

EXHIBIT NO. 2

7  
10-18-08

**ATTACHMENTS FOR CITY  
COUNCIL DOCKET ITEM #7,  
TEXT AMENDMENT #2008-0004  
SMALL BUSINESS ZONING**

**Remarks of Timothy S. Elliott to the Planning Commission on Item #4, Case #2008-0004**

July 1, 2008

Mr. Chairman, Members of the Commission:

My name is Tim Elliott, I live at 422 So. Fairfax St. and am a member of the Board of the Old Town Civic Association. I was designated OTCA's representative to the City Manager's Small Business Task Force (SBTF). I agreed with many of the recommendations of the SBTF but felt compelled to file a minority report, setting forth where I agreed and where I differed with the task force. Many of the final recommendations were derived from information and suggestions supplied to the Task Force by Rich Josephson. The Task Force changed some of the recommendations in what appeared to be minor, but nevertheless important detail. Mr. Josephson's version was apparently lost somewhere in the various iterations.

When you met in May, staff recommended, among other things, administrative SUPs for small restaurants in Old Town. I and the OTCA opposed that recommendation for what we considered good and sufficient reasons. Staff's latest report no longer subscribes to that recommendation and for that we are grateful. The staff report allows that there seems to be no urgency requiring a change in the SUP process such that the opinions and perceived impact on the local residents would be made afterthoughts. In deed the only possible effect of the former recommendation would have been to make it a slightly period for an entrepreneur wishing to start a restaurant in Old Town to go through the process. The downside of the former recommendations would have been limiting public input (a cherished part of the process in Alexandria) and probably changing the business mix in the King Street corridor, by pushing out other businesses in favor of restaurants.

There has been no demonstrated need for an administrative SUP process to favor restaurants at the expense of public opinion and other businesses. Staff recognizes that. I hope you do also, and ask that you support the current recommendation. I ask that you not tear down a system that by all factual accounts works.

Thank you for your time.

COMMENTS OF JOANNE LEPANTO  
ON BEHALF OF THE SEMINARY HILL ASSOCIATION, INC.  
BEFORE THE ALEXANDRIA PLANNING COMMISSION  
REGARDING DOCKET ITEM #4  
TEXT AMENDMENT #2008-0004  
SMALL BUSINESS ZONING

Tuesday, July 1, 2008

My name is Joanne Lepanto and I live at 4009 North Garland Street. I am the president of the Seminary Hill Association, Inc., and I am speaking on behalf of Seminary Hill tonight.

Seminary Hill is very supportive of Alexandria's small businesses. We are regulars at local restaurants in the West End and elsewhere, we love the small shops in our strip malls and Old Town, we depend on the services provided by small businesses, and we recognize that Alexandria's small businesses enhance the vibrancy of our City.

However, we do have concerns with some of the proposals before us.

Regarding Staff's recommended changes to the Zoning Ordinance presented in its June 20, 2008 Update Memo, we respectfully request the following modifications.

1. First, we do not support the proposal to change "child care center and preschool" uses in commercial zones from SUP uses to permitted uses because of the special traffic, parking, drop-off and pick-up activities associated with these uses. At a minimum these uses should be subject to the ASUP process, and notification to all property owners within 200 feet should be required. (p. 31, 1.A.)
2. Second, with regard to the proposal to change "small commercial schools" to permitted uses, we request clarification in the text that this only applies within commercial zones. (I believe this is Staff's intent.) (p. 31, 1.B.)
3. Third, with regard to restaurants in "shopping center[s], hotel[s], or industrial or flex space center[s]," we oppose eliminating the SUP requirement and making these permitted uses. At a minimum these uses should be subject to the ASUP process, and notification to all

Yes

property owners within 200 feet should be required. Mr. Hobson will elaborate on this in his comments. (p. 31, 3.A.)

