

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting**  
**Saturday, February 25, 2012 - - 9:30 a.m.**

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

**Absent:** None.

**Also Present:** Mr. Young, City Manager; Mr. Banks, City Attorney; Mr. Johnson, Chief of Staff, City Manager's Office; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Police Captain Ogden; Ms. Griffith, Community and Human Services; Ms. Thayer, Community and Human Services; Ms. Hamer, Director, Planning and Zoning; Ms. Ross, Deputy Director, Planning and Zoning; Mr. Moritz, Planning and Zoning; Ms. Wright, Division Chief, Planning and Zoning; Mr. Wagner, Planning and Zoning; Ms. North, Planning and Zoning; Mr. Randall, Planning and Zoning; Mr. Catlett, Director, Office of Code Administration; Ms. Blackford, Communications Officer, Office of Communications; Ms. Harris, Communications Officer, Office of Communications; Mr. Baier, Director, Transportation and Environmental Services; Ms. Collins, Assistant City Manager, City Manager's Office; Ms. McLean, ITS; Ms. Bryan, ITS; and Mr. Lloyd.

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

**OPENING****1. Calling the Roll.**

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

**2. Public Discussion Period.**

(a) Julie Van Fleet, 26 Wolfe Street, said that in the recent lawsuit found in the City's favor, they were accused of malice in a written filing and said she, along with the other three, are not malicious, hateful, vengeful or would not file something just for the heck of it. She said someone might want to know what is being filed on their behalf, particularly against citizens who are acting in the democratic process of being heard by a third party to have a decision made. She said she and the former two city attorneys were friends and they would always take her calls, and her understanding is that the

present City Attorney doesn't want to see any of them in the grocery store and he doesn't live in the City, so he doesn't know them. She said they are not vengeful and malicious people and they express their opinions and sometimes do so with a great deal of passion. Ms. Van Fleet said people did not understand what was being talked about in the waterfront plan. While the Judge ruled in the City's favor for legal reasons, that is not to say that the descriptions tell everyone what is going on. She said she appeared at the meeting to find out what they were talking about. She said her point was that someone needed to say something about why they were having the hearing, as people don't understand what it is they are allowing them to talk about at the 11th hour. She said the City can do better about explaining exactly what it is. Ms. Van Fleet said she doesn't want a chocolate pie from the city attorney and she would not give him a vanilla pie.

(b) Jack Sullivan, 4300 Ivanhoe Place, said the staff generated draft of the Beauregard Plan area would displace as many as 10,000 residents of the West End, including up to 2,000 residents thrown out in the first phase of demolition. No affordable housing will be made available until after 2020, and there are no guarantees at that point. He said the plan harms the poor in a major way and gives to the rich the \$60 billion up front in City taxpayer money to make the developer plan possible - it is not a community plan but is a developer plan. There are 10,000 people living in the Seminary Hill area, and if such a plan were devised to move all of them out, the person behind the plan probably would be looking for a new job. Yet this plan can be put forward because these citizens are tenants and not owners and are not rich. Mr. Sullivan said all kinds of excuses can be given why more cannot be done, none which are valid if they are willing to make affordable housing their prime goal in the redevelopment of the Beauregard Corridor. Mr. Sullivan said he has prepared an alternative plan and its been given to Council. He asked Council to ask themselves if they want their record of service to Alexandria to include dispossessing thousands of citizens in the name of redevelopment and using taxpayer money to make it available.

(c) Annabelle Fisher, 5001 Seminary Road, said she wanted to refer to talking points by some members of Council and City administrative staff who tell citizens that they find her comments very insulting and/or they are insulted by what she has said. She said this has happened to her three times within the past week and it is not professional on the part of the elected officials and senior administrators in Planning and Zoning, Transportation and Environmental Services, and the City Manager's Office. She said when she makes comments, they are not meant as personal comments but are related to their positions and job titles. Ms. Fisher asked the City Manager and the Mayor when they have a department administrative meeting next week to advise senior staff that a response to any citizen that they are insulting them be taken out of the talking points.

(d) John Stephenson, 133 N. Payne Street, president, Alexandria Taxpayers United, spoke about the 2013 budget, noting that the Taxpayers United is generally pleased with the budget recommendation the City Manager has proposed, and among the positive changes is the focus on core services like public safety and education and

less emphasis on promotional and beautification projects. He said the budget would repair and maintain existing transportation infrastructure before building new projects and it would also eliminate empty, unnecessary positions on City staff and streamline programs such as senior taxi. Mr. Stephenson said they are glad to see that the City Manager would require employee contributions toward health care. He said they hope Council will continue to build on what the City Manager has proposed by finding more savings and avoiding burdensome tax increases in the final budget.

(e) Poul Hertel, 1217 Michigan Court, said those who live in George Washington's hometown forget how important a figure George Washington was to the City and to the United States. George Washington's residence at Mount Vernon and the City that bore his name could be dismissed as cultural icons if it were not for his importance to the American heritage, and the two became intertwined not only by George Washington but also by the road connecting the two. He said that next time one drives on the GW Memorial Parkway, they should enjoy the beauty of the Potomac River as George Washington did, and as they drive toward D.C. and are stuck at the Slaters Lane intersection, look up instead, for it is no accident that straight ahead, one will see the Washington Monument to remind them how magnificent he was and the Memorial Parkway is.

(f) Amy Slack, 2307 E. Randolph Avenue, spoke about the City of Alexandria Zoning Ordinance, which was enacted in order to promote the health, safety and welfare of the residents of the City of Alexandria and to implement the consolidated master plan of the City, and she read from the ordinance. She said it is important to re-read what the ordinance says and to remind themselves of why they are here and why they do what they do and why they do it.

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Mayor Euille noted that he would be leaving the Chambers at 1:00 p.m. for an out of town trip.

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

### **ACTION CONSENT CALENDAR (3-4)**

#### **Planning Commission**

3. SPECIAL USE PERMIT #2011-0080  
2607 MOUNT VERNON AVENUE - BOMBAY CURRY COMPANY  
Public Hearing and Consideration of a request to operate a restaurant with a parking reduction; zoned CL/ Commercial Low. Applicant: Bombay Curry Company, Inc.

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated February 25, 2012 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 2/25/12, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2011-0082  
4536-4598 EISENHOWER AVENUE  
Public Hearing and Consideration of a request to amend an umbrella SUP to allow dog day care with overnight pet boarding; zoned OCM (100)/Office Commercial Medium (100). Applicant: Claremont Investors, LLC by M. Catharine Puskar

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated February 25, 2012 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 2/25/12, and is incorporated as part of this record by reference.)

#### **END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Hughes and carried unanimously, City Council adopted the consent calendar, as follows:

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

#### **REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

5. Public Hearing on the Strategic Plan on Aging for 2012-2016. (#7, 1/10/12)

(A copy of the City Manager's memorandums dated January 4, 2012, and February 21, 2012 are on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 5; 2/25/12, and is incorporated as part of this record by reference.)

