexandria, as grantor, and Owner as grantee, and such recordation shall be done by the grantee at their own expense. In the event no such deed is recorded within 18 months of the effective date, this ordinance shall be void and of no effect.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (15)

Planning Commission (continued)

15. SPECIAL USE PERMIT #2006-0074
5355 TRUMAN AVENUE
HOME DAY CARE
Public Hearing and Consideration of a request to operate a child home day care; zoned R-5/Residential. Applicant: Rokshana Bhuiyan

PLANNING COMMISSION ACTION: Deferred

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferral.

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilman Gaines, seconded by Councilwoman Pepper and carried unanimously, City Council adjourned the public hearing meeting of October 14, 2006, at 7:25 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Gloria A. Sitton, CMC Deputy City Clerk