

3B
2-13-02

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

**Special Public Hearing Meeting
Saturday, January 26, 2002 - - 9:30 a.m.**

**[In lieu of the Regular Public Hearing Meeting of
Saturday, January 12, 2002]**

Present: Mayor Kerry J. Donley, Vice Mayor William C. Cleveland, Members of City Council Claire M. Eberwein, William D. Eulle, Redella S. Pepper, David G. Speck, and Joyce Woodson.

Absent: None.

Also Present: Mr. Sunderland, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Assistant City Manager; Mrs. Godwin, Assistant City Manager; Mr. Jinks, Assistant City Manager; Ms. Ross, Deputy Director of Planning and Zoning; Mr. Baier, Director of Transportation and Environmental Services; Director of Housing Davis; Legislative Director Caton; Mr. McCobb, Deputy Director of Transportation and Environmental Services; Mr. Smith, Principal Staff, Boards of Architectural Review; Ms. Beeton, Urban Planner, Planning and Zoning; Mr. Swearingen, Director of Management and Budget; Purchasing Agent Pitzer; Alexandria Transit Company General Manager Modell; and Lieutenant Uzzell, Police Department.

Recorded by: Mrs. Beverly I. Jett, City Clerk and Clerk of Council.

OPENING

The Meeting was called to Order by Mayor Donley, and the City Clerk called the Roll; all Members of City Council were present.

(It was noted that a Notice of this Special Meeting had been previously served upon each Member of Council pursuant to a provision of the City Charter, a copy of the Notice certified by each Member of Council present being on file in the office of the City Clerk and Clerk of Council.)

2. Public Discussion Period.

(a) Judy McVay, 202 North Columbus Street, representing the Coalition For A Sensible Bridge, read the letter from the Coalition dated January 26, 2002, expressing its concern of the Virginia Department of Transportation's (VDOT's) purchase of the Hunting Towers and Hunting Terrace complexes. The Coalition requested the City Council to make every effort to preserve the viability of these complexes by whatever means necessary. It recommends, at a minimum, because the Hunting Towers and Hunting Terrace complexes have historic significance, that the City demand the Commonwealth of Virginia grant historic easements on the properties to the Alexandria Historic Restoration and Preservation Commission. It's imperative for the City Council to act quickly to save some of the City's last and best affordable housing stock. The Coalition requested that a task force be set up to include

representatives of residents of Hunting Terrace/Hunting Towers complexes, the Coalition, the Alexandria Historic Restoration and Preservation Commission, and City Council to work with VDOT.

Members of City Council, Ms. McVay, City Manager Sunderland and City Attorney Pessoa participated in a discussion about process.

Mayor Donley, Vice Mayor Cleveland and City Manager Sunderland meet with the [VDOT's] Woodrow Wilson Bridge group every month. They will place Huntington Towers/Hunting Terrace on the agenda for discussion next month to try to get some idea of what their ultimate plans are.

WHEREUPON, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Pepper and carried unanimously, City Council approved to look into this issue in the long-term view and included the notion of a citizen task force to help plan for the reuse of the land after the project is complete. The voting was as follows:

Cleveland	"aye"	Eberwein	"aye"
Pepper	"aye"	Euille	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

(A copy of The Coalition For A Sensible Bridge, Inc.'s letter dated January 26, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 2(a); 1/26/02, and is incorporated herewith as part of this record by reference.

A copy of a verbatim transcript of this item is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 2(a); 1/26/02, and is incorporated herewith as part of this record by reference.)

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-8)

Planning Commission

Without objection, City Council removed docket item no. 7 from the Action Consent Calendar and considered it under a separate motion.

3. SPECIAL USE PERMIT #2001-0113 -- 3020-3030 DUKE ST -- SHAKER MOTOR CAR CO -- Public Hearing and Consideration of a special use permit review for an automobile sales business; zoned CG/Commercial General. Applicant: Gholam Reza Shaker, trading as Shaker Motor Car Company, by Duncan W. Blair, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 1/26/02, and is incorporated herewith as part of this record by reference.)