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

- (1) Jane M. King, 118 E. Randolph Avenue, chair, Commission on Aging,

spoke in favor of the plan and emphasized the importance of their first three priorities: communication, housing and transportation.

(2) Bill Harris, 1106 Tuckahoe Lane, chair, Commission on Aging's housing committee, spoke in favor of the plan.

(3) Carol Downs, 725 Timber Branch Drive, member, Commission on Aging, spoke in favor of the plan.

(4) Jennifer Brown, 2801 Adams Mill Road, vice president, Board of Directors, Senior Services of Alexandria, spoke in favor of the plan.

(5) Janet Macidull, 501 Slaters Lane, #411, member, Commission on Aging, spoke in favor of the plan.

(6) Mary Anne Weber, 124 Roberts Lane, Apt. 201, chair, Community Services Board, spoke in favor of the plan.

(7) Tim Lovain, 2606 Davis Avenue, said he has served on the advisory committee for the preparation of the plan, and he spoke in favor of the plan.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Hughes and carried unanimously, City Council closed the public hearing, received the draft Strategic Plan on Aging, and noted that adoption is scheduled for March 27, 2012. The voting was as follows:

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

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

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

6. SPECIAL USE PERMIT #2011-0081  
200 COMMERCE STREET - GELATO SHOP/RESTAURANT  
Public Hearing and Consideration of a request for amendments to an existing SUP to operate a gelato shop/restaurant; zoned CL/Commercial Low. Applicant: Boyd Walker

PLANNING COMMISSION ACTION: Recommend Approval 5-0

(A copy of the Planning Commission report dated February 25, 2012 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 2/25/12, and is incorporated as part of this record by reference.)

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

(1) Boyd Walker, 1307 King Street, owner of the property, spoke in favor of the request and responded to questions of City Council.

In response to questions from City Council, Ms. Ross, Deputy Director, Planning and Zoning, and Mr. Baier, Director, Transportation and Environmental Services, explained the parking requirements and needs along King Street.

**WHEREUPON**, upon motion by Vice Mayor Donley, seconded by Councilwoman Hughes and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation, with the removal of the words "wait stations" from conditions #8 and 9 in the report. The voting was as follows:

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

7. CDD CONCEPT PLAN #2011-0004  
MASTER PLAN AMENDMENT #2011-0005  
DEVELOPMENT SPECIAL USE PERMIT #2011-0020  
TMP SPECIAL USE PERMIT #2011-0046  
2425 MILL ROAD (Block 3); 312 & 314 TAYLOR DRIVE, 301 & 315 STOVALL STREET (Block 2)  
2401 EISENHOWER AVENUE -- HOFFMAN BLOCK 8  
Public Hearing and Consideration of requests for: A) an amendment to the Eisenhower East Small Area Plan to transfer floor area between blocks in CDD #2; B) an amendment to the CDD Concept Plan to transfer floor area and parking spaces between blocks; C) amendments to a development special use permit, with site plan, (DSUP #2000-0028) to transfer office floor area from Blocks 2 and 3 to Block 8 and approval of a penthouse taller than 15 feet; D) amendments to a Transportation Management Plan Special Use Permit (SUP #2005-0115); zoned CDD #2/Coordinated Development District 2. Applicant: Hoffman Family, LLC represented by Kenneth Wire, attorney

**PLANNING COMMISSION ACTION:**

CDD #2011-0004	Recommend Approval	7-0
MPA #2011-0005	Adopted Resolution	7-0
DSUP #2011-0020	Recommend Approval with Amendments	7-0
TMP SUP #2011-0046	Recommend Approval with Amendments	7-0

(A copy of the Planning Commission report dated February 25, 2012 is on file in

the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 2/25/12, and is incorporated as part of this record by reference.)

Ms. North, Planning and Zoning, made a presentation of the report and responded to questions of City Council.

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

(1) Kenneth Wire, 1750 Tysons Blvd., Tysons, attorney representing the applicant, spoke in support of the request and noted that he submitted a letter with conditions, but he would like to redact his letter and will mark the conditions noted in the letter as "satisfied" with staff.

Mr. Baier, Director, Transportation and Environmental Services, along with Ms. North, responded to questions of City Council.

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

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

8. SPECIAL USE PERMIT #2011-0062  
100 EAST WINDSOR AVENUE - DEL RAY MONTESSORI SCHOOL  
Public Hearing and Consideration of a request for an SUP amendment to operate a private school and day care center with parking reduction; zoned R2-5 and RB/Single and Two-Family Zone and Townhouse Zone. Applicant: The Del Ray Montessori School.

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated February 25, 2012 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 2/25/12, and is incorporated as part of this record by reference.)

Mr. Randall, Planning and Zoning, made a presentation of the report and he, along with Mr. Baier, Transportation and Environmental Services, responded to questions of City Council.

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

(1) Sean Crumley, 209A E. Nelson Avenue, president, Del Ray Citizens Association, said the Association voted in favor of the request but opposed the

provision for the use of the westbound travel lane on Windsor Avenue.

- (2) Sarah Soulliere, 12 E. Howell Avenue, spoke in support of the request.
- (3) Evan Eile, 305 E. Luray Avenue, spoke in support of the request.
- (4) Rachel Lawrence, 206 Uhler Terrace, spoke in support of the request.
- (5) Sarah Fondriest, 434 N. Armistead Street, #101, director of the Del Ray Montessori School, spoke in support of the request.
- (6) Chris Rudolph, 2719 Carter Farm Court, spoke in support of the request.
- (7) Melissa LaSalle, 13 W. Mt. Ida, spoke in support of the request.
- (8) Sarah Schultz, 107 E. Mason Avenue, spoke in support of the request.
- (9) April Scripps, 404 E. Custis Avenue, spoke in support of the request.
- (10) David Fromm, 2307 E. Randolph Avenue, spoke in support of the intensification of the site but expressed concern about the drop off location on Windsor Avenue.
- (11) Page Turney, 12 W. Oak Street, spoke in support of the request.
- (12) Jonathan Underly, 2504 Terrett Avenue, spoke in support of the request.
- (13) Gayle Reuter, 110 E. Del Ray Avenue, spoke in support of the request.
- (14) Maria Wasowski, 306 Hume Avenue, president, Del Ray Business Association, spoke in support of the request.

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

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Vice Mayor Donley and carried unanimously, City Council approved the Planning Commission recommendation, with the following changes: an additional sentence in condition #9 to read: Staff will continue to work with the applicant to monitor the safety and effectiveness of the Windsor drop off location and may make changes to the drop off



plans in consultation with neighbors and the applicant if staff believes there are any issues related to safety or road access caused by the Windsor location. Condition #2 should read: The hours of operation for the day care center and school shall be limited to between 8:15 a.m. and 5:30 p.m., Monday through Friday. The voting was as follows:

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

## ORDINANCES AND RESOLUTIONS

9. **Waterfront Ordinance:** Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain the Master Plan of the City of Alexandria, Virginia, By Adopting and Incorporating Therein the Amendment Heretofore Approved By City Council as Master Plan Amendment No. 2011-0001 to incorporate the Waterfront Small Area Plan Chapter into the Master Plan and No Other Amendments, and to Repeal All Provisions of the Said Master Plan as May Be Inconsistent With Such Amendment. (#24, 02/14/12)

(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; 2/25/12, 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; 2/25/12, and is incorporated as part of this record by reference.)