4. Fourth, with regard to changing “child care center[s] and preschool[s] in residential zones in a church or school building” from SUP uses to ASUP uses, this change should only be made if accompanied by a requirement for notification to all property owners within 200 feet of the proposed site. (p. 31, 2.A.)
5. Fifth, regarding “overnight pet accommodations in a shopping center,” we believe that this should remain a SUP use due to concerns about odors and noise. If this use is changed to an ASUP use, this change should only be made if accompanied by a requirement for notification to all property owners within 200 feet of the proposed site. (p. 31, 2.D.)
6. We also have concerns with two other uses which Staff proposes to change from SUP uses to ASUP uses—“outdoor garden centers” and “outdoor food and crafts markets.” Because these uses involve truck and automobile traffic and parking issues, possible structures such as tents, and other related activities, these should remain SUP uses if located in, or within 200 feet of, a residential zone. Again, however, if this change is approved, it should be accompanied by a requirement for notification to all property owners within 200 feet. (p. 31, 2.B. and 2.C.)
7. Regarding the proposed “Minor Amendment Process,” Seminary Hill requests that either (1) notification of all such “Minor Amendment” applications be given to property owners within 200 feet of the site, or (2) that all such applications be subject to the ASUP process. We also request that Planning Commission decisions may be appealed to City Council. It is very important that all decisions may be appealed to our elected officials.
8. Regarding the proposed ASUP process, a comment period of as little as 21 days is unacceptably short to review materials and possibly have to call a special meeting. The public should be given **at least 31 days** to comment. Anything less puts an undue burden on civic associations. Seminary Hill meets regularly once a month. We have 21 board positions and our bylaws do not allow votes by proxy.

Anything less than 31 days might necessitate calling a separate meeting. That means finding a date when we can achieve a quorum, and finding a location to meet. This is no easy feat.

In closing, I think our SUP process has served us very well over the years. It is regrettable that these proposed changes would reduce public participation in the planning process, which is such a fundamental part of Alexandria's essence. It sets us apart from—and, I believe, head and shoulders above—other jurisdictions. Does Alexandria really want to be more like Arlington? Fairfax County? Loudon County? Montgomery County? Or any of the other jurisdictions researched by Staff? (I found it interesting that Leesburg, Middleburg and Purcellville were not included in this research.)

I worry a little about possible unintended, unanticipated consequences of all of these proposed zoning changes. The proposed 2-year review is better than not having any review but, if it turns out that some of these changes are problematic, those uses already permitted and approved during those two years would be grandfathered. The toothpaste would be out of the tube, with no way to get it back in.

Thank you for your consideration.

Statement of Michael E. Hobbs  
on behalf of the  
Old Town Civic Association  
Planning Commission  
July 1, 2008

Small Business Zoning  
Text Amendment #2008-0004

Thank you, Chairman Wagner and members of the Commission. I am Michael Hobbs, speaking on behalf of the Old Town Civic Association.

Most public policy choices do not suggest a clear-cut conclusion in favor of one choice over another. Rather, they challenge the policymaker to weigh the merits of legitimate but competing interests and to strive for the most rational and equitable balance of those interests—and that is certainly the case here.

On the one hand, you have the important value of minimizing the cost, complexity and administrative burden on entrepreneurs seeking to open or expand their business in Alexandria. If a prospective applicant is driven away by the prospect of facing seemingly needless and endless barriers in the permitting process, neither he nor the public will be well served.

On the other hand, you have the important value of public awareness and participation in that process. If the public is not aware of the applicant's plan, and has no opportunity to discuss it, public understanding of and support for the conclusion will be impaired, damaging the applicant's interest as well.

In the present case, as the staff report observes, you are weighing the goal of streamlining the zoning process, on the one hand, while preserving the important protections of the special use permit process, on the other.

The recommendation before you reviews a wide array of uses, and proposes that many of them be treated henceforth as permitted uses, or uses permitted with an administrative SUP, instead of uses requiring the full SUP process. In most cases, we think the recommendations have the balance right. We might have differed on some of the details, but on balance we believe these proposals are not unreasonable and warrant our support.

In the case of restaurant applications in Old Town, we did not agree that the recommendation before you in May struck the proper balance. By their very nature, restaurant applications in Old Town are probably the sort of use where the protections afforded by the SUP process are most essential. Sacrificing those protections by doing away with the public hearings at the end of the process would have only a marginal benefit to the applicant, and probably little if any benefit in bringing needed new businesses to King Street—where we have no scarcity of restaurants. Indeed, the result over time might be counterproductive to the goal of promoting and preserving a healthy mix of retail uses, restaurants and residences in Old Town.

We believe that the balance was properly struck in the Old Town Small Area Plan, the Old Town Restaurant Policy, and most recently, the King Street Retail Strategy, adopted by this Commission and the Council just three years ago; and for that reason, we urge you to adopt the staff recommendation to retain the SUP process for restaurants in Old Town.

We have addressed these points in more detail in a memorandum submitted for your record, and we thank you for your consideration.

To: Members of the Planning Commission

From: Michael Hobbs, Old Town Civic Association

Date: July 1, 2008

Re: Small Business Zoning: Restaurants in Old Town

We welcome this opportunity to address Old Town Civic Association's concerns and position about the proposed Small Business Zoning revisions which are on your July 1<sup>st</sup> Planning Commission docket. Our particular concern has to do with the treatment of restaurant applications in Old Town, a subject which we have followed with keen interest during the work of the Small Business Task Force, and previously during the development of the *King Street Retail Strategy*. We applaud the staff recommendation that the present SUP process be retained for that purpose, and believe the following considerations support that conclusion.