4. SPECIAL USE PERMIT #2001-0116 -- 111-119 E REED AV -- Public Hearing and Consideration of a request for a special use permit for extension to allow residential land to continue to be used for parking; zoned RB/Residential. Applicant: Alexandria One Associates, LP, by Duncan W. Blair, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 1/26/02, and is incorporated herewith as part of this record by reference.)

5. SPECIAL USE PERMIT #2001-0127 -- 1028 KING ST -- KING HENRY DELI -- Public Hearing and Consideration of a request for a special use permit to change the ownership of a restaurant; zoned CD/Commercial Downtown. Applicant: Nickell's & Scheffler, Ltd., by Louis E. Nickell and Susan M. Scheffler.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 1/26/02, and is incorporated herewith as part of this record by reference.)

6. SPECIAL USE PERMIT #2001-0128 -- 1609 KING ST -- UPTOWNER CAFE -- Public Hearing and Consideration of a special use permit review for a restaurant; zoned CD/Commercial Downtown. Applicant: Moon Ock Cho.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 1/26/02, and is incorporated herewith as part of this record by reference.)

8. SPECIAL USE PERMIT #2001-0118 -- 305 HOOFF'S RUN DR -- JUNGLE'S GYM -- Public Hearing and Consideration of a request for a special use permit for a health club; zoned CDD-2/Coordinated Development District, Eisenhower Avenue. Applicant: Fitness Centers II, LLC, by Chris D. Kosmakos.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 1/26/02, and is incorporated herewith as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilman Euille, seconded by Vice Mayor Cleveland and carried unanimously, City Council approved the Action Consent Calendar with the exception of docket item no. 7 which was considered under a separate motion. The City Council action follows:

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

- 6. City Council approved the Planning Commission recommendation.
- 8. City Council approved the Planning Commission recommendation.

END OF ACTION CONSENT CALENDAR

The voting was as follows:

Euille	"aye"	Eberwein	"aye"
Cleveland	"aye"	Pepper	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

7. SPECIAL USE PERMIT #2001-0114 -- 2838 DUKE ST -- DUKE STREET MOBIL -- Public Hearing and Consideration of a special use permit review for an automobile service station; zoned CG/Commercial General. Applicant: Essam Danfora, by Duncan W. Blair, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 1/26/02, and is incorporated herewith as part of this record by reference.)

Duncan W. Blair, 112 South Alfred Street, Suite 300, attorney for the applicant, was available to respond to questions of Council.

Attorney Blair indicated that he would ask the applicant to fix the pothole as mentioned by Councilwoman Pepper.

Members of Council, Attorney Blair, Planning and Zoning Deputy Director Ross, and City Manager Sunderland participated in a discussion regarding staff time involved in enforcement of conditions to a special use permit.

Attorney Blair noted that he has found the Small Business Development Center a very effective tool that is available to businesses. This Center assists the businesses in management training on how they can operate their businesses and comply with conditions/regulations. It's a first deterrent rather than the draconian measures of fines and revocation.

Mayor Donley noted that the above is not a bad suggestion for staff as well.

WHEREUPON, upon motion by Councilman Speck, seconded by Councilwoman Eberwein and carried unanimously, City Council approved the Planning Commission recommendation, **with an amendment to condition no. 22 to change the review of the special use permit from six months to one year**. The voting was as follows:

Speck	"aye"	Cleveland	"aye"
Eberwein	"aye"	Euille	"aye"
Donley	"aye"	Pepper	"aye"
		Woodson	"aye"

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

9. Public Hearing on and Consideration of the Recommendation of the City Facilities Naming Committee on Renaming the Alexandria Black History Resource Center as the Alexandria Museum of African American Culture. **[THIS ITEM HAS BEEN DEFERRED.]**

(A copy of Mr. Sunderland's memorandum dated January 16, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 1/26/02, and is incorporated herewith as part of this record by reference.

A copy of Ms. McMillian's letter dated January 25, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 9; 1/26/02, and is incorporated herewith as part of this record by reference.)

Without objection, City Council noted the deferral.

10. Public Hearing and Consideration on the Purchase of Land For a New Dash Facility. (#16 1/22/02)

(A copy of the City Manager's memorandum dated January 14, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 1/26/02, and is incorporated herewith as part of this record by reference.)