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

- (1) Van Van Fleet, 26 Wolfe Street, spoke in opposition to the ordinance.
- (2) Lynn Hampton, 215 Park Road, spoke in support of the ordinance.
- (3) Dennis Auld, 215 Park Road, spoke in support of the ordinance.
- (4) John Gosling, 208 S. Fayette Street, president, Old Town Civic Association, said the Board wishes to have a voice in any task force or oversight committee formed to monitor the implementation of the plan.
- (5) Boyd Walker, 1307 King Street, spoke in opposition to the ordinance.
- (6) Ann Shack, 501 Tobacco Quay, spoke in opposition to the ordinance.

- (7) Dino Drudi, 315 N. West Street, spoke in opposition to the ordinance.
- (8) Robert Pringle, 216 Wolfe Street, spoke in opposition to the ordinance.
- (9) Elizabeth Gibney, 300 S. Lee Street, spoke in opposition to the ordinance.
- (10) Patty Sheetz, 6320 Olde Towne Court, spoke in opposition to the ordinance.

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(Mayor Euille left the meeting at this time - 1:00 p.m.)

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- (11) Kathryn Papp, 504 Cameron Street, spoke about having a better plan.
- (12) Hugh Van Horn, 416 S. Pitt Street, spoke in opposition to the ordinance.
- (13) Lydia Walter, 6026 Nagy Place, spoke in opposition to the ordinance.
- (14) Ursula Weide, 1302 Bayliss Drive, spoke in opposition to the ordinance.
- (15) Al Kalvaitis, 17 Franklin Street, spoke in opposition to the ordinance.
- (16) Katy Cannady, 20 E. Oak Street, spoke in opposition to the ordinance.
- (17) Andrew Macdonald, 217 N. Columbus Street, spoke in opposition to the ordinance.
- (18) Bert Ely, 200 S. Pitt Street, spoke in opposition to the ordinance.
- (19) Gina Baum, 203 S. Fairfax Street, spoke in support of the ordinance.
- (20) Julie Van Fleet, 26 Wolfe Street, spoke in opposition to the ordinance.
- (21) Annabelle Fisher, 5001 Seminary Road, asked Council to defer the ordinance and referred to the Beauregard Plan.
- (22) Nathan Macek, 724 Franklin Street, spoke in support of the ordinance.
- (23) Poul Hertel, 1217 Michigan Court, spoke about working together in the future and to figure out what went wrong.
- (24) Mark Mueller, Jr., 414 S. Royal Street, asked what the rationale was on proceeding with the vote on this ordinance separate from the other ordinance.

**WHEREUPON,** upon motion by Councilwoman Hughes, seconded by

Councilman Krupicka and carried 6-0, City Council closed the public hearing. The voting was as follows:

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

**WHEREUPON**, a motion was made by Councilwoman Hughes and seconded by Councilman Fannon, to defer adoption until such time as the appeal is resolved by the Board of Zoning Appeals. The motion failed by a vote of 2-4 and is as follows:

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried 4-2 by roll-call vote, City Council adopted the ordinance to incorporate the waterfront small area plan chapter into the master plan. The voting was as follows:

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

The ordinance reads as follows:

**ORDINANCE NO. 4749**

AN ORDINANCE to amend and reordain the Master Plan of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by City Council as Master Plan Amendment No. 2011-0001 to incorporate the Waterfront Small Area Plan Chapter into the Master Plan and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

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

1. The Planning Commission initiated on its own motion an amendment to the Master Plan of the City of Alexandria to incorporate the Waterfront Small Area Plan and, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval of Master Plan Amendment No. 2011-0001 to the City Council on May 3, 2011, which recommendation was

approved with amendment by the City Council at a public hearing on January 21, 2012;

2. The said amendment has heretofore been approved by the Planning Commission and City Council after full opportunity for comment and public hearing.

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Master Plan of the City of Alexandria, be, and the same hereby is, amended by incorporating the document titled Draft Waterfront Small Area Plan, dated July 2011 ("Draft Plan"), with the following amendments:

1. the changes listed in the document titled "Complete List of Waterfront Plan Work Group Recommended Changes" attached hereto as Attachment A and incorporated herein by this reference;

2. the changes listed in the document titled "City Council and Planning Commission January 2012 Joint Work Session Recommendations (as shown in the January 17, 2012 Staff Report)" attached hereto as Attachment B and incorporated herein by this reference;

3. on page 122 of the Draft Plan, add a new sentence at the end of Parking recommendation 4:34 (d) to read: "New residential parking controls, such as restricting parking to permit holders after 6:00 p.m., should be considered an implementation priority.";

4. on Page 62 of the Draft Plan add the word "preferably" after the words "The Strand" in Recommendation 3.68;

5. the following changes shown in strike through and underline regarding hotels:

**Page 85 of the Draft Plan:**

**b. *Hotel***

i. The potential for undue congestion of pedestrians or vehicles;

ii. The type and size of hotel, and whether it is designed to attract large

conventions, banquets, or other functions (such as trade shows).

Hotels shall be "boutique" hotels: that is, hotels with 150 rooms or less, no ballroom, and meeting rooms for no more than 50 people. The Waterfront **Small Area Plan** allows the addition of up to two hotels in the ~~plan area W-1 zone~~, with a total limit of

300 rooms.

**Page 87, Column 2, Top of Page of the Draft Plan:**

Within the Development Guidelines, a stated preferred use is a boutique hotel for certain locations. The typical characteristics of boutique hotels - small, unique, and offering limited meeting space but high levels of guest services - are compatible with the waterfront area. The Waterfront **Small Area Plan** allows the addition of up to two hotels in the **plan area W-1 zone**, with a total limit of 300 rooms. The Plan. . .

**Page 127 of the Draft Plan, second paragraph under Revenue Potential:**

When completed, the redevelopment of the three redevelopment sites will yield a net increase in annual tax revenues of ~~\$3.8~~ \$3.5 million. Even with development phased over 15 years, cumulative revenues at the end of ~~25~~ 28 years will total \$51 million (in 2011 dollars)

**Page 128 of the Draft Plan:**

***Transient Lodging Tax***

The number of hotel rooms that are ultimately constructed on the three redevelopment sites will depend on a variety of factors. For the purposes of estimating revenues, the Plan is looking at a figure of ~~450~~ 300 rooms, which reflects the Plan's limitation on the size of boutique hotels to 150 rooms. The estimated transient lodging tax revenue to the City from ~~450~~ 300 hotel rooms is ~~\$4.1 million~~ \$770,000 per year.