Objective of the Study. The objective of the Small Business Zoning study, as stated in City Manager Hartmann's initial charge to the Small Business Task Force, was to identify reforms which could streamline and facilitate the process by which small business applications are considered by the City, while ensuring that the opportunity for public knowledge of and effective participation in that process is preserved.

Balancing Efficiency vs. Participation. OTCA believes that if the Small Business Zoning revisions were to have been adopted as drafted for the Commission's May 6 meeting, this balance between administrative efficiency and public participation would have been skewed much too far toward the "efficiency" end of that equation, at least so far as it impacts on restaurant applications in Old Town.

Efficiency Gain is Minimal. The Planning Department advises that the processing of a restaurant SUP application may typically take three to five months, depending on the time of year that it is filed. Truncating that process by removing the requirement of Planning Commission and City Council public hearings at the end would, undeniably, reduce the time required to complete it. We submit, however, that the time savings would be modest, but the corresponding loss of opportunity for effective public participation substantial.

Typically, a staff report and recommendation on an SUP application are published on the last Thursday of the month, preceding the Planning Commission's meeting on the first Tuesday of the following month. The Commission's recommendation is forwarded to Council for its consideration and action at its Public Hearing meeting eleven days later. Thus, abandoning the two public hearings (Commission and then Council) would "save" only sixteen days after the staff's examination of the application and discussion with the applicant have enabled it to conclude that an SUP can appropriately be granted, and its report to that effect has been published.



Loss of Public Participation is Substantial. On the other side of the ledger, however, setting aside the public hearings would take the final decision from the hands of the two known and publicly accountable bodies—the Planning Commission and the City Council—and devolve it instead to the chief administrator of the Planning Department. Under the best of circumstances, and with the best of intentions, the opportunity for public participation in a process which culminates with an appointed employee can only approximate, not replace, the transparency and accessibility of the process which culminates with the Planning Commission and Council.

Policy of the Old Town Small Area Plan. The interface between restaurants in Old Town and the surrounding residential community is not a new issue. The Old Town Small Area Plan states as the guiding policy for Old Town that

Old Town is unique in that it maintains a very fine residential area in close proximity to the commercial establishments on King and Washington Streets. While both the residential and the commercial areas are currently strong, there is a fragile balance which must be preserved if both are to remain strong and if the ambience of Old Town is to be preserved. Further, the commercial areas contain a mix of activities that is unique within the metropolitan area, and that mix needs to be protected if the character of Old Town is to be preserved. . . . The City should do whatever possible to retain a mix of restaurants and shops providing a diversity of goods and services in the King Street area.

Old Town Restaurant Policy. The Old Town Restaurant Policy, a specific amendment of the Old Town Small Area Plan adopted later by Council, provided that

City Council shall not approve a request for special use permit for any new restaurant, carryout or fast food establishment or an expansion of an existing restaurant, carryout or fast food establishment, unless it finds that the request does not significantly impact nearby residential neighborhoods. City Council shall consider the cumulative impact of the proposal and the number of already established restaurants, carryouts, fast food establishments and the number of food service seats, bar seats and standing service areas in the immediate area. In the case of an expansion or other intensification, the entire operation of the establishment may be taken into account in determining its impact upon the nearby residential neighborhoods.

and stated that, in making such determinations, Council would consider such factors as the availability of off-street parking; the predicted impact of the restaurant on parking supply in the adjacent neighborhood, the proposed operating hours, proposed alcohol service, and the control of litter.

King Street Retail Strategy (June 2005). The question was revisited in the *King Street Retail Strategy*. Among the many proposals advanced in that context was the idea of authorizing administrative SUPs for restaurants of less than 50 or 60 seats, at least in the portion of Old Town west of Washington Street. The Planning Commission considered that proposal and

weighed its public policy implications, but did not find that it was necessary for revitalizing King Street and enhancing its competitiveness—and indeed that it might be counterproductive to the goal of “retain[ing] a mix of restaurants and shops providing a diversity of goods and services in the King Street area.” Instead, the *King Street Retail Strategy* recommended by the Planning Commission to the Council specifically reaffirmed the guiding policy statement of the Old Town Small Area Plan, and confirmed that “the intent of the Strategy is to maintain the Old Town Restaurant Policy (part of the Old Town Small Area Plan) that directs the City to carefully scrutinize new restaurants for their impact on the neighboring residential community.” (*Alexandria King Street Retail Strategy*, p. 5-5.) The recommendation was adopted unanimously by the Planning Commission in May 2005, and unanimously by the City Council in June 2005.

