

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

**Public Hearing Meeting
Saturday, April 17, 2010 - - 9:30 a.m.**

Present: Mayor William D. Euille, Vice Mayor Kerry J. Donley, Members of Council Frank H. Fannon, Alicia Hughes, K. Rob Krupicka, Redella S. Pepper, and Paul C. Smedberg.

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Banks, City Attorney; Ms. Evans, Deputy City Manager; Ms. Hamer, Director, Planning and Zoning (P&Z); Mr. Johnson, Chief Financial Officer, Office of Management and Budget (OMB); Mr. Baier, Director, Transportation and Environmental Services (T&ES); Ms. Blackford, Communications Officer, City Manager's Office; Mr. Castrilli, Communications Director, City Manager's Office; Ms. Smith-Page, Director, Real Estate Assessments; Mr. Lerner, Deputy Director, T&ES; Ms. Wright, Division Chief, P&Z; Ms. Davis, Director, Office of Housing; Ms. Seau, Division Chief, Office of Housing; Mr. Keeler, Division Chief, Office of Housing; Ms. Triggs, Director, Finance; Mr. Canfield, City Architect, P&Z; Mr. Wagner, Principal Planner, P&Z; Ms. Frizzell, Assistant City Attorney, City Attorney's Office; Mr. Saenz, ITS; Police Captain Ogden; and Mr. Lloyd.

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

OPENING

1. Calling the Roll.

Mayor Euille called the meeting to order and the Deputy City Clerk called the roll. All members of Council were present.

2. Public Discussion Period.

(a) Maya Alcalá, 417 Queen Street, a student from George Washington Middle School, presented the findings of an environmental study conducted by the students on the effects of the BRAC-133 project on Winkler Preserve.

(b) Brendan Alarcon, 466 West Taylor Run Parkway, a student from George Washington Middle School, presented the findings of an environmental study conducted by the students on the effects of the BRAC-133 project on Winkler Preserve.

(c) Meridith Caine, 409 Jackson Place, a student from George Washington

Middle School, presented the findings of an environmental study conducted by the students on the effects of the BRAC-133 project on Winkler Preserve.

(d) Hope Lawson, 205 Park Road, a student from George Washington Middle School, presented the findings of an environmental study conducted by the students of the effects of the BRAC-133 project on Winkler Preserve.

(e) Tanisha-Sellers Gordon, 59 Yale Drive, a student from George Washington Middle School, presented the findings of an environmental study conducted by the students on the effects of the BRAC-133 project on Winkler Preserve.

(f) Lauren Forrer, 3408 Cameron Mills Road, a student from George Washington Middle School, presented the findings of an environmental study conducted by the students on the effects of the BRAC-133 project on Winkler Preserve.

(g) Darius Holland, 1223 Wythe Street, a student from George Washington Middle School, presented the findings of an environmental study conducted by the students on the effects of the BRAC-133 project on Winkler Preserve.

(h) Mindy Lyle, 5235 Tancreti Lane, representing the Cameron Station Civic Association, spoke on the administrative special use permit process and a special use permit (SUP) for Virginia Paving site to install a natural gas line on their property. Ms. Lyle stated that the opposition to the SUP is coming from those not in favor of the use of the administrative process to amend SUPs.

(i) Chris O'Dell, 2001 Mill Road, representing the Sheriff's Association, requested that City Council consider including a merit/step increase and the addition of a Q step in the FY 2011 budget for sworn public safety staff.

(j) Jean Antone, 704 South Fairfax Street, spoke about the budget and the cuts that she would like Council to consider during its deliberations, including staff reductions, a freeze on hiring, no merit increases, a cap on all spending, and no hiring of consultants.

(k) Gary Carr, 216 Aspen Street, spoke about the proposal to close the Warwick Pool and requested that Council reconsider the proposal to close the public pool giving the citizens of the City more recreation options.

(l) Kimberley Kaplan, 418 Queen Street, spoke about the proposed elimination of the off-peak and Saturday AT4 DASH bus route and the impact it would have on public transportation in the area.

(m) Sean Casey, 119 South Iris Street, representing the Alexandria Police Department, requested that Council consider including a merit increase in the FY 2011 budget for Public Safety and General employees. Mr. Casey noted that without an increase, employee morale will drop and some may began to take the training they

have gained here in Alexandria to other jurisdictions.

(n) Annabelle Fisher, 5001 Seminary Road, reported that she had to intervene in an argument between two individuals because 911 would not send an officer to the site located in the West End near Beauregard Street. Ms. Fisher requested a meeting with Police Chief Cook and the West End Police Commander and would like to have the matter reviewed.