6. The following changes shown in strike through and underline regarding height:

**Page 90 of the Draft Plan, Robinson Terminal North, Box at top of page, last sentence of paragraph:**

~~The W-1 zone currently has a height limit of 55 feet, which accommodates the proposed development on the east side of Union Street (which range from 30-45 feet); the Plan proposes increasing the permitted heights by 11 feet to 66 feet on the west side, which is approximately the same height as the adjacent Pipefitter's Union building. Tract 1, or the parcel of property on this site located west of North Union Street, is limited to 66 feet in height and heights east of North Union Street are limited to 45 feet on Parcel D and 30 feet on Parcel C, as described in the settlement agreement.~~

**Page 94 of the Draft Plan, Robinson Terminal South, Box at top of page, last sentence of second paragraph:**

~~Under both the 1992 Zoning Ordinance and settlement agreement, the maximum height permitted is 50 feet. Under the 1992 Zoning Ordinance, the allowable height is 30 feet~~

above the average finished grade which can be increased to a maximum of 50 feet with the approval of a Special Use Permit.

**Page 99 of the Draft Plan, Cummings/Turner Block, Box at top of page, last sentence of first paragraph:**

Under the 1992 Zoning Ordinance, the current height limitation of 30 feet above the average finished grade, which can be increased to a maximum of 50 feet—feet maximum with approval of a Special Use Permit, would be retained.

Section 2. That the Director of Planning and Zoning be, and hereby is, directed to record the foregoing master plan map amendment as the Waterfront Small Area Plan Chapter of Master Plan of the City of Alexandria, Virginia.

Section 3. That all provisions Master Plan of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

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

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

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

10. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain Sections 3-3-35, 3-3-39, 3-3-43, 3-3-52, 3-3-54, 3-3-62, 3-3-69, 3-3-70, 3-3-81, 3-3-121, 3-3-122, 3-3-127, 3-3-128 and to Amend and Ordain Section 3-3-63.2, of the Code of the City of Alexandria, Virginia, 1981, as Amended, in Order to Make the Procurement Provisions Comply With the Code of Virginia and Make Clerical Changes. (#11, 2/14/12)

(A copy of the City Manager's memorandum dated January 30, 2012, is on file in the Office of City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 2/25/12, 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. 10; 2/25/12, 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; 2/25/12, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Hughes and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance to make the procurement provisions comply with the Code of Virginia and to make clerical changes. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4750

AN ORDINANCE to amend and reordain Section 3-3-35 (PREQUALIFICATION OF BIDDERS), Section 3-3-39 (BID BONDS ON CONSTRUCTION PROJECTS), Section 3-3-43 (WITHDRAWAL OF BID), Section 3-3-52 (PERFORMANCE AND PAYMENT BONDS), Section 3-3-54 (ACTION ON PAYMENT BONDS), all of Division 1 (COMPETITIVE SEALED BIDDING) of Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION); to amend and reordain Section 3-3-62 (CONDITIONS FOR USE), to add and ordain Section 3-3-63.2 (PREQUALIFICATION OF PROPOSERS), to amend and reordain Section 3-3-69 (CONTRACTING FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION), Section 3-3-70 (DESIGN-BUILD AND CONSTRUCTION MANAGEMENT CONTRACTS), all of Division 2 (COMPETITIVE NEGOTIATION) of Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION); to amend and reordain Section 3-3-81 (PROCEDURE), of Article E (DISPOSAL OF SURPLUS PROPERTY); to amend and reordain Section 3-3-121 (PURPOSE), Section 3-3-122 (DEFINITIONS), Section 3-3-127 (KICKBACKS), Section 3-3-128 (PURCHASE OF BUILDING MATERIALS, ETC., FROM ARCHITECT OR ENGINEER PROHIBITED), of Article I (ETHICS IN PUBLIC CONTRACTING), all of Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES), of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of The Code of the City of Alexandria, Virginia, 1981, as amended.

#### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-3-35 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. 3-3-35 Prequalification of bidders.

(a) The purchasing agent is authorized to prequalify prospective bidders prior to the issuance of any invitation for bids, whether for goods, services, insurance or construction, as provided in this section; ~~provided, that opportunity to prequalify shall be given to any prospective bidder who has not been suspended or debarred under this chapter.~~

(b) For purposes of prequalification, the purchasing agent shall prepare an application form that sets forth the criteria, based on the standards set forth in subsection (f), upon which the qualifications of prospective bidders will be evaluated. The application form shall request of prospective bidders only such information as is appropriate for an objective evaluation of all prospective bidders pursuant to such criteria. Such application form shall allow the prospective bidder seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the prospective bidder pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of section 3-3-33.

(c) In all instances in which the city requires prequalification of prospective bidders, advance notice shall be given of the deadline for submission of prequalification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids so as to allow the procedures set forth in this section to be accomplished.

(d) At least 30 days prior to the date established for submission of bids under the procurement of the contract for which the prequalification applies, the city shall advise in writing each prospective bidder which has submitted an application whether that prospective bidder has been prequalified. In the event that a prospective bidder is denied prequalification, the written notification to such prospective bidder shall state the reasons for denial of such prequalification and the factual basis of such reasons.

(e) A decision by the purchasing agent denying prequalification under the provisions of this section shall be final and conclusive unless the prospective bidder appeals the decision as provided in section 3-3-101.

(f) The city may deny prequalification to any prospective bidder only if the purchasing agent finds one of the following:

(1) The prospective bidder does not have sufficient financial ability to perform the contract. If a bond is required to ensure performance of a contract, evidence that the prospective bidder can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the city shall be sufficient to establish such financial ability.

(2) The prospective bidder does not have appropriate experience to perform the contract.



(3) The prospective bidder, or any officer, director or owner of the prospective bidder, has had judgments entered against him within the past 10 years for breach of contract.

(4) The prospective bidder has been in substantial noncompliance with the terms and conditions of one or more prior contracts with a public body without good cause. If the city has not previously contracted with a prospective bidder, the city may deny prequalification if the prospective bidder has been in substantial noncompliance with the terms and conditions of comparable contracts with another public body without good cause. The city may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior contract file and such information given to the prospective bidder at that time, with the opportunity to respond.

(5) The prospective bidder or any officer, director, owner, project manager, procurement manager or chief financial official of the prospective bidder has been convicted within the past 10 years of a crime related to construction or contracting.

(6) The prospective bidder or any officer, director or owner of the prospective bidder is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government.

(7) The prospective bidder failed to provide to the city in a timely manner any information requested by the city relevant to subsections (1) through (6) of this subsection.

(g) The provisions of subsections (b) through (f) shall not apply to prequalification for contracts let under section 33.1-12 of the Code of Virginia, 1950, as amended.

(gh) Prequalification of a prospective bidder shall not constitute a conclusive determination that the prospective bidder is responsible, and such prospective bidder may be rejected as nonresponsible on the basis of subsequently discovered information.