Supply and Demand for Restaurants in Old Town. OTCA does not believe that any intervening change of facts or circumstances warrants or requires that the Commission and Council now reach a diametrically opposite conclusion. So far as we know, no new or expanded restaurant application in Old Town has been denied an SUP in the intervening three years. Indeed, a number of new or expanded restaurant applications have been granted during that time—after full opportunity for public review and participation—and are now successfully operating, with substantial support and patronage from the surrounding neighborhood.

Nor do we believe that any shortage of restaurants in Old Town compels so dramatic a change of policy. OTCA’s representative on the Small Business Task Force recently conducted an informal “census” of restaurants on King Street and counted 60 between the river and the King Street Metro—not including those in hotels that have no sign directly on King Street, and counting just those directly on King Street: not including others within two blocks of King on the intersecting streets. (He estimates that there may be 20 or more additional restaurants in the “King Street Corridor.”)

Indeed, the *King Street Retail Strategy* itself concluded that restaurants were probably the one retail category of which there was already a more than sufficient supply in the corridor. A consulting study for the City examined present and projected demand in almost two dozen retail categories (grocery, pharmacy, apparel, hardware, furniture, personal services, etc.), as compared to existing uses. Restaurants were the *only* category for which the present supply exceeded “warranted demand” not only at the time of the study, but projected well into the future. And as noted, a significant number of new restaurants and restaurant seats have been added since then.

Unique Impact of Restaurants on Nearby Residential Neighborhoods. As recognized in the Old Town Restaurant Policy, restaurants—by their very nature—may have potentially the greatest negative impacts on surrounding residential neighborhoods in close proximity. Unless carefully managed according to appropriate SUP conditions, they may generate odor or litter that impact the nearby residences. Late operating hours, combined with alcohol service, may generate rowdiness that interferes with neighbors’ quiet enjoyment of their homes. Patrons may park on nearby residential streets for hours at a time. None of these impacts are characteristic of other retail uses, of the sort that are welcomed by visitors and residents alike. If *any* retail use in the King Street corridor, or in Old Town generally, merits the most careful scrutiny and oversight that the full SUP process entails, restaurants are that category.

Parking Impacts. The *King Street Retail Strategy* proposed a number of initiatives to respond to the chronic and increasing shortage of parking (for residents and business patrons alike!) in Old Town; but little has been accomplished in the intervening years. In discussing the individual zoning recommendations generally, the staff report stresses that “**parking requirements will not be changed** by the proposed changes. Any use that is deficient in parking will require a parking reduction SUP to be approved.” (Updated Staff Report, p. 36; emphasis in the original.) But there is no present parking requirement for establishments in Old Town’s central business district, so the assurance that the requirement “will not be changed” provides little comfort.

Impact on Retail Uses. Changing the SUP policy in hopes of facilitating and encouraging the location of new restaurants in Old Town could have a seriously counterproductive result. The *King Street Retail Strategy* urged that “the City should address the expressed concern that restaurants have the ability to generate rents higher than the typical independent retail store, and could, over time, replace more traditional retail shops.” (*KSRS*, June 2005, p. 5-6.) That tendency may be most pronounced for outlets of national restaurant chains—but the City cannot discriminate against applicants merely on the basis of their ownership.

Restaurant Policy in Nearby Jurisdictions. We note that, as the Commission requested, staff has surveyed the restaurant regulations of other area jurisdictions, and reports that “no other jurisdiction in the Washington, D.C. area requires special permits for restaurants in its zoning regulations as broadly as does the City of Alexandria.” We would urge, however, that none of the other jurisdictions (with the possible exception of Annapolis, MD) has an historic district that is at all comparable to Alexandria’s, in its quality, its importance, its contribution to the economy of the city, and its fine balance of commercial and residential uses. The other jurisdictions might better be advised to try to emulate Alexandria in this regard, rather than the other way around! And in any case, staff reports that the research also supports the conclusion that

**In certain circumstances, special permits are required for restaurants in all area jurisdictions.** Staff research also indicates that all area jurisdictions contain provisions in their zoning ordinances requiring special permits for restaurants in certain zones or certain instances. . . . Such special permits are similar in nature to special use permits in the City of Alexandria, although they may be named ‘special exceptions’ or ‘special permits’ instead. (Exhibit 5, p. 19; emphasis in the original.)