(o) Jack Sullivan, 4300 Ivanhoe Place, representing the Seminary Hill Association, requested that a parcel of land in the western boundary of the Seminary Hill Small Area Plan be detached from the Beauregard Planning process. Mr. Sullivan stated that the issue is the unwarranted removal of the area from the Seminary Hill Small Area Plan, which will remove it from effective neighborhood over site. Mr. Sullivan requested that Council intervene immediately in the matter to provide a solution to the matter.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3) Planning Commission

3. DEVELOPMENT SPECIAL USE PERMIT #2009-0017
1500 EISENHOWER AVENUE
ALEXANDRIA SANITATION AUTHORITY
Public Hearing and Consideration of a request for a development special use permit, with site plan and modifications, to construct additional treatment facilities and for an increase in building height; zoned UT/Utilities. Applicant: Alexandria Sanitation Authority represented by Jonathan Rak, attorney
PLANNING COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated April 6, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 04/17/10, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilman Smedberg and carried unanimously, City Council approved the action consent calendar, considering docket item number 3 under a separate motion. The approval was as follows:

3. City Council approved the Planning Commission recommendation.

The voting was as follows:

Donley "aye" Fannon "aye"

Smedberg	"aye"	Hughes	"aye"
Euille	"aye"	Krupicka	"aye"
	Pepper	"aye"	

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

4. Public Hearing on an Ordinance to Establish the Real Estate and Personal Property Tax Rates for Calendar Year 2010.

(A copy of the City Manager's memorandum dated March 10, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 04/17/10, and is incorporated as part of this record by reference.)

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

(a) Katharine Medina, 801 N. Fairfax Street, Suite 402, representing the Alexandria Chamber of Commerce, requested that Council not impose further taxes on businesses in Alexandria with an add-on business tax. Ms. Medina stated that the Alexandria Chamber of Commerce and its members believed that any additional tax would stunt Alexandria's economic growth, leading to higher rents and stagnant wages. Ms. Medina suggested that Council consider a one-cent across the board tax on all property (residential and commercial) letting everyone share the tax burden equally.

(b) Jesus Anedoudo, 3801 Mt. Vernon Avenue, representing Tenants and Workers United, spoke in support of the proposed property tax rate in order to provide the community with quality services such as health care, education and affordable housing.

(c) Carla Parducci, 3801 Mt. Vernon Avenue, representing Tenants and Workers United, spoke in support of the proposed real estate and personal property tax rates. Ms. Parducci noted that the City is losing many residents because of the lack of affordable housing.

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilman Smedberg and carried unanimously, City Council closed the public hearing on the ordinance to establish the real estate and personal property tax rates for Calendar Year 2010. The voting was as follows:

Donley	"aye"	Fannon	"aye"
Smedberg	"aye"	Hughes	"aye"
Euille	"aye"	Krupicka	"aye"
	Pepper	"aye"	

5. Public Hearing on the Draft FY 2011-2015 Consolidated Plan for Housing and Community Development, Draft FY 2011 One-Year Action Plan, and Draft Analysis of Impediments to Fair Housing Choice.

(A copy of the City Manager's memorandum dated April 12, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 04/17/10, and is incorporated as part of this record by reference.)

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

(a) Eric Bonetti, 8 West Nelson Avenue, representing RPJ Housing, spoke in support of affordable housing in Northern Virginia and offered continued RPJ Housing support of maintaining and preserving affordable housing in the region.

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing on the Draft FY 2011-2015 Consolidated Plan for Housing and Community Development and Draft Analysis of Impediments to Fair Housing Choice and docketed the FY 2011-2015 Five-Year Consolidated Plan for Housing and Community Development, Analysis of Impediments to Fair Housing Choice, and FY 2011 One-Year Action Plan for final Council consideration on May 11, 2010. The voting was as follows:

Donley	"aye"	Fannon	"aye"
Pepper	"aye"	Hughes	"aye"
Euille	"aye"	Krupicka	"aye"
	Smedberg	"aye"	

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

6. CDD CONCEPT PLAN #2009-0002
MASTER PLAN AMENDMENT #2009-0002
DEVELOPMENT SPECIAL USE PERMIT #2009-0004
TRANSPORTATION MANAGEMENT PLAN SUP #2009-0063
ENCROACHMENT #2010-0004
STREET NAME CASE #2009-0002 and #2009-0009
2210 EISENHOWER AVENUE
HOFFMAN BLOCKS 11 AND 12
Public Hearing and Consideration of a request for A) an amendment to the CDD Concept Plan for the Hoffman properties B) an amendment to the Eisenhower East Small Area Plan to increase height limits on Blocks 11 and 12; C) a development special use permit, with site plan and modifications, for a mixed-use residential and retail development, approval of a density bonus for affordable housing in accordance with Section 7-700 of the Zoning Ordinance, increased penthouse heights and to construct more than one penthouse; D) approval of an amendment to the transportation management plan for Blocks 2-5, 9A & B, 11, 12, 24 and 25A; and E) approval of an encroachment by underground electrical transformer vaults into the public right-of-way; F) approval

of two street names; zoned CDD-2/Coordinated Development District-2.
Applicant: Hoffman Company, LLC represented by Jonathan Rak, attorney

PLANNING COMMISSION ACTION:

CDD RECOMMEND APPROVAL 6-0
MPA RESOLUTION ADOPTED 6-0
DSUP RECOMMEND APPROVAL w/ amendments 6-0
TMP RECOMMEND APPROVAL 6-0
ENC RECOMMEND APPROVAL 6-0
SN APPROVED 6-0

(A copy of the Planning Commission report dated April 6, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 04/17/10, and is incorporated as part of this record by reference.)