(hi) Failure of a prospective bidder to prequalify with respect to a given procurement shall not bar the prospective bidder from seeking prequalification as to future procurements or from bidding on procurements which do not require prequalification.

Section 2. That Section 3-3-39 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. 3-3-39 Bid bonds on construction contracts.

(a) Except in cases of emergency, all bids or proposals for nontransportation-related construction contracts in excess of \$~~1500,000~~ or transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, that are in excess of \$250,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder or offeror which is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder or offeror, the bidder or offeror will enter into the contract for the work mentioned in the bid or proposal. The amount of the bid bond shall not exceed five percent of the amount bid.

(b) For nontransportation-related contracts in excess of \$100,000 but less than \$500,000, where the bid bond requirements are waived, prospective bidders or offerors shall be prequalified for each individual project in accordance with section 3-3-35.

~~(bc)~~ No forfeiture under a bid bond shall exceed the lesser of the difference between the bid for proposal for which the bond was written and the next low bid or proposal or the face amount of the bid bond.

~~(ed)~~ Nothing in this section shall preclude the city from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$~~1500,000~~ for nontransportation-related projects or \$250,000 for transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, and partially or wholly funded by the Commonwealth.

Section 3. That Section 3-3-43 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. 3-3-43 Withdrawal of bid.

(a) A bidder for a public contract may withdraw his bid from consideration at any time prior to the commencement of the bid opening procedure by notifying the purchasing agent in writing of such withdrawal.

(b) A bidder for a public contract, may withdraw his bid from consideration subsequent to the commencement of the bid opening procedure if the price bid was substantially lower than the other bids due solely to a mistake therein; provided, (i) that the bid was submitted in good faith, (ii) that the mistake was a clerical mistake as opposed to a mistake in judgment and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, and (iii) that the unintentional nature of the arithmetic error or omission is clearly shown to the satisfaction of the purchasing agent by objective evidence drawn from original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

(c) If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

(d) The bidder shall give notice in writing of his claim of right to withdraw within two business days after the conclusion of the bid opening procedure and shall submit original work papers, documents and materials with such notice. Bidder shall submit notice and documents to the purchasing agent.

~~(ee) The procedure for bid withdrawal subsequent to commencement of the bid opening procedure must shall be stated in the advertisement for bids, and shall include the following procedures:~~

~~(1) The bids shall be opened one day following the time fixed by the city for the submission of bids. The bidder shall give notice in writing of his claim of right to withdraw his bid within two hours after the conclusion of the bid opening procedure.~~

~~(2) The bidder shall submit to the purchasing agent by the close of business on the second business day after such notice of claim his original work papers, documents and materials used in the preparation of the bid.~~

~~(3) Such notice of claim and work papers, documents and materials shall be delivered to the purchasing agent by the bidder in person or by registered mail.~~

~~(4) A contract shall not be awarded by the city until the two-hour period in subsection (1) has elapsed. If a notice of claim is received from the apparent low bidder within such two-hour period, a contract shall not be awarded until the purchasing agent has determined whether to allow the withdrawal of the bid. This determination shall be made in writing within 10 days of receipt of the notice of claim, and may be based only upon the original work papers, documents and materials delivered as required herein.~~

(df) No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or on a bid of another bidder in which the ownership of the withdrawing bidder is more than five percent.

(eg) If a bid is permitted to be withdrawn under subsection (b) or (c), following a determination by the purchasing agent, the lowest remaining bid shall be deemed to be the low bid.

(fh) No bidder who withdraws a bid under subsection (a) or is permitted to

withdraw a bid under subsection (b) or (c) shall, for compensation, supply any material or labor to, or perform any subcontract or other work for, the person or firm to whom the contract is awarded, or shall otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

(gi) If the purchasing agent denies the withdrawal of a bid under the provisions of subsection (b) or (c), ~~he shall notify the bidder in writing stating the reasons for his decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.~~ he shall notify the bidder within five business days of his decision regarding the bidder's request to withdraw his bid. If the purchasing agent denies the withdrawal of a bid under subsection (b) or (c), he shall state in such notice the reasons for his decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, the purchasing agent shall return all work papers and copies thereof that have been submitted by the bidder.

Section 4. That Section 3-3-52 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. 3-3-52 Performance and payment bonds.

(a) Upon the award of any (i) public construction contract exceeding \$4500,000 to any prime contractor; (ii) construction contract exceeding \$4500,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body; (iii) construction contract exceeding \$4500,000 in which the performance of labor or the furnishing of materials will be paid with public funds; or (iv) transportation-related projects exceeding \$250,000 that are partially or wholly funded by the Commonwealth, such contractor shall furnish to the city the following bonds:

(1) A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, such bond shall be in a form and amount satisfactory to the purchasing agent.

(2) A payment bond in the sum of the contract amount. Such bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded or to any subcontractors in the prosecution of the work provided for in such contract, and shall be conditioned upon the prompt payment for all such material furnished or labor supplied or performed in the prosecution of the work. For transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, such bond shall be in a form and amount satisfactory to the purchasing agent. Labor or materials shall include public utility services and reasonable rentals of equipment, but only for periods when the

equipment rented is actually used at the site.

(b) For transportation-related construction contracts in excess of \$100,000 but less than \$500,000, where the bid bond requirements are waived, prospective bidders or offerors shall be prequalified for each individual project in accordance with section 3-3-35.

(bc) Each of such bonds shall be executed by one or more surety companies selected by the contractor which are legally authorized to do business in Virginia.

(ed) The bonds shall be made payable to the city.

(de) Each of the bonds shall be filed with the purchasing agent.

(ef) Nothing in this section shall preclude the purchasing agent from requiring payment or performance bonds for construction contracts below \$450,000 for nontransportation-related projects or \$250,000 for transportation-related projects authorized under section 33.1-12 of the Code of Virginia, 1950, as amended, and partially or wholly funded by the Commonwealth.

(fg) Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

Section 5. That Section 3-3-54 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. 3-3-54 Actions on payment bonds.

(a) ~~Subject to the provisions of subsection (b) hereof,~~ Any claimant who has a direct contractual relationship with the contractor and who has performed labor or furnished materials in accordance with the contract for which a payment bond has been given, and who has not been paid in full therefor before the expiration of 90 days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on such payment bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The obligee named in the bond need not be named a party to such action.

(b) Any claimant who has a direct contractual relationship with any subcontractor from whom the contractor has not required a subcontractor payment bond under section 3-3-52 but who has no contractual relationship, express or implied, with such

contractor, may bring an action on the contractor's payment bond only if he has given written notice to such contractor within ~~480~~90 days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished. Any claimant who has a direct contractual relationship with a subcontractor from whom the contractor has required a subcontractor payment bond under section 3-3-52 but who has no contractual relationship, express or implied, with such contractor, may bring an action on the subcontractor's payment bond. Notice to the contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to such contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this subsection.