If the revised Small Business Zoning text changes are adopted as now recommended by staff—including the retention of the regular SUP process for restaurants in Old Town—the host of other moves away from a “citywide, full SUP” requirement for restaurants would support a characterization, for Alexandria as for the other area jurisdictions, that special permits are required for restaurants not generally, but only in certain circumstances, certain zones or certain instances.

Consistency. A large part of the Small Business Zoning study has sought greater consistency in regulation and administration, to relieve confusion and uncertainty in the application process. That is certainly an admirable goal, but it should be understood to be an aspiration, not an absolute. The very essence of our planning and zoning policy recognizes that “one size does not fit all”—which is why we have carefully constructed Small Area Plans, and carefully differentiated zones, rather than a single Master Plan and single zone citywide, with no differentiation among Alexandria’s unique neighborhoods and its commercial, residential industrial and other zones. Consistency is a worthy goal, but it should not be sought to so great an extent that it sacrifices our ability to plan intelligently to reflect and preserve the unique diversity of our City.

Value of the SBTF Recommendations Generally. Our concentration on the question of restaurant SUPs in Old Town should not obscure OTCA’s support for the vast majority of the recommendations that emerged from the Small Business Task Force. Residents in Old Town benefit from the proximity of a thriving locally-oriented retail and restaurant community on King Street, and are its principal patrons: we would derive no benefit from a needlessly cumbersome administrative burden that frustrates and defeats the aspirations of community-serving retail shops and restaurants in our neighborhood. Nor, indeed, do we object to the *general thrust* of the Small Business Task Force’s recommendation that certain restaurant uses (e.g., in shopping centers, or those with “less than a certain number of seats that do not have live entertainment, dancing or are a certain distance from residential uses” [emphasis added]) be permitted “by right with conditions,” or through an administrative process, in most areas of the City. Our concern, rather, is that because of its unique history and circumstances, including the policy history regarding restaurants in Old Town, the general rule that might apply to restaurants in most areas of the city should not apply in this setting.

Summary. OTCA believes that the Small Business Zoning recommendations purport to aid small businesses, in particular, by reducing the administrative burden on them of a time- and resource-consuming application and permitting process; and that is a goal which we generally endorse. As applied to Old Town, however, the recommendations as drafted for the Planning Commission’s May 6 meeting would have had a marginal effect on reducing administrative burdens, but at the cost of promoting an unneeded enlargement of the population of restaurants on King Street, with the potential for individual and cumulative negative impacts on the nearby residential neighborhood, without the protections of the regular SUP process that has pertained in this area heretofore, and contrary to the policy that was carefully reviewed and unanimously reconconfirmed by the Planning Commission and Council just three years ago.

We appreciate this opportunity to discuss our concerns, and thank you for your consideration.

To: Members of the Planning Commission  
From: Michael Hobbs, Old Town Civic Association  
Date: June 30, 2008  
Re: Small Business Zoning: Restaurants in Old Town

OTCA President Poul Hertel has asked if I might send you some notes about Old Town Civic Association's concerns and position about the proposed Small Business Zoning revisions which are on your July 1<sup>st</sup> Planning Commission docket. Our particular concern has to do with the treatment of restaurant applications in Old Town, a subject which we have followed with keen interest during the work of the Small Business Task Force, and previously during the development of the *King Street Retail Strategy*. We applaud the staff recommendation that the present SUP process be retained for that purpose, and believe the following considerations support that conclusion.

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Summary. OTCA believes that the Small Business Zoning recommendations purport to aid small businesses, in particular, by reducing the administrative burden on them of a time- and resource-consuming application and permitting process; and that is a goal which we generally endorse. As applied to Old Town, however, the recommendations as drafted for the Planning Commission's May 6 meeting would have had a marginal effect on reducing administrative burdens, but at the cost of promoting an unneeded enlargement of the population of restaurants on King Street, with the potential for individual and cumulative negative impacts on the nearby residential neighborhood, without the protections of the regular SUP process that has pertained in this area heretofore, and contrary to the policy that was carefully reviewed and unanimously reconconfirmed by the Planning Commission and Council just three years ago.

We appreciate the opportunity to have met with several of you to discuss our concerns, and thank you for your further consideration.

P.O. Box 25881  
Alexandria, VA 22314  
June 12, 2008

Mr. Rich Josephson  
Deputy Director, Planning & Zoning Department  
City of Alexandria  
City Hall  
301 King Street  
Alexandria, VA 22314

Dear Mr. Josephson:

RE: Proposed Changes to SUP Process

We have reviewed recommendations which have emerged from the Small Business Task Force, which propose modifying the current Zoning Ordinance amendments to streamline the process for special use permit (SUP) applications, and we have significant concerns.