Ms. Wright, Division Chief, Planning and Zoning, gave a presentation of the proposed project and responded to questions from Council about the proposal.

Councilman Smedberg stated he was not feeling well and was leaving early, but wanted to note his support for the project.

Please note: Due to illness, Councilman Smedberg left the meeting at 11:30 a.m.

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

(a) Jonathan Rak, 1750 Tysons Blvd, McLean, attorney for the applicant, spoke in favor of the application and offered some amendments to conditions in a letter dated April 16, 2010. Mr. Rak responded to questions from Council about the proposal.

WHEREUPON, upon motion by Councilwoman Hughes, seconded by Vice Mayor Donley and carried 6-0, City Council closed the public hearing and approved the Planning Commission recommendation with the following changes: (1) amend condition 8f as stated in the letter dated April 16, 2010 from the applicant by adding the phrase, "*Provided that the City agrees to reimburse the applicant (by form of credit to final site plan fee, building permit, and/or CO fee, at applicant's election) for all costs incurred in connection with designing the portion of the plaza that the applicant does not have the obligation to construct in the Stage 2 PDSUP Infrastructure Phasing Plan on Sheet 10 of the Preliminary Plan;*" (2) strike condition 15f; (3) amend condition 72 to state, "*The Applicant shall design and construct the Eisenhower Avenue widening improvements along Block 12, including but not limited to the sidewalk area, travel lanes and median, prior to the release of the final certificate of occupancy for Block 12. The design of these improvements shall be to the satisfaction of the Directors of T&ES and P&Z. If,*

however, the City notifies the Applicant, prior to the commencement of construction for either Blocks 11 or 12, that the City will be undertaking construction of the Eisenhower Avenue widening improvements including the frontage of Block 12, then the Applicant shall provide a payment of \$795,882.00 to the City in the satisfaction of the Applicant's obligation under Condition 26 of CDD 2005-0002 to pay the equivalent of the actual cost of constructing the Eisenhower Avenue improvements. This payment is required prior to the release of the first certificate of occupancy for Block 11 or 12, provided, however, that in no event shall payment be made later than 24 months from the commencement of construction of either Blocks 11 or 12;" (4) amend condition 50 to delete the first sentence of the condition and add the following sentence in its place, "The developer shall provide the mix of fifty-six affordable set-aside rental units as set forth in the unit matrix submitted to the Director of Housing on April 15, 2010;" and (5) restore condition #51 to the original condition recommended by staff stating, "for a period of 30 years from the date of initial occupancy of each affordable unit." The voting was as follows:

Hughes	"aye"	Fannon	"aye"
Donley	"aye"	Krupicka	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	absent	

ORDINANCES AND RESOLUTIONS

- Public Hearing, Second Reading and Final Passage of an Ordinance to Make Supplemental Appropriations For the Support of the City Government for Fiscal Year 2010.

(A copy of the City Manager's memorandum dated April 8, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 04/17/10, 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. 7; 04/17/10, 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. 7; 04/17/10, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried 4-2 by roll-call vote, City Council closed the public hearing and adopted an ordinance to make supplemental appropriations for the support of the City Government for Fiscal Year 2010. The voting was follows:

Donley	"aye"	Fannon	"no"
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Pepper	"aye"	Hughes	"no"
Euille	"aye"	Krupicka	"aye"
	Smedberg	absent	

The ordinance reads as follows:

ORDINANCE NO. 4651

AN ORDINANCE making supplemental appropriations for the support of the government of the City of Alexandria, Virginia, for fiscal year 2010.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the funds hereafter named the amounts hereafter stated that are required to defray certain expenditures and liabilities of the city for fiscal year 2010, the source of such amount being external grant awards for which revenues were authorized and adjusted after July 1, 2009, but not appropriated, and further that the Council does hereby allot the amount so appropriated to the several city departments for fiscal year 2010, as follows:

SPECIAL REVENUE FUND

ESTIMATED REVENUE:

Commonwealth Attorney	\$	4,953
Planning		612,000
Transportation and Environmental Services		2,641,385
Police		78,744
Housing		1,253,194
Mental Health/Mental Retardation/Substance Abuse		258,945
Health		25,000
Human Services		297,224
Historic Alexandria		164,399
Office on Women		<u>3,066</u>
Total Estimated Revenue	\$	<u>5,338,910</u>