(c) Any action on a payment bond must be brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials.

(d) Any waiver of the right to sue on the payment bond required by this section shall be void unless it is in writing, signed by the person whose right is waived, and executed after such person has performed labor or furnished material in accordance with the contract documents.

Section 6. That Section 3-3-62 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. 3-3-62 Conditions for use.

(a) Upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination. Notwithstanding the foregoing, upon a determination made in advance by the purchasing agent that the procurement of insurance by competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed broker or agent selected through competitive negotiation. The basis for this determination shall be documented in writing.

(b) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

~~(1) for the construction, alteration, repair, renovation or demolition of buildings or~~

~~structures when the contract is expected to equal or be less than \$1.5 million;~~

~~(2) on a fixed price design-build basis or construction management basis under section 2.2-4308 of the Code of Virginia, 1950, as amended, when the contract is not expected to cost more than \$1.5 million;~~

~~(3)(1) for the construction of highways, streets and alleys;~~

~~(4)(2) for the draining, dredging, excavation or grading of, or similar work upon, real property; or~~

(3) for construction contracts on a fixed price or not-to-exceed price design-build or construction management basis and otherwise in compliance with sections 2.2-4303 and 2.2-4308 of the Code of Virginia, 1950, as amended, and other applicable law governing design-build or construction management contracts for public bodies; or

~~(5)(4) as otherwise provided in section 3-3-70.~~

Section 7. That Section 3-3-63.2 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, added by inserting new language as follows:

Sec. 3-3-63.2 Prequalification for proposers.

The provisions of section 3-3-35 shall apply to prequalification for public contracts awarded by competitive negotiation.

Section 8. That Section 3-3-69 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. 3-3-69 Contracting for professional services by competitive negotiation.

(a) Professional services shall be procured by competitive negotiation. The purchasing agent may establish purchase procedures, if adopted in writing, not requiring competitive negotiation for single or term contracts for professional services if the aggregate or the sum of all phases is not expected to exceed \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.

(b) The purchasing agent shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project and to explore alternative concepts of performance of the contract. In addition, offerors shall be informed of any ranking criteria that will be

used by the purchasing agent in addition to the review of professional competence of the offeror. The request for proposals shall not seek estimates of person hours or costs for services. However, these discussions may encompass nonbinding estimates of total project costs, including, but not limited to, where appropriate design, construction, and life cycle costs and nonbinding estimates of price for services. ~~Methods to be utilized in arriving at the price for services may also be discussed.~~ Proprietary information from competitive offerors shall not be disclosed to the public or to competitors. At the conclusion of the discussions and on the basis of evaluation factors published in the request for proposals and all information developed in the selection process to this point, the purchasing agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the city can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations shall be conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposal, the city may award contracts to more than one offeror. If, at the conclusion of the discussions, the purchasing agent determines in writing and in his sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Once formally terminated, negotiations may not be reopened with any offeror.

(c) With respect to the procurement of legal services, the duties and responsibilities imposed upon the purchasing agent in subsection (b) above shall devolve upon the city attorney.

(d) A contract for architectural or professional engineering services relating to construction projects may be negotiated by the purchasing agent, for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the request for proposals, and (iii) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this ~~paragraph~~subsection (d), whichever occurs first. Such contract may be renewable for ~~two~~four additional ~~term~~one-year terms at the option of the city, as exercised by the purchasing agent. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed; (b) the sum of all projects performed in one contract term shall not exceed one million dollars; and (c) the project fee of any single project shall not exceed \$500,000. Any unused amounts from one contract term shall not be carried forward to a successive term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the request for proposals so states, and (2) the purchasing agent has established procedures for distributing multiple projects among the selected contractors during the contract term.



(e) Multiphase professional services contracts for environmental, location, design and inspection work regarding construction of infrastructure projects~~satisfactory and advantageous to the city~~ may be negotiated and awarded based on qualifications at a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to the procurement of any such contract, the purchasing agent shall state the anticipated intended total scope of the project and determine in writing that the nature of the work is such that the best interests of the city require awarding the contract.

Section 9. That Section 3-3-70 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. 3-3-70 Design-build and construction management contracts.

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

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

(c) The following procedures shall be followed in the selection and evaluation of offerors and award of design-build and construction management contracts:

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

(2) The purchasing agent shall appoint an evaluation committee of not less than three members, one of whom shall be the architect or professional engineer employed by or under contract with the city pursuant to subsection (b).

(3) Prequalification of potential offerors:

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

(ii) The evaluation committee shall evaluate each responding potential offeror's qualifications submittal and any other relevant information, and shall select a minimum of two offerors deemed fully qualified and best suited on the basis of the criteria contained in the request for qualifications. An offeror may be denied prequalification only upon those grounds specified in ~~section 2.2-4317 of the Code of Virginia (1950), as amended~~3-3-35(f). At least 30 days prior to the date established for the submission of proposals, the purchasing agent shall advise in writing each potential offeror whether that offeror has been selected. In the event that a potential offeror is not selected, the written notification to such potential offeror shall state the reasons there-for.

(4) Request for proposals.

(i) The purchasing agent shall issue a request for proposals to the selected offerors at least 10 days prior to the date set for receipt of proposals. The request for proposals shall indicate in general terms that which is sought to be procured, specifying the factors that will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications that will be required of the contractor. The request for proposals shall include and define the requirements of the specific construction project in areas such as site plans, floor plans, exterior elevations, basic building envelope materials, fire protection information plans, structural, mechanical (HVAC) and electrical systems, and special telecommunications. The request for proposals may also define such other requirements as the purchasing agent deems appropriate for the construction project. In the case of a construction management contract, the request for proposals shall also define the pre-design, design phase, bid phase and/or

construction phase services to be performed by the construction manager. The request for proposals shall specify the evaluation criteria to be used by the evaluation committee to evaluate proposals. The purchasing agent shall receive and consider comments concerning specifications or other provisions in the request for proposals, prior to the time set for receipt of proposals.

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

(iii) The evaluation committee shall evaluate each technical proposal based on the criteria set forth in the request for proposals. As a part of the evaluation process, the evaluation committee shall grant each of the offerors an equal opportunity for direct and private communication with the evaluation committee. Each offeror shall be allotted the same fixed amount of time. In its conversations with offerors, the evaluation committee shall exercise care to discuss the same owner information with all offerors. ~~In addition, the evaluation committee shall not disclose any trade secret or proprietary information for which the offeror has invoked protection pursuant to section 2.2-4342 F of the Code of Virginia.~~ Based upon its review of each offeror's technical proposal, the evaluation committee shall determine whether any changes to the request for proposals should be made to correct errors or omissions or to clarify ambiguities in the request for proposals, or to incorporate project improvements or additional details identified by the committee during its review. Any such changes shall be set out in an addendum to the request for proposals. Each offeror shall be provided an opportunity to amend or supplement its technical proposal to address the changes.