Although we understand the need to simplify the permit process for small businesses and would also like to encourage small business development in our neighborhood, we do not believe the shift to more administrative approvals offers sufficient protection to the public, particularly in transitional neighborhoods such as ours.

Current zoning in the historic Parker-Gray neighborhood is a hodgepodge of residential and commercial uses. In many cases, single family homes and townhomes are located directly adjacent to parcels that are zoned either commercial or mixed-use. As a result, commercial activity can have a significant and profound impact on the quality of life of neighborhood residents, and, thus, we believe such applications need to receive a high level of scrutiny by both the City and the public. The current zoning ordinances provide this safeguard and the opportunity for neighbors to speak directly to Planning Commission and City Council about their concerns.

In particular, we are worried about the proposed zoning changes that would apply to child care centers and restaurants.



Mr. Rich Josephson  
Planning & Zoning Department  
June 9, 2008

neighborhoods or streets. This is particularly important as some structures in our neighborhood suitable to be restaurants have no parking lots or access to off-site parking.

We feel these changes would provide the public greater protection while still easing the burden on small businesses.

In addition, given the proposed expansion of activities subject to just an administrative SUP, we feel the suggested 21 days does not provide sufficient time for the public to learn of the new business, particularly given the administrative SUP does not require direct notification of adjacent property owners. These property owners deserve a sufficient opportunity to research the proposal, and provide their comments to city staff.

We request that period be extended to 30 days. This would ensure that local civic associations will have sufficient time to alert residents of potential new business activity during their monthly meeting.

Thank you for your consideration.

Sincerely,

Inner City Civic Association Board of Directors

Leslie Zupan, President  
Hunter McIntosh, 1<sup>st</sup> Vice President  
Daniel Johnson, 2<sup>nd</sup> Vice President  
Charlotte Landis, Treasurer  
R. Collin Lee, Secretary



Richard Josephson/Alex  
05/16/2008 09:56 AM

To Kendra Jacobs/Alex@Alex  
cc  
bcc  
Subject Fw: Proposed SUP Changes

**keep this for distribution for July 1 PC meeting**

— Forwarded by Richard Josephson/Alex on 05/16/2008 09:55 AM —



Mtallmer@aol.com  
05/16/2008 09:49 AM

To richard.josephson@alexandriava.gov  
cc  
Subject Proposed SUP Changes

Matthew Tallmer  
631 N. Alfred Street  
Alexandria, VA 22314

Dear Mr. Josephson:

I am writing to strongly support the proposed SUP changes.

I have served on BFAAC for the past ten-plus years, and, thus, have intimate knowledge of the Economic Sustainability Task Force recommendations. In addition, I know many small business owners here in the City, and have listened to their complaints. Finally, since my wife was involved in a start-up, I know first-hand the hassles and problems with starting a small business in Alexandria.

All I can say is: Thank you. It is about time.

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Statement of Michael E. Hobbs  
before the  
Planning Commission  
on behalf of the  
Alexandria Federation of Civic Associations  
May 6, 2008

Text Amendment #2008-0004  
Small Business Zoning

Thank you, Chairman Wagner, Vice Chairman Komoroske, and members of the Commission; I am Michael Hobbs, Co-Chair of the Alexandria Federation of Civic Associations, speaking on behalf of the Federation.

The Federation is a coordinating group for our member associations all across Alexandria. As such, it is not our purpose to substitute our opinion on substantive issues for that of our member associations which may be most affected, but rather to reinforce and support their efforts. In keeping with that policy, we do not appear today to speak to the merits of the standards that would apply to particular uses in particular neighborhoods, according to the proposal before you. We have taken no position on those questions, but defer to the representation by our member associations and citizens in the affected neighborhoods.

We take the unusual step of appearing before you, rather, because we are deeply concerned about the process that is here proposed for the consideration of Special Use Permits in the future—and indeed about the process by which that proposal itself comes before you for consideration. We believe that process is thus far woefully incomplete, and that your acting on it in its present form and at the present time would ill serve the objective of an SUP process which minimizes administrative burdens while preserving an open process for public participation and a responsible balance of applicants' and neighborhoods' interests in the outcome.

The SUP process has been at the core of Alexandria's zoning and land use policy for as long as anyone now involved will remember. It has been the essential protection to assure that citizens and their associations, and other nearby property owners, will have an effective opportunity to review and comment on applications for uses for which, by their nature, special scrutiny might be appropriate.