APPROPRIATION:

Commonwealth Attorney	\$	4,953
Planning		612,000
Transportation and Environmental Services		2,641,385
Police		78,744
Housing		1,253,194
Mental Health/Mental Retardation/Substance Abuse		258,945
Health		25,000

Human Services	297,224
Historic Alexandria	164,399
Office on Women	<u>3,066</u>
Total Appropriation	<u>\$ 5,338,910</u>

Section 2. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2010, the source of such amount being Capital Project Fund revenue, and further, that the Council does hereby allot the amount so appropriated for fiscal year 2010, as follows:

CAPITAL PROJECTS

ESTIMATED REVENUE:

Capital Projects	<u>\$ 2,352,860</u>
Total Estimated Revenue	<u>\$ 2,352,860</u>

APPROPRIATION:

Capital Projects	<u>\$ 2,352,860</u>
Total Appropriation	<u>\$ 2,352,860</u>

Section 3. That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city for fiscal year 2010, the source of such amount being Capital Project Fund revenue, and further, that the Council does hereby allot the amount so appropriated for fiscal year 2010, as follows:

CAPITAL PROJECTS

ESTIMATED REVENUE:

Capital Projects	<u>\$ 11,238</u>
Total Estimated Revenue	<u>\$ 11,238</u>

APPROPRIATION:

Capital Projects	<u>\$ 11,238</u>
Total Appropriation	<u>\$ 11,238</u>

Section 4 That the Council of the City of Alexandria, Virginia, does hereby

make provision for and appropriate to the fund hereafter named the amounts hereafter stated that are required to defray certain expenditures and liabilities of the city for fiscal year 2010 the source of such amounts being external grant awards for which the proceeds were authorized and adjusted after July 1, 2009 but not appropriated, and further, that the Council does hereby allot the amount so appropriated for fiscal year 2010, as follows:

STIMULUS FUND

ESTIMATED REVENUE:

General Services	655,800
Transportation and Environmental Services	3,557,000
Housing	208,000
Human Services	<u>102,000</u>
Total Estimated Revenue	<u>\$ 4,522,800</u>

APPROPRIATION:

General Services	655,800
Transportation and Environmental Services	3,557,000
Housing	208,000
Human Services	<u>102,000</u>
Total Estimated Revenue	<u>\$4,522,800</u>

Section 5 That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city in fiscal year 2010, the source of such amount being Designated General Fund Balance, and further, that the Council does hereby allot the amount so appropriated for fiscal year 2010, as follows:

GENERAL FUND

ESTIMATED REVENUE:

Designated General Fund Balance	<u>\$ 125,000</u>
Total Estimated Revenue	<u>\$ 125,000</u>

APPROPRIATION:

Human Services	<u>\$ 125,000</u>
Total Appropriation	<u>\$ 125,000</u>

Section 6 That the Council of the City of Alexandria, Virginia, does hereby

make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city in fiscal year 2010, the source of such amount being Transfers In From General Fund in support of the Special Revenue Fund, and further, that the Council does hereby allot the amount so appropriated for fiscal year 2010, as follows:

SPECIAL REVENUE FUND/COMPONENT UNIT

ESTIMATED REVENUE:

Transfers In From General Fund	\$ 208,789
Total Estimated Revenue	<u>\$ 208,789</u>

APPROPRIATION:

DASH	\$ 208,789
Total Appropriation	<u>\$ 208,789</u>

Section 7 That the Council of the City of Alexandria, Virginia, does hereby make provision for and appropriate to the fund hereafter named the amount hereafter stated that is required to defray certain expenditures and liabilities of the city in fiscal year 2010, the source of such amount being Transfers In From General Fund in support of the Housing Fund, and further, that the Council does hereby allot the amount so appropriated for fiscal year 2010, as follows:

SPECIAL REVENUE FUND/COMPONENT UNIT

ESTIMATED REVENUE:

Transfers In From General Fund	\$ 200,000
Total Estimated Revenue	<u>\$ 200,000</u>

APPROPRIATION:

Housing Fund	\$ 200,000
Total Appropriation	<u>\$ 200,000</u>

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

8. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Zoning Ordinance to Clarify the Subdivision Variation Process.