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Cleveland and carried unanimously, City Council authorized the City Manager to proceed with the acquisition of 6.6 acres of land located between South Quaker Lane and Roth Street from the CSX Corporation, and the acquisition of 3.1 acres of land, also located between South Quaker Lane and Roth Street, from Pepper Lane, LLC. The voting was as follows:

Pepper	"aye"	Eberwein	"aye"
Cleveland	"aye"	Euille	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

11. SPECIAL USE PERMIT #2001-0112 -- 200 S PICKETT ST -- MERCEDES-BENZ -- Public Hearing and Consideration of a request for a special use permit to change the ownership of an automobile sales facility and make alterations to the existing building and site; zoned CG/Commercial General. Applicant: Mercedes-Benz of Alexandria, LLC, by Lonnie C. Rich, attorney.

COMMISSION ACTION: Recommend Approval 6-0

(A copy of the Planning Commission report dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 1/26/02, and is incorporated herewith as part of this record by reference.)

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

Lonnie C. Rich, 101 West Uhler Terrace, attorney representing the applicant, presented the application and spoke in support.

Councilwoman Woodson noted that Mr. Gonzales, from the Cameron Station Civic Association, questioned whether or not there were any plans for out buildings. She asked Mr. Rich if the applicant had any intention of building any out buildings.

Attorney Rich indicated that Mr. Gonzales raised a question about building a multi-story garage at the back of the property. He stated to his knowledge there are no plans to build a multi-story garage.

Planning and Zoning Deputy Director Ross stated, assuming the building would be an intensification and an expansion of use, it would have to come back.

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

Woodson	"aye"	Cleveland	"aye"
Speck	"aye"	Eberwein	"aye"
Donley	"aye"	Euille	"aye"
	Pepper	"aye"	

**Board of Architectural Review
Old and Historic Alexandria District**

Without objection, item nos. 12 and 13 were considered together and under one motion.

12. CASE BAR-2001-225 -- 608 CAMERON STREET -- Public Hearing and Consideration of an appeal of a decision of the Board of Architectural Review, Old and Historic Alexandria District, on November 7, 2001, denying a request for approval of a permit to demolish portions of a building located at 608 Cameron Street, zoned CD Commercial. APPLICANT AND APPELLANT: Richard Clausen by Daniel C. York.

BOARD ACTION: Denied by roll-call vote, 4-2

13. CASE BAR-2001-226 -- 608 CAMERON STREET -- Public Hearing and Consideration of an appeal of a decision of the Board of Architectural Review, Old and Historic Alexandria District, on November 7, 2001, denying a request for approval of an addition at 608 Cameron Street, zoned CD Commercial. APPLICANT AND APPELLANT: Richard Clausen by Daniel C. York.

BOARD ACTION: Denied, 4-2

(A copy of the BAR report is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item Nos. 12 and 13; 1/26/02, and is incorporated herewith as part of this record by reference.

A copy of the appeal dated November 19, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item Nos. 12 and 13; 1/26/02, and is incorporated herewith as part of this record by reference.

Communications pertaining to this item are on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 3 of Item Nos. 12 and 13; 1/26/02, and is incorporated herewith as part of this record by reference.)

Mr. Smith, Principal staff for the Boards of Architectural Review, made a PowerPoint presentation providing an overview of this project.

(A copy of the PowerPoint material is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 4 of Item Nos. 12 and 13; 1/26/02, and is incorporated herewith as part of this record by reference.)

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

Arthur Keleher, 208 North Royal Street, representing the Board of Architectural Review, presented the rationale for the Board's denial of this request and responded to questions posed to him by the Members of City Council;

Mark Feldheim, 1215 Prince Street, appearing on behalf of the Old Town Civic Association, stated that he is not here in support of the applicant or against the BAR's position in this matter. He noted at this point given the context of where it is and in the alley, the applicant did what the Council asked him to do, and we have no objection as the project currently stands;

Engin Artemel, 120 Madison Place, representing Mr. and Mrs. Lloyd Flatt, spoke against the appeals and in support of the BAR action;

Rayford Massey, 1110 Spy Glass Way, Unionville, TN, representing Lloyd Flatt, spoke against the appeals;

Charles Ablard, 803 Hall Place, representing the Historic Alexandria Foundation, spoke against the appeals;

Dan York, applicant, spoke in support;

Mark Allen, 301 North Pitt Street, representing Mr. and Mrs. Lloyd Flatt, spoke against the appeals; and

Richard Clausen, architect for the applicant and appellant, spoke in support of the appeals and provided Council with an overview of the changes made in the application.