The proposition is pretty straightforward, and pretty sensible: where a particular kind of use is likely to pose little or no difficulty or concern in the zone for which it is proposed, it can be permitted without further public process. But where the nature of the use is such that it could potentially have negative impacts on other residential or commercial property owners in the neighborhood, they should be notified of the proposed use and given an opportunity to be heard, in order that any questions or concerns they may have may be taken fairly into account before a permit is granted.

The proposal before you represents a fundamental, wholesale change in the City's land use policy and process, particularly as to whether and how the opportunity for effective public participation will be assured.

In the normal SUP process that has heretofore pertained, when a new use has been proposed, the applicant, nearby property owners, the Planning Department and this Commission have had the opportunity to review such applications on a case-by-case basis, and to consider whether, in the particular facts and circumstances of the case, specific conditions might reasonably be applied which would reduce or avoid any negative impacts on the surrounding neighborhood, while not unduly restricting or burdening the applicant's use. The applicant and the neighbors enjoy both procedural and substantive safeguards to assure that their interest will be fully heard and fairly taken into account.

In the proposal before you, for a wide range of uses, and in many or all areas of the City, those protections would be entirely replaced by a new process, according to which permits would be granted, not by the Planning Commission and Council after a public hearing, but rather by the Director of Planning after an administrative process. And the substantive conditions that might attach to a permit would be, not those deemed necessary and appropriate for the particular case after such a public process, but a set of standard conditions spelled out in the zoning ordinance for application to all such cases.

We do not believe that so fundamental a change has been warranted by a showing that the SUP process per se is a substantial or significant burden on small business applicants, any more than it is on residents, civic associations, nearby property owners, or other interested parties. Once an application has been reviewed by staff and found appropriate for approval, it can be docketed for public hearing and acted on within a matter of days—ordinarily no more than two or three weeks, counting the Planning Commission hearing and the City Council action later that month. The time and administrative burden on applicants can and should be addressed by streamlining the application process; by better informing all applicants as to the requirements up front; by better coordinating necessary action by all City departments; and by rationalizing the administrative requirements (particularly in Code Enforcement, as we understand is now under way) in the process leading to and following the grant of the SUP—not by eliminating the public participation at the end of that process.

So fundamental a change, if undertaken at all, should not be undertaken lightly, and certainly not without the fullest opportunity for public participation, careful consideration, and informed comment on the proposed change itself. Many of the Federation's member associations have long played an active and responsible role in reviewing special use applications in their areas, conferring with applicants and staff, and helping to craft the substantive conditions which would address any concerns that the particular use might pose in their neighborhoods. If those case-by-case substantive conditions are to be superseded by an array of standard conditions set forth in the ordinance, those standard conditions should themselves be subject to the most thorough review and deliberate consideration before they are adopted. Where the proposal contemplates changes in the standards that would be applicable to particular uses in particular neighborhoods,

the Commission should seek and give great weight to the recommendations of our member associations about the impacts in their areas. The Federation requests that our member associations be afforded that opportunity.

All of our member associations are interested in the process that is to be employed. To the extent the present SUP process is to be superseded by a new administrative SUP process, we have a distinct interest, and many questions, about whether and how the new process would provide comparable safeguards for public participation. Would the application requirements be changed, and if so, how? By what means would notice would be provided, and to whom? Would applications be electronically accessible? Would copies or synopses of applications be sent to interested parties, automatically or on request? Would civic associations have the opportunity to discuss applications with the applicant, and with the Planning Director, before decisions were made? Would there be opportunity for oral and/or written testimony? Would a staff report and recommendation be published (as in the present process) and comment invited before the final decision? Would civic associations, nearby property owners or individual citizens have the right to request that an application be docketed for hearing by the Planning Commission? Would there be a right of appeal of the Planning Director's decisions—by whom and to whom?

Staff's efforts at outreach on this proposal thus far are commendable, but we submit that the process is incomplete. Almost all of the discussion thus far—with the Federation and with some of our member associations—has been about the types of uses which might or might not be moved from the “full SUP” process to the “administrative SUP” or “permitted use” category—not about the substantive conditions or the procedure that would apply.

Regardless of one's view on any of the substantive or procedural changes, “the devil is in the details”—and we would like the opportunity to study and comment on those details carefully. But the 92-page proposal before you—including 69 pages of text amendment spelling out the proposed substantive and procedural standards—was first posted on the City website just seven days ago—not even remotely sufficient time for our members, or any other interested parties, to study those proposals, to confer about the long-term impacts on their neighborhoods, and to prepare and present considered advice and recommendations to the Planning Commission.

We did notice that one of the proposed procedures would be to permit 21 days (after notice) for citizen comment on a proposed administrative SUP. If that is a reasonable period for comment on a specific application, would it not be reasonable to afford a more substantial opportunity—and certainly more than six or seven days—for citizen review and comment on the very process and standards according to which all administrative SUPs henceforth are to be granted?