(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. 8; 04/17/10, 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. 8; 04/17/10, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilman Krupicka and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted an ordinance to amend the zoning ordinance to clarify the subdivision variation process. The voting was follows:

Donley	"aye"	Fannon	"aye"
Krupicka	"aye"	Hughes	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	absent	

The ordinance reads as follows:

ORDINANCE NO. 4652

AN ORDINANCE to amend Section 11-1710 (SUBDIVISION REQUIREMENTS) and Section 11-1713 (VARIATIONS), to Division E (SUBDIVISION REGULATIONS), Article XI (DEVELOPMENT APPROVALS AND PROCEDURES), all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2009-0004.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2009-0004, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on January 5, 2010 of a text amendment to the Zoning Ordinance to clarify the subdivision variation process, which recommendation was approved by the City Council at public hearing on January 23, 2010;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
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 Section 11-1710 and Section 11-1713 of the Zoning Ordinance be, and the same hereby are, amended by deleting and inserting new language, as shown:

11-1710 Subdivision requirements. In reviewing an application, the commission shall consider the following:

***(intervening text unchanged)

(B) No lot shall be resubdivided in such a manner as to detract from the value of adjacent property. Lots covered by a resubdivision shall be of substantially the same character as to suitability for residential use and structures, lot areas, orientation, street frontage, alignment to streets and restrictions as other land within the subdivision, particularly with respect to similarly situated lots within the adjoining portions of the original subdivision. In determining whether a proposed lot is of substantially the same character for purposes of complying with this provision, the commission shall consider the established neighborhood created by the original subdivision, evidence of which may be shown by:

- (1) Subdivision plat documents, including amendments to the subdivision over time, as well as the development that has occurred within the subdivision; and
- (2) Land in the same general location and zone as the original subdivision with the same features so as to be essentially similar to the original subdivision area.
- (3) No resubdivision shall be approved which results in the creation or the continuation of a lot, building or structure which does not comply with the provisions of this ordinance, unless the commission expressly authorizes a variation pursuant to section 11-1713 of this ordinance.

*** (subsequent text unchanged)

11-1713 Variations.

(A) The commission may, by vote of a majority of its members, authorize specific variations from the provisions of this section 11-1700, when the commission finds that (i) a strict adherence to such provisions would result in substantial injustice (ii) the use and character of the resulting lots or parcels in such a subdivision would not be inconsistent with the use provisions of the zone in which the property is situated and with the existing development in the immediate area; (iii) and one or more of the following special circumstances exists:

- (1) Extremely rugged topography.
 - (2) Irregularity in shape of parcel preventing conformance with normal lot area or frontage requirements.
 - (3) Insufficient frontage on existing street where the interior of the tract can be served only by a street substandard in width when not serving more than five lots, provided the street is not less than 30 feet in width. If only a single lot is served, the width may be less than 30 feet. A turn around area may be required.
 - (4) Streets along border of the subdivision where the subdivision borders on un subdivided land and the remaining street width will be provided from adjacent land.
 - (5) Resubdivision of lots in subdivisions of record as of January 1, 1952, where, because of existing structures or gross area of land involved, the subdivided lots would not conform to all of the requirements of the zone in which the subdivision is located.
- (B) As used in this section, "substantial injustice" means that the strict application of this ordinance would create an unreasonable burden on the development, use and enjoyment of the property which outweighs the land use or land development purposes served by the specific zoning provision or provisions of this ordinance at issue.
- (C) The applicant shall have the burden of establishing each element required for the grant of a variation.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 11-1710 and 11-1713, as amended pursuant to Section 1 of this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

9. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Infill Regulations.

(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. 9; 04/17/10, 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. 9; 04/17/10, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted an ordinance to amend the Infill Regulations. The voting was follows:

Donley	"aye"	Fannon	"aye"
Pepper	"aye"	Hughes	"aye"
Euille	"aye"	Krupicka	"aye"
	Smedberg	absent	

The ordinance reads as follows:

ORDINANCE NO. 4653

AN ORDINANCE to amend Section 7-1002 (**Residential setback and front door threshold height in line with existing development**) and Section 7-2500 (SUPPLEMENTAL REGULATIONS FOR CERTAIN RESIDENTIAL ZONES), to Article VII (SUPPLEMENTAL ZONE REGULATIONS), and Section 11-1300 (SPECIAL EXCEPTION), to Division C (BOARD OF ZONING APPEALS), Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2009-0009.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2009-0009, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on February 2, 2010 of a text amendment to the Zoning Ordinance to adopt residential infill regulations, which recommendation was approved by the City Council at public hearing on February 20, 2010;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
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 Section 7-1002 of the Zoning Ordinance be, and the same hereby is, deleted.

Section 2. That Section 7-2500 of the Zoning Ordinance be, and the same hereby is, amended by deleting and inserting new language, as shown:

7-2500 Infill Regulations for Single and Two Family Residential Zones.