WHEREUPON, upon motion by Councilwoman Eberwein, seconded by Councilwoman Pepper, City Council moved to uphold the decisions of the Board of Architectural Review and to deny the appeals.

Members of City Council spoke to the motion.

THEREUPON, Council returned to the motion made by Councilwoman Eberwein, seconded by Councilwoman Pepper and carried unanimously, City Council upheld the decisions of the Board of Architectural Review and denied the appeals. The voting was as follows:

Eberwein	"aye"	Cleveland	"aye"
Pepper	"aye"	Euille	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

ORDINANCES AND RESOLUTIONS

14. Public Hearing, Second Reading and Final Passage of an Ordinance to incorporate into the city code mandatory provisions of the Virginia Public Procurement Act, and to bring the provisions of the city code applicable to employment practices by city contractors into conformance with those provisions generally applicable to employers in the city. (#18 1/8/02) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated January 3, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 1/26/02, and is incorporated herewith as part of this record by reference.)

The City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Cleveland and carried on a unanimous ROLL-CALL vote, City Council finally passed the ordinance upon its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Eberwein	"aye"
Cleveland	"aye"	Euille	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

The ordinance finally passed reads as follows:

ORDINANCE NO. 4232

AN ORDINANCE to enact new Section 3-3-51.1 (DAMAGES FOR DELAYS), of Division 1 (COMPETITIVE SEALED BIDDING), to amend and reordain Section 3-3-62 (CONDITIONS FOR USE) and subsection (b) of Section 3-3-70 (DESIGN-BUILD AND CONSTRUCTION MANAGEMENT CONTRACTS), of Division 2 (COMPETITIVE NEGOTIATION), and to enact new Section 3-3-79 (PERMITTED CONTRACTS WITH CERTAIN RELIGIOUS ORGANIZATIONS; PURPOSE; LIMITATIONS), of Division 3 (MISCELLANEOUS PROVISIONS), all of Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION); to amend and reordain Sections 3-3-123 (PROSCRIBED PARTICIPATION BY PUBLIC EMPLOYEES IN PROCUREMENT TRANSACTIONS) and 3-3-128 (PURCHASE OF BUILDING MATERIALS, ETC. FROM ARCHITECT OR ENGINEER PROHIBITED) of Article I (ETHICS IN PUBLIC CONTRACTING), all of Chapter 3 (PROCUREMENT), Title 3 (FINANCE, TAXATION AND PROCUREMENT), and to amend and reordain Section 12-4-6 (CITY

CONTRACTS) of Chapter 4 (HUMAN RIGHTS), TITLE 12 (EDUCATION, SOCIAL SERVICES AND WELFARE), all of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 3 of Title 3 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding new section 3-3-51.1 to read as follows:

Sec. 3-3-51.1 Damages for delays.

(a) Any provision contained in any public construction contract that purports to waive, release, or extinguish the rights of a contractor to recover costs or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent the delay is caused by acts or omissions of the city, its agents or employees and due to causes within their control shall be void and unenforceable as against public policy.

(b) Subsection (a) shall not be construed to render void any provision of a public construction contract that:

(1) allows the city to recover that portion of delay costs caused by the acts or omissions of the contractor, or its subcontractors, agents or employees;

(2) requires notice of any delay by the party claiming the delay;

(3) provides for liquidated damages for delay; or

(4) provides for arbitration or any other procedure designed to settle contract disputes.

(c) A contractor making a claim against the city for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract shall be liable to the city and shall pay it for a percentage of all costs incurred by the city in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim that is determined through litigation or arbitration to be false or to have no basis in law or in fact.