In order to provide such opportunity, the Federation urges that you defer action on this proposal at least until September, so that all of our members will have a full and complete opportunity to study the proposal, discuss it with their board and members as appropriate, and give you their considered recommendations before you act.

Thank you for your consideration.



Faroll Hamer/Alex  
05/04/2008 04:33 PM

To Richard Josephson/Alex@ALEX, barbara727@comcast.net,  
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cc

bcc

Subject Fw: Approval Standard for Mount Vernon Avenue

— Forwarded by Faroll Hamer/Alex on 05/04/2008 04:32 PM —



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05/02/2008 05:28 PM

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Subject Approval Standard for Mount Vernon Avenue

Folks,

We on the Del Ray Citizens Land Use Committee just received word that the Small Business Task Force is recommending a sweeping change in approval standards and it will affect Mount Vernon Avenue. We need time to go over this and we feel that it would be cheating affected citizens not to bring it before our membership, as well as the Del Ray Business Association. We would greatly appreciate the deferral of this until the July Planning Commission meeting. We do realize how very busy you are now in May and June so rather than rush with the approval now please give us time to fully discuss the ramifications of these changes.

Thank you very much.

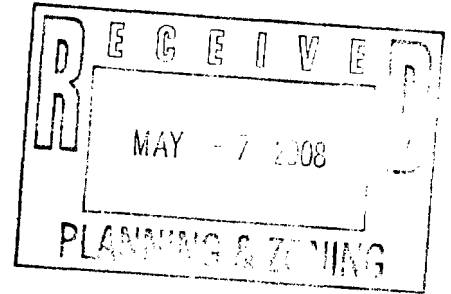
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A E D P

File Rich

May 2, 2008

Alexandria Planning Commission  
Eric Wagner, Chairman  
City Hall, Room 2100  
Alexandria, VA 22314



Dear Mr. Wagner,

The Alexandria Economic Development Partnership strongly supports the recommendations from the Department of Planning and Zoning regarding text amendments to the Zoning Ordinance relating to the establishment and operation of small businesses in Alexandria. We also commend the Small Business Task Force for its hard work in identifying overly onerous regulations. We as a community prize our small businesses, and it is important for us to reduce or eliminate obstacles to businesses establishing themselves and succeeding in our City.

AEDP believes that these recommendations are a positive step in positioning Alexandria as a business-friendly City. Although they promote business, the recommendations also consider the very crucial partnership between neighborhoods and business, and arrive at a balanced approach to meet the needs of both.

We respectfully urge you to approve the text amendment before you tonight.

In addition to the text amendment recommendations, AEDP proposes the following be considered:

1. Businesses locating in a DSUP property should be subject to the same standards as those not in a DSUP property. (III, F4 Effects of Text Changes on Existing SUP's re: DSUP) If the DSUP is found to be more restrictive than the new amendments, then the new amendments govern. If the DSUP is found to be less restrictive than the new amendments, the DSUP should govern.
2. The extension of the public comment time-period from 14 to 21 days could be a financial burden to the business owner, who many times is committed to paying rent before the business opens and while the permit is undergoing review. The extra seven days would delay both the opening of the business and its contribution to the tax base.

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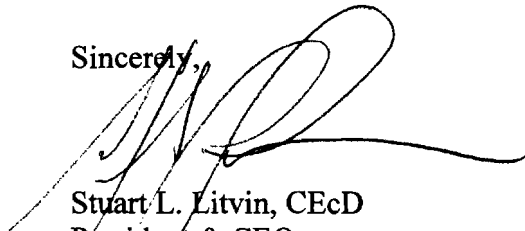
3. There are areas of the city in addition to Eisenhower West where Light Automotive Repair should also be listed as eligible for an Administrative SUP. Those include the industrial and flex space locations in the Oakville and South Pickett Street areas.

We feel there are ample safeguards for neighborhoods in the Administrative SUP provisions, as the regulations allow for the businesses to be inspected for compliance 1 year and 3 years after approval or when there are complaints, and the Director of P&Z may revoke the permits.

Both the staff recommendations as well as the three issues noted above would create a positive situation for both businesses and the City. By reducing the time frame for approvals, business cost will be significantly reduced, allowing them to contribute to the City's tax base more expeditiously.

Thank you for your consideration of this request.

Sincerely,



Stuart L. Litvin, CEcD  
President & CEO

cc: LHampton, Vice Chair  
AArtemel, Treasurer  
FHamer, Director-P&Z