7-2502 *Height in line with existing development.*

- (A) The height of a residential building erected or altered after [effective date] shall not exceed the greater of:
 - (1) 25 feet, or
 - (2) The average height along the front of the building of the residential buildings existing on that block (one side of a street between two intersecting streets or one intersecting street and a street dead end) by more than 20 percent.
- (B) A height greater than that calculated in Section 7-2502(A) may be permitted if a special use permit is approved pursuant to section 11-500 of this ordinance, and city council determines that the proposed construction will be of substantially the same residential character and design as adjacent and nearby properties. For purposes of this subsection, the recommendation of the planning commission on the special use permit shall be deemed a final decision of the city council, unless any person files with the city clerk a request for hearing by council within 5 working days after the action of the commission. In the event such request is filled, the application shall be docketed for consideration at the next available council public hearing meeting. All notice for applications under this subsection shall include a description of the procedure herein provided, in such form as the director shall require.
- (C) For the purposes of this section 7-2502, where the number of buildings on one side of a street between two intersecting streets or between one intersecting street and a street dead end is either fewer than five or where the distance between streets as specified above is less than 200 feet or where the number of buildings is greater than 15 or where the distance between streets as specified above is greater than 600 feet, the director may designate an appropriate block for purposes of calculating height without regard to intersecting streets subject to an administrative protocol, and subject to city council approval as part of the special use permit, if there is one, granted pursuant to this section 7-2502.
- (D) Where an application proposes redevelopment of one or more entire blocks, as defined in Section 7-2502(A)(2), or where there is no appropriate blocks for purposes of calculating height, this section 7-2502 shall not apply and the height restrictions of the zone in which the property is located shall apply.

7-2503 *Residential front setback and front door threshold in line with existing development.*

- (A) Unless a different rule is specified for a particular zone, wherever the major portion of a block is developed, and the majority of the buildings built on one side of a street between two intersecting streets or between one intersecting street and a street dead end have been built at a uniform front setback forward or behind the minimum front setback prescribed for the zone in which such buildings are located, new residential buildings hereafter erected shall conform to the setback line so established. Absent a majority of buildings at a uniform front setback, the setback shall be established by the average of the front setbacks of the buildings on one side of the street of a block as described above. For all other residential construction, including without limitation, porches and additions, the director may designate an appropriate front setback no closer to the front property line than the established or average setback line. The board of zoning appeals is authorized to grant a special exception under the provisions of Section 11-1300 to modify the strict application of this requirement.

- (B) Whenever the major portion of a block is developed, no front door threshold of a single family, two-family or townhouse residential building erected or altered after [January 20, 2007] shall exceed the average height of the front door threshold of the residential buildings built on that block (one side of a street between two intersecting streets or one intersecting street and a street dead end) by more than 20 percent, provided, that additional front door threshold height may be permitted if a special use permit is approved pursuant to section 11-500 of this ordinance, and city council determines that the proposed construction will not detract from the value of and will be of substantially the same residential character as adjacent and nearby properties. For the purpose of this paragraph, the height of the front door threshold is defined as the vertical distance between the average pre-construction grade along the front of the building to the top of the threshold. The front door threshold shall accurately reflect the actual location of the first floor of the building, and in all cases the front door threshold shall be measured to the top of the threshold or the top of the highest elevation of the finished first floor, whichever is greater.

- (C) For the purposes of this section 7-2503, where the number of buildings on one side of a street between two intersecting streets or between one intersecting street and a street dead end is either fewer than five or where the distance between streets as specified above is less than 200 feet or where the number of buildings is greater than 15 or where the distance between streets as specified above is greater than 600 feet, the director

may designate an appropriate block for purposes of calculating front setback and front door threshold height without regard to intersecting streets subject to an administrative protocol, and subject to city council approval as part of the special use permit, if there is one, granted pursuant to this section 7-2502.

7-2504 *Open front porches and porticos.*

- (A) Ground level covered front porches and porticos constructed under the standards of this section 7-2504 shall be excluded from floor area calculated under the provisions of Section 2-145(A)(5).
- (B) *Standards for porches.*
 - (1) *Extent of front porch exclusion.* No portion of the floor area of the porch to be excluded under this section shall extend beyond the side walls of the front building façade.
 - (2) *Size of porch.* To be excluded under this section, a porch shall be a minimum of 5 feet deep and a maximum of 8 feet deep. The maximum floor area to be excluded shall be 240 square feet.
 - (3) *Construction above not permitted.* To be excluded under this section, no second floor balcony, deck, or enclosed construction shall be permitted above the front porch or portico.
 - (4) *Must remain open.* A ground level front porch or portico shall remain open and shall at no time be enclosed with building walls, glass, screens, or otherwise. Railings shall be permitted no higher than the minimum height required by the building code, and with balusters evenly spaced so as to leave at least 50 percent of the perimeter length of the railings open.

7-2505 *Free-standing garages to the rear of the main building.*

- (A) Regardless of other regulations in this zoning ordinance, a free-standing private garage is permitted to the rear of the main building in accordance with the regulations in this section 7-2505 so long as it is the only garage on the lot or adjacent vacant lot under common ownership. The floor area of such a garage constructed in accordance with the standards of this section will be excluded from floor area calculated under the provisions of Section 2-145(A)(6).
- (B) *Standards.*
 - (1) *Size.* For lots with a minimum of 5,000 square feet and with less than 8,000 square feet lot area, the garage shall have a floor area not greater than 250 square feet and a height not greater than 11.50 feet. For lots 8,000 square feet or larger, the garage shall have a floor area not greater than 500 square feet and a height not greater than 13.50 feet. The director may modify the height permitted in this

section 7-2505(B)(1) when the height and design of the garage are appropriate and compatible with the main dwelling and with the character of the immediate neighborhood.