(d) Upon denial of a contractor's claim for costs or damages due to the alleged delaying of the contractor in the performance of work under any public construction contract, the city shall be liable to and shall pay such contractor a percentage of all costs incurred by the contractor to investigate, analyze, negotiate, litigate and arbitrate the claim. The percentage paid by the city shall be equal to the percentage of the contractor's total delay claim for which the city's denial is determined through litigation or arbitration to have been made in bad faith.

Section 2. 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) The alteration, repair, renovation or demolition of buildings when the contract is expected to equal or be less than \$500,000;

(2) The construction of highways, streets and alleys;

(3) The draining, dredging, excavation or grading of, or similar work upon, real property; or

(4) As otherwise provided in § 3-3-70.

Section 3. That subsection (b) of 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.

(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.

Section 4. That Chapter 3 of Title 3 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding new section 3-3-79 to read as follows:

Sec. 3-3-79 Permitted contracts with certain religious organizations; purpose; limitations.

(a) It is the intent of the city council, in accordance with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, to authorize the city to enter into contracts with faith-based organizations for the purposes described in this section on the same basis as any other nongovernmental source without impairing the religious character of such organization, and without diminishing the religious freedom of the beneficiaries of assistance provided under this section.

(b) For the purposes of this section, "faith-based organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

(c) The city, in procuring goods or services, or in making disbursements pursuant to this section, shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that restrict the religious character of the faith-based organization, except as provided in subsection (f), or impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements.

(d) The city shall ensure that all invitations to bid, requests for proposals, contracts, and purchase orders prominently display a nondiscrimination statement indicating that the city does not discriminate against faith-based organizations.

(e) A faith-based organization contracting with the city (i) shall not discriminate against any recipient of goods, services, or disbursements made pursuant to a contract authorized by this section on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and (ii) shall be subject to the same rules as other organizations that contract with the city to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the city. Nothing in clause (ii) shall be construed to supercede or otherwise override any other applicable state law.

(f) Consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, funds provided for expenditure pursuant to contracts with the city shall not be spent for sectarian worship, instruction, or proselytizing; however, this prohibition shall not apply to expenditures pursuant to contracts, if any, for the services of chaplains.

(g) Nothing in this section shall be construed as barring or prohibiting a faith-based organization from any opportunity to make a bid or proposal or contract on the grounds that the faith-based organization has exercised the right, as expressed in 42 U.S.C. (§ 2000e-1 et seq.), to employ persons of a particular religion.

(h) If an individual, who applies for or receives goods, services, or disbursements provided pursuant to a contract between the city and a faith-based organization, objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the city shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

(i) The city shall provide to each individual who applies for or receives goods, services, or disbursements provided pursuant to a contract between the city and a faith-based organization a notice in bold face type that states: "Neither the city's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the appropriate person as indicated in this form."

Section 5. That section 3-3-123 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. 3-3-123 Proscribed participation by public employees in procurement transactions.

Except as may be specifically allowed by subdivisions (A)(2) and (A)(3) of § 2.2-3112 of the Code of Virginia (1950), as amended, no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the city when the employee knows that:

(a) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or

(b) The employee, the employee's partner or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent; or

(c) The employee, the employee's partner or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

(d) The employee, the employee's partner or any member of the employee's immediate family is negotiating, or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

Section 6. 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.

Section 7. That section 12-4-6 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. 12-4-6 City contracts.

(a) Any contract of over \$10,000, except any contract for the sale, purchase or rental of land, to which the city is a party shall include substantially the following provisions:

"Employment Opportunity. The contractor hereby agrees:

"(1) Not to discriminate against any employee or applicant for employment on account of race, color, sex, religion, ancestry, national origin, marital status, age, sexual orientation, disability, when such person is a qualified person with a disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

"(2) To implement an affirmative action employment program as defined in section 12-4-3 of this chapter to ensure nondiscrimination in employment under guidelines to be developed by the commission and approved by the city council.

"(3) To include in all solicitations or advertisements for employees placed by or on behalf of the contractor the words "Equal Opportunity Employer" or a symbol, approved by the commission, meaning same.