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

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

(5) Final selection of design-builder.

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

(ii) Following receipt of the recommendation of the evaluation committee, the purchasing agent shall award the contract to the fully qualified offeror who submits an

acceptable proposal determined to be the best value in response to the Request for Proposal.

(6) Final selection of construction manager.

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

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

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

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

~~(8) The city shall submit information for post-project evaluation when requested by the review board.~~

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

Section 10. That Section 3-3-81 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. 3-3-81 - Procedure.

(a) All using agencies shall submit to the purchasing agent at such time and in such form as he shall prescribe, reports showing stocks of all ~~supplies and other property which are no longer used, have become obsolete, worn out or unusable, or are otherwise surplus~~ surplus property.

(b) ~~The purchasing agent shall have the authority to transfer such surplus property to other using agencies. Except as provided in subsection (c), (e) the purchasing agent, with under the consent~~ supervision of the city manager, shall have the authority to sell all surplus property, or to exchange the same for or trade in the same on new property, exchange, trade-in, or otherwise dispose of all surplus property. Except as provided in subsection (d), all sales of such surplus property shall be made to the highest responsible bidder.

~~(d) Upon a written determination by the purchasing agent that it is in the best interests of the city, surplus property may be sold to another public body at a fair and reasonable negotiated price without seeking competitive bids.~~

(c) Approval by city council, after notice and public hearing, is required if property in the following categories is sold with the intent to lease back the property and the value of the proposed sale exceeds \$2,000,000: school or transit bus fleet, vehicle fleet or road construction equipment. The public hearing shall be advertised once in a newspaper having general circulation in the city at least seven days prior to the date set for the hearing.

(d) With the approval of the city manager, the purchasing agent may delegate authority to dispose of surplus property.

(e) Surplus property as set forth herein means personal property owned by the city, including, but not limited to, materials, supplies, equipment, and recyclable items, which is obsolete, worn out, unusable, or no longer used.

Section 11. That Section 3-3-121 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. 3-3-121 Purpose.

The provisions of this article supplement but do not supersede other provisions of law including, but not limited to, the State and Local Government Conflict of Interests Act (section ~~2-1-639-12.2-3100~~, et seq., Code of Virginia (1950), as amended), the Virginia Governmental Frauds Act (section 18.2-498.1, et seq., Code of Virginia (1950), as amended) and articles 2 (section 18.2-438, et seq.) and 3 (section 18.2-446, et seq.) of chapter 10, title 18.2, Code of Virginia (1950), as amended. The provisions of this

article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

Section 12. That Section 3-3-122 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. 3-3-122 Definitions.

The words defined in this section shall have the meanings set forth below throughout this article.

(a) Immediate family: A spouse, children, parents, brothers and sisters and any other person living in the same household as the employee.

(b) Official responsibility: Administrative or operating authority, whether intermediate or final, to initiate, approve, disapprove or otherwise affect a procurement transaction or any claim resulting therefrom.

(c) Pecuniary interest arising from the procurement: A personal interest as defined in the State and Local Government Conflict of Interests Act.

(d) Procurement transaction: All functions that pertain to the obtaining of any goods, services or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

(e) Public employee: Any person employed by the city, including elected officials and appointed members of boards and commissions.

(f) Transaction: Any matter under consideration or considered by a public employee or on which official action is taken or contemplated.

Section 13. That Section 3-3-127 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. 3-3-127 Kickbacks.

(a) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything of ~~more than nominal value~~, present or promised, unless consideration of substantially equal or greater value is exchanged.

(b) No subcontractor or supplier shall make or offer to make kickbacks as

described in this section.

(c) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.

(d) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the city and will be recoverable from both the maker and the recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

Section 14. That Section 3-3-128 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. 3-3-128 Purchase of building materials, etc., from architect or engineer prohibited.

(a) Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for the city shall be sold by or purchased from any person employed as an independent contractor by the city to furnish architectural or engineering services, but not construction, for such building or structure, or from any partnership, association or corporation in which such architect or engineer has a pecuniary interest arising from the procurement.

~~(b) Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for the city shall be sold by or purchased from any person who has provided or is providing design services to the independent contractor employed by the city to furnish architectural or engineering services for such building or structure, if such person (i) has specified a sole source for such materials, supplies or equipment, and (ii) has a pecuniary interest arising from the procurement in such architect or engineer.~~ no building materials, supplies or equipment for any building or structure constructed by or for the city shall be sold by or purchased from any person who has provided or is currently providing design services specifying a sole source for such materials, supplies or equipment to be used in the building or structure to the independent contractor employed by the city to furnish architectural or engineering services in which such person has a pecuniary interest.

Section 15. 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 Authorizing the Owner of the Property Located at 923 King Street to Construct and Maintain an Encroachment For Two (2) Bay Windows and a Front Door Entry Way on the King Street Right-of-way and Two (2) Bay Windows and a Portion of a Building Wall on the Patrick Street Right-of-way at That Location.

(#12, 2/14/12)

(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. 11; 2/25/12, 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. 11; 2/25/12, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance for 923 King Street to construct and maintain an encroachment. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4751

AN ORDINANCE authorizing the owner of the property located at 923 King Street to construct and maintain an encroachment for two (2) bay windows and a front door entry way on the King Street right of way and two (2) bay windows and a portion of a building wall on the Patrick Street right of way at that location.

WHEREAS, Seyed Hossein Shoja-Maddahi is the owner ("Owner") of the property located at 923 King Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain bay windows, a portion of a building wall and a front door entry way which will encroach into the public sidewalk right-of-way on King Street and on Patrick Street at that location; and

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

WHEREAS, in Encroachment No. 2001-0004 the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on December 6, 2011 which recommendation was approved by the City Council at its public hearing on December 17, 2011 and



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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 923 King Street as shown in the encroachment plat labeled Attachment A attached hereto and incorporated fully herein by reference, in the City of Alexandria, said encroachment consisting of two (2) bay windows and a front door entry way on King Street and two (2) bay windows and a portion of a building wall on Patrick Street, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

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

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

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of their obligations and undertakings required under this ordinance.

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

terms:

(a) The applicant (and his successors, if any) shall maintain a minimum 4.44-foot wide unobstructed sidewalk in front of the new bay window encroachment on North Patrick Street as shown on the submitted plan and shall maintain the existing unobstructed sidewalk widths in front of all other encroachments, unless amended by subsequent encroachment or outdoor dining approval.

(b) Neither the City nor any private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment.

(c) In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City.

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

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

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

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

Section 8. The terms "Owner" shall be deemed to include their successors in interest.