- (2) *Setback.* The garage shall be set back a minimum of 3 feet from the side or rear property line if windows face the property line; otherwise the minimum setback is 1 foot.
- (3) *Access.* If there is no direct access to the garage from an alley, a permeable-surfaced driveway is permitted in the side yard for access to the garage. Permeable-surfaced driveways can be composed of grass with ring and grid structure, gravel with a grid structure beneath, paving strips, a grid based surface, or other treatments without significant compaction of the base, but must be approved by the department of planning and zoning and the department of transportation and environmental services. Either the department of planning and zoning or the department of transportation and environmental services can grant an exemption to the permeable-surfaced driveway requirement in cases of steep slopes, adverse soil conditions, constructability, or other conditions that for safety or environmental reasons would require use of a non-permeable surfacing material. Tandem parking in the driveway is permitted. Curb cuts must be approved in accordance with Section 5-2-2 of the City Code and section 8-200(C)(5) of this zoning ordinance. The number of vehicles permitted on the lot is limited by Section 8-200(C)(6).
- (4) *Compatibility.* The accessory garage shall be compatible with the main dwelling in regard to materials and design.
- (5) *Use.* The accessory garage shall be dedicated to the use and storage of motor vehicles.

7-2506 *Attached garages.* Private garages that are an integral part of the main residential dwelling are only permitted under the following standards.

(A) *Access to garage.*

- (1) *Lot with width 65 feet or more.* If the lot width is 65 feet or more, an attached garage shall have the vehicle opening facing the side yard. Such a garage may be no closer to the front property line than the plane of the front building wall. In the case of a corner lot, an attached garage may face a secondary front yard if the proposed location and design of the door is consistent with the block and neighborhood character. Such a garage may be no closer to the front property line than the plane of the secondary front building wall.
- (2) *Lot with width less than 65 feet.* If the lot width is less than 65 feet, an attached garage with a vehicle entrance facing the front yard is permitted, but must be set back a minimum of 8 feet from the plane of the front building wall. No roof or covering is permitted in front of such a garage and any construction above shall not extend forward of the front

plane of the garage. The garage door shall be compatible with the design of the residence.

- (B) *Driveway Surface.* A non-tandem parking or garage access arrangement is permitted only if the parking area is a permeable surface, unless the department of planning and zoning or the department of transportation and environmental services determines that a permeable-surfaced driveway is not appropriate due to steep slopes, adverse soil conditions, constructability, or other conditions that for safety or environmental reasons would require use of a non-permeable surfacing material.

*** (subsequent text unchanged)

Section 3. That Section 11-1300 of the Zoning Ordinance be, and the same hereby is, amended by deleting and inserting new language, as shown:

11-1300 Special exception.

11-1302 *Special exception established.* A lot in a single family, two family or townhouse zone may be the subject of a special exception from the following zoning requirements pursuant to this section 11-1300.

*** (intervening text unchanged)

- (D) Established front yard setback requirements for a main dwelling required by section 7-2503, subject to the following requirements:
- (1) Limitation on front setback increase or decrease.
 - (a) An adjustment is allowed of as much as 10% from the average front setback line calculated for the project or 5 feet, whichever is less.
 - (b) The front setback increase or decrease shall be the minimum necessary to achieve the desired result.
 - (2) The applicant shall demonstrate by clear and convincing evidence that the proposed change in front setback for the dwelling is necessary for environmental and/or critical construction reasons and that the dwelling in the proposed location will be compatible with the character of the rest of the neighborhood block and will not be detrimental to the maintenance of a an established setback along the street.

*** (subsequent text unchanged)

Section 4. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 5. That Section 7-1002, as amended pursuant to Section 1 of this

ordinance, Section 7-2500, as amended pursuant to Section 2 of this ordinance and 11-1300, as amended pursuant to Section 3 of this ordinance, be, and the same hereby are, reordained as parts of the City of Alexandria Zoning Ordinance.

Section 6. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

10. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend City Code 9-12-164 to Require Parking Permits For Sightseeing Buses To Use Certain Designated Parking Spaces Within the Right-of-way.