"(4) To notify each labor organization or representative of employees with which said contractor is bound by a collective bargaining agreement or other contract of the contractor's obligations pursuant to this equal employment opportunity clause.

"(5) To submit to the city manager and the city's human rights administrator, upon request, no more frequently than annually, regular equal employment opportunity reports on a form to be prescribed by the city's human rights administrator with the approval of the city manager, except that the administrator may request more frequent special reports of particular employers provided the commission has found such employers to have violated any provision of this chapter.

"(6) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this subsection.

"(7) To make reasonable accommodation to the known physical or mental limitations of an otherwise qualified person with a disability who is an applicant or employee unless the contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business.

"(8) That for the purpose of this section reasonable accommodation may include (i) making facilities used by employees readily accessible to and usable by persons with a disability and (ii) job restructuring, part-time or modified work schedules, acquisitions or modification of equipment or devices, the provision of readers or interpreters and other similar actions.

"(9) That in determining whether an accommodation would impose an undue hardship on the operation of the contractor's business, factors to be considered include but are not limited to the following:

"a. the overall size of the contractor's business with respect to the number of employees, the number and type of facilities and size of budget;

"b. the type of the contractor's operation, including the composition and structure of the contractor's work force; and

"c. the nature and cost of the accommodation needed.

"(10) That it may not deny any employment opportunity to a qualified person with a disability who is an employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

"(11) To include the provisions in subsections (1) through (10) of this clause in every subcontract so that such provisions will be binding upon each subcontractor.

"(12) That in the event of the contractor's noncompliance with any provision of this equal employment opportunity clause, upon a finding of such noncompliance by the city's human rights commission and certification of such finding by the city manager, the city council may terminate or suspend or not renew, in whole or in part, this contract."

(b) The administrator is hereby authorized to:

(1) review the performance of any contractor who has a contract with the city with respect to the provisions of subsection (a) above;

(2) request equal employment opportunity reports, including but not limited to statistical data, from any contractor pursuant to subsection (a)(5) above; and

(3) upon a finding of probable cause to believe a violation of any provision of subsection (a) above has occurred, file a complaint with the commission pursuant to section 12-4-16 of this chapter.

(c) The commission is hereby authorized to:

(1) review any complaint filed by the administrator pursuant to subsection (b) above in accordance with procedures set forth in this chapter; and

(2) upon a finding of the commission that any contractor is in noncompliance with the provisions of subsection (a) above, the commission shall report the findings to the city manager.

(d) The city manager. If the city manager certifies the finding to the city council the city manager shall, unless city council directs otherwise, terminate or suspend or not renew, in whole or in part, as appropriate, the contractual relationship with the contractor; provided, however, that the city manager may defer temporarily a suspension or termination if he or she finds that the suspension or termination may disrupt or curtail a vital public service, or would otherwise not be in the best interests of the city, in which case the city manager shall report his or her action to the city council and indicate a date certain when the relationship will be suspended or terminated, or when the practice complained about will be remedied.

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

KERRY J. DONLEY
Mayor

Introduction: January 8, 2002
First Reading: January 8, 2002
Publication: January 10, 2002
Public Hearing: January 26, 2002
Second Reading: January 26, 2002
Final Passage: January 26, 2002

* * * * *

15. Public Hearing, Second Reading and Final Passage of an Ordinance to amend the boundaries of the federal courthouse parking zone. (#19 1/8/02) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 28, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 1/26/02, and is incorporated herewith as part of this record by reference.)

The City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Vice Mayor Cleveland, seconded by Councilwoman Pepper and carried on a ROLL-CALL vote of 6-to-0, City Council finally passed the ordinance upon its Second Reading and Final Passage. The voting was as follows:

Cleveland	"aye"	Eberwein	"aye"
Pepper	"aye"	Euille	"aye"
Donley	"aye"	Speck	out of room
		Woodson	"aye"

The ordinance finally passed reads as follows:

ORDINANCE NO. 4233

AN ORDINANCE to amend and reordain Section 5-8-81 (FEDERAL COURTHOUSE PARKING ZONE) of Article F (PARKING PERMIT DISTRICTS), Chapter 8 (PARKING AND TRAFFIC REGULATIONS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-8-81 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. 5-8-81 Federal Courthouse Parking Zone.