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

12. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain the Master Plan of the City of Alexandria, Virginia, By Adopting and Incorporating Therein the Amendment Heretofore Approved By City Council to Braddock Metro Station Small Area Plan and the Northeast Small Area Plan Chapters as Master Plan Amendment No. 2011-0008 and No Other Amendments, and Repeal All Provisions of the Said Master Plan as May Be Inconsistent With Such Amendment. (#13, 2/14/12)

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 2/25/12, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 12; 2/25/12, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Councilwoman Hughes and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance for the Braddock Metro Station small area plan. The voting was as follows:

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

The ordinance reads as follows:

**ORDINANCE NO. 4752**

AN ORDINANCE to amend and reordain the Master Plan of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to Braddock Metro Station Small Area Plan and the Northeast Small Area Plan Chapters as Master Plan Amendment No. 2011-0008 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

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

1. In Master Plan Amendment No. 2011-0008, 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 December 6, 2011 of an amendment to the Braddock Metro Station Small Area Plan and the Northeast Small Area Plan Chapters of the Master Plan of the City of Alexandria, by amending the Braddock East Master Plan to revise the height designated on the northern multifamily block to allow one multifamily building to have a maximum height of sixty (60) feet, which recommendation was approved by the City Council at public hearing on December 17, 2011;

2. The said amendment has heretofore been approved by the Planning Commission and city council after full opportunity for comment and public hearing.

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That pages 5, 42, 46, 47 and 58 of the Braddock East Master Plan included in the Braddock Metro Station Small Area Plan and the Northeast Small Area Plan Chapters of the Master Plan of the City of Alexandria, be, and the same hereby are, amended by adding the asterisk (\*) and note stating "Except that one multi-family building may be increased to 60 feet in the northern multi-family block adjacent to Patrick Street" on the stated pages as shown on the sketch plan entitled "Braddock East Master Plan – Amended Pages", attached hereto and incorporated fully herein by reference.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan map amendments, as part of the Braddock Metro Station Small Area Plan and the Northeast Small Area Plan Chapters of Master Plan of the City of Alexandria, Virginia.

Section 3. That all provisions of the Braddock Metro Station Small Area Plan and the Northeast Small Area Plan Chapters of the Master Plan of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

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

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

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

13. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain the Master Plan of the City of Alexandria, Virginia, By Adopting and Incorporating Therein the Amendment Heretofore Approved By City Council to the Fairlington/Bradlee Small Area Plan Chapter as Master Plan Amendment No. 2011-0007 and No Other Amendments, and To Repeal All Provisions of the Said Master Plan As May Be Inconsistent With Such Amendment. (#14, 2/14/12)

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 2/25/12, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 13; 2/25/12, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by Councilwoman Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance for the Fairlington/Bradlee small area plan. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4753

AN ORDINANCE to amend and reordain the Master Plan of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to the Fairlington/Bradlee Small Area Plan Chapter as Master Plan Amendment No. 2011-0007 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

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

1. In Master Plan Amendment No. 2011-0007 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 December 6, 2011 of an amendment to the Fairlington/Bradlee Small Area Plan Chapter of the Master Plan of the City of Alexandria, by changing the land use designation and the proposed zoning of the property at 3526 King Street, Alexandria, VA from CG/Commercial

General to OC/Office Commercial and from CG/Commercial General to OC/Office Commercial with proffer, respectively, which recommendation was approved by the City Council at public hearing on December 17, 2011;

2. The said amendment has heretofore been approved by the planning commission and city council after full opportunity for comment and public hearing.

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Maps 3 and 4 in the Fairlington/Bradlee Small Area Plan Chapter of the Master Plan of the City of Alexandria, be, and the same hereby are, amended by changing the land use designation of the property at 3526 King Street, from CG/Commercial General to OC/Office Commercial and that Maps 6A and 6B in the Fairlington/Bradlee Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, be, and the same hereby are, amended by changing the proposed zoning of the property at 3526 King Street, from CG/Commercial General to OC/Office Commercial with proffer.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan map amendments, as part of the Fairlington/Bradlee Small Area Plan Chapter of Master Plan of the City of Alexandria, Virginia.

Section 3. That all provisions of the Fairlington/Bradlee Small Area Plan Chapter of the Master Plan of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

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

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

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

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain Sheet No. 032.01 of the "Official Zoning Map, Alexandria, Virginia," Adopted by Section 1-300 (Official Zoning Map and District Boundaries), of the City of Alexandria Zoning Ordinance, By Rezoning the Property at 3526 King Street From, CG/Commercial General to OC/Office

Commercial With Proffer in Accordance With the Said Zoning Map Amendment Heretofore Approved By City Council as Rezoning No. 2011-0002. (#15, 02/14/12)

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 2/25/12, 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. 14; 2/25/12, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Hughes, seconded by Councilman Smedberg and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance for the property at 3526 King Street.

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

The ordinance reads as follows:

#### ORDINANCE NO. 4754

AN ORDINANCE to amend and reordain the Master Plan of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to the Fairlington/Bradlee Small Area Plan Chapter as Master Plan Amendment No. 2011-0007 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

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

1. In Master Plan Amendment No. 2011-0007 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 December 6, 2011 of an amendment to the Fairlington/Bradlee Small Area Plan Chapter of the Master Plan of the City of Alexandria, by changing the land use designation and the proposed zoning of the property at 3526 King Street, Alexandria, VA from CG/Commercial General to OC/Office Commercial and from CG/Commercial General to OC/Office Commercial with proffer, respectively, which recommendation was approved by the City Council at public hearing on December 17, 2011;

2. The said amendment has heretofore been approved by the planning

commission and city council after full opportunity for comment and public hearing.

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

**THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:**

Section 1. That Maps 3 and 4 in the Fairlington/Bradlee Small Area Plan Chapter of the Master Plan of the City of Alexandria, be, and the same hereby are, amended by changing the land use designation of the property at 3526 King Street, from CG/Commercial General to OC/Office Commercial and that Maps 6A and 6B in the Fairlington/Bradlee Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, be, and the same hereby are, amended by changing the proposed zoning of the property at 3526 King Street, from CG/Commercial General to OC/Office Commercial with proffer.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan map amendments, as part of the Fairlington/Bradlee Small Area Plan Chapter of Master Plan of the City of Alexandria, Virginia.

Section 3. That all provisions of the Fairlington/Bradlee Small Area Plan Chapter of the Master Plan of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

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

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

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

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

**DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

**Planning Commission (continued)**

15. TEXT AMENDMENT #2012-0001  
PUBLIC SCHOOL USE IN CR/LANDMARK MALL ZONE  
A) Consideration of initiation of a text amendment; B) Public Hearing and consideration of an amendment to Section 4-700 of the Zoning Ordinance to



allow public schools use within the CR/Commercial Regional Zone, with approval of a special use permit.

PLANNING COMMISSION ACTION: Deferred without objection

City Council noted the deferral.

\*\*\*\*\*

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilman Krupicka, seconded by Councilwoman Hughes and carried unanimously, City Council adjourned the public hearing meeting of February 25, 2012 at 2:01 p.m. The voting was follows:

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

APPROVED BY:

\_\_\_\_\_  
WILLIAM D. EUILLE

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
Jacqueline M. Henderson  
City Clerk and Clerk of Council