(A copy of the City Manager's memorandum dated April 7, 2010, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 04/17/10, 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 and Council, marked Exhibit No. 2 of Item No. 10; 04/17/10, 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. 10; 04/17/10, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilman Krupicka and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted an ordinance to amend City Code 9-12-164 to require parking permits for sightseeing buses to use certain designated parking spaces within the right-of-way. The voting was as follows:

Donley	"aye"	Fannon	"aye"
Krupicka	"aye"	Hughes	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	absent	

The ordinance reads as follows:

ORDINANCE NO. 4654

AN ORDINANCE to amend and reordain Division 2 (SIGHTSEEING BUSES), Article B (BUSES), Chapter 12 (TAXICABS AND OTHER VEHICLES FOR HIRE), Title 9 (LICENSING AND REGULATION) of The Code of the City of Alexandria,

Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Division 2, Article B, Chapter 12 of Title 9 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained by the amendment of Sections 9-12-162 and -164 to read as follows:

Sec. 9-12-162 Use of locations other than designated parking spaces by sightseeing buses.

It shall be unlawful for the driver of a sightseeing bus to place such a bus in any parking space or otherwise adjacent to the curb of any street in the city, except 1) in a space designated pursuant to this division or when loading or unloading passengers; and 2) while displaying a valid permit for sight-seeing bus parking issued by the director pursuant to such procedures as the director may develop.

Sec. 9-12-164 Use of designated spaces by sightseeing buses.

No sightseeing bus may park in a space designated pursuant to this article without a permit issued by the director pursuant to Section 9-12-162 or for longer than a time specified by the director. Such times shall be stated on a sign posted immediately adjacent to the space. The driver of any sight-seeing bus parked in a designated sightseeing bus space shall, throughout the period the bus is parked in the space, remain within the vehicle or within 30 feet of it. In addition, the driver of such a parked bus shall turn off the vehicle's motor for the period the vehicle is parked in the designated space.

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

11. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend City Code 2-4-116 to Amend the Membership of the Commission on HIV/AIDS.

(A copy of the City Manager's memorandum dated June 20, 2007, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 04/17/10, 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. 11; 04/17/10, 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. 11;

04/17/10, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Donley, seconded by Councilman Krupicka and carried 6-0, City Council closed the public hearing and adopted an ordinance to amend City Code 2-4-116 to amend the membership of the Commission on HIV/AIDS. The voting was follows:

Donley	"aye"	Fannon	"aye"
Krupicka	"aye"	Hughes	"aye"
Euille	"aye"	Pepper	"aye"
	Smedberg	absent	

The ordinance reads as follows:

ORDINANCE NO. 4655

AN ORDINANCE to amend and reordain Section 2-4-110 (CREATION, COMPOSITION AND ORGANIZATION), Article M (ENVIRONMENTAL POLICY COMMISSION), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS), Title 2 (GENERAL GOVERNMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-4-116 (CREATION, COMPOSITION AND ORGANIZATION), Article P (ALEXANDRIA COMMISSION ON HIV/AIDS), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS) of Title 2 (GENERAL GOVERNMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 2-4-116 Creation, composition and organization.

- (a) There is hereby established a commission known as the Alexandria Commission on HIV/AIDS ("commission").
- (b) The commission shall consist of 27 members to be appointed by the city council. The composition of the commission shall be as follows:
 - (1) two members from and representing the Alexandria Hospital, one of whom shall be from the hospital's department of pastoral services;
 - (2) one member from and representing the Whitman Walker Clinic;
 - (3) one member from and representing the Hospice of Northern Virginia;
 - (4) one member from and representing an HIV/AIDS service organization which provides services in the city to the minority community;
 - (5) one member from and representing the Alexandria Chapter, American Red Cross;
 - (6) one member from and representing the Alexandria Gay and Lesbian Community Association;

- (7) one member from and representing the Northern Virginia AIDS Ministry;
- (8) one member from and representing the City of Alexandria Public Schools;
- (9) the sheriff, or the sheriff's designee;
- (10) one member from and representing the Alexandria Community Services Board;
- (11) one member from and representing the Alexandria Human Rights Commission;
- (12) one member from and representing the Alexandria Youth Policy Commission;
- (13) one member from and representing the Alexandria Commission for Women;
- (14) one member who is a practicing physician;
- (15) one student who currently attends any high school located in the City; and
- (16) eleven citizens-at-large.

(c) Members of the commission shall be appointed in the manner prescribed in article A of this title; provided, that a member who, under subsection (b), is representing an organization shall be nominated by the organization and appointed by city council. Members shall serve for a term of three years; provided, however, that of the members first appointed, one-third shall be selected by lot to serve a term of one year, and one-third shall be selected by lot to serve a term of two years.

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Planning Commission (continued)

None.

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilwoman Pepper, seconded by Vice Mayor Donley and carried unanimously, City Council adjourned the public hearing meeting of April 17, 2010 at 12:27 p.m. The voting was as follows:

Pepper	"aye"	Fannon	"aye"
Donley	"aye"	Hughes	"aye"
Euille	"aye"	Krupicka	"aye"
	Smedberg	absent	

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Gloria A. Sitton, CMC Deputy City Clerk