(a) The director of transportation and environmental services is authorized to establish a permit parking zone for jurors and witnesses attending the United States Courthouse located in the city.

(b) Such zone shall consist of not more than 50 parking spaces on Elizabeth Lane and Mill Road, the location of which shall be determined by the director.

(c) Parking permits for witnesses and jurors attending the United States Courthouse shall be issued by the Clerk of the United States District Court for the Eastern District of Virginia, and the Office of the United States Attorney, and the form thereof shall be approved by the director.

(d) Any limitations on the hours during which vehicles may park on streets within the parking zone established pursuant to subsection (a) shall not apply to vehicles parked in the zone and displaying in their windshield a permit issued under subsection (c). The director shall post signs regulating parking in such spaces, which provide that the limitations as to hours of parking shall not apply to vehicles displaying a permit.

(e) This section shall expire on January 22, 2003.

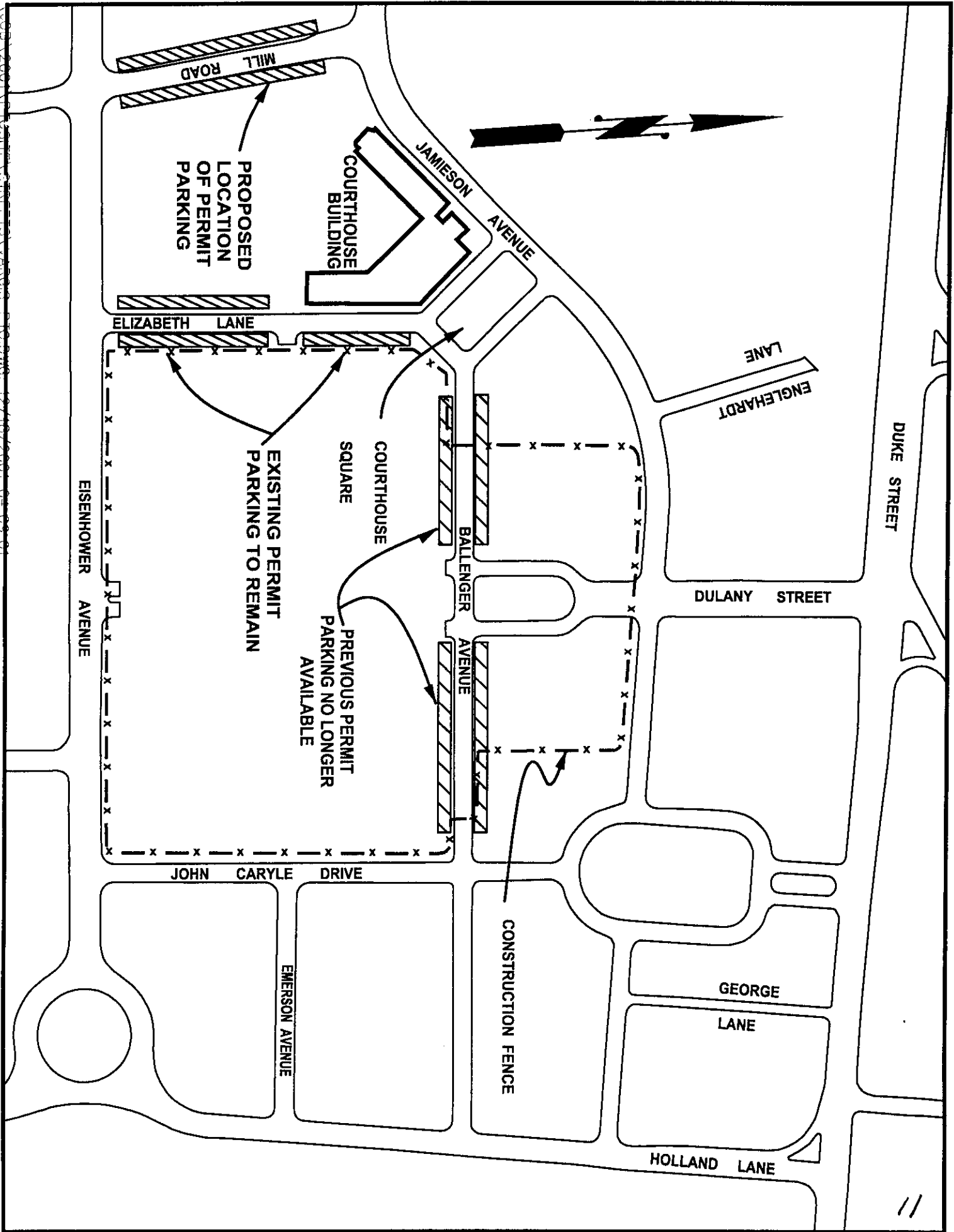
Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Attachment

Introduction: January 8, 2002
First Reading: January 8, 2002
Publication: January 10, 2002
Public Hearing: January 26, 2002
Second Reading: January 26, 2002
Final Passage: January 26, 2002

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16. Public Hearing, Second Reading and Final Passage of an Ordinance to amend the Fairlington/Bradlee Small Area Plan Chapter of the 1992 Master Plan to change the land use designation and proposed zoning at 1407-1499 West Braddock Road, 1601-1608 Osage Street and 1601-1609 Peach Street (Lindsay Motor Car, Inc.) to CSL/Commercial Service Low. (#20 1/8/02) **[ROLL-CALL VOTE]**

The City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Cleveland and carried on a ROLL-CALL vote of 6-to-0, City Council finally passed the ordinance upon its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Eberwein	"aye"
Cleveland	"aye"	Euille	"aye"
Donley	"aye"	Speck	out of room
	Woodson	"aye"	

The ordinance finally passed reads as follows:

ORDINANCE NO. 4234

AN ORDINANCE to amend and reordain the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, by adopting and incorporating therein the amendments heretofore approved by city council to such master plan as Master Plan Amendment Nos. 2001-0002 and 2001-0003 and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendments.

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

1. In Master Plan Amendment No. 2001-0002, an application has been made to amend the Fairlington/Bradlee Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, by changing the land use designation of the property at 1407-1499 West Braddock Road (east of Fern Street and a portion of the Blessed Sacrament Church property) from Institutional to CSL/Commercial Service Low.

2. In Master Plan Amendment No. 2001-0003, an application has been made to amend the Fairlington/Bradlee Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, by changing the land use designation of the property at 1601-1608 Osage Street and 1601-1609 Peach Street (block bounded by Kenwood Avenue, Peach Street, Osage Street, Fern Street vacated and the Blessed Sacrament Church property) from OC/Office Commercial to CSL/Commercial Service Low.

3. The said amendments have heretofore been approved by the planning commission and city council after full opportunity for comment and public hearing.

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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the Land Use Plan Map of the Fairlington/Bradlee Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, be, and the same hereby is, amended to change the land use designation of the property at 1407-1499 West Braddock Road (east of Fern Street and a portion of the Blessed Sacrament Church property) from Institutional to CSL/Commercial Service Low, as shown on sketch plan entitled "MPA #2001-0002 and RZ #2001-0002," dated December 4, 2001, attached hereto and incorporated fully herein by reference.

Section 2. That the Land Use Plan Map of the Fairlington/Bradlee Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, be, and the same hereby is, amended to change the land use designation of the property at 1601-1608 Osage Street and 1601-1609 Peach Street (block bounded by Kenwood Avenue, Peach Street, Osage Street, Fern Street vacated and the Blessed Sacrament Church property) from OC/Office Commercial to CSL/Commercial Service Low, as shown on sketch plan entitled "MPA #2001-0003 and RZ #2001-0003," dated December 4, 2001, attached hereto and incorporated fully herein by reference.

Section 3. That the director of planning and zoning be, and she hereby is, directed to record the foregoing master plan map amendments, and conforming amendments to the proposed zoning map, as part of the Fairlington/Bradlee Small Area Plan Chapter of 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 4. That all provisions of the Fairlington/Bradlee Small Area Plan Chapter of 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

Section 5. That the 1992 Master Plan (1998 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 6. 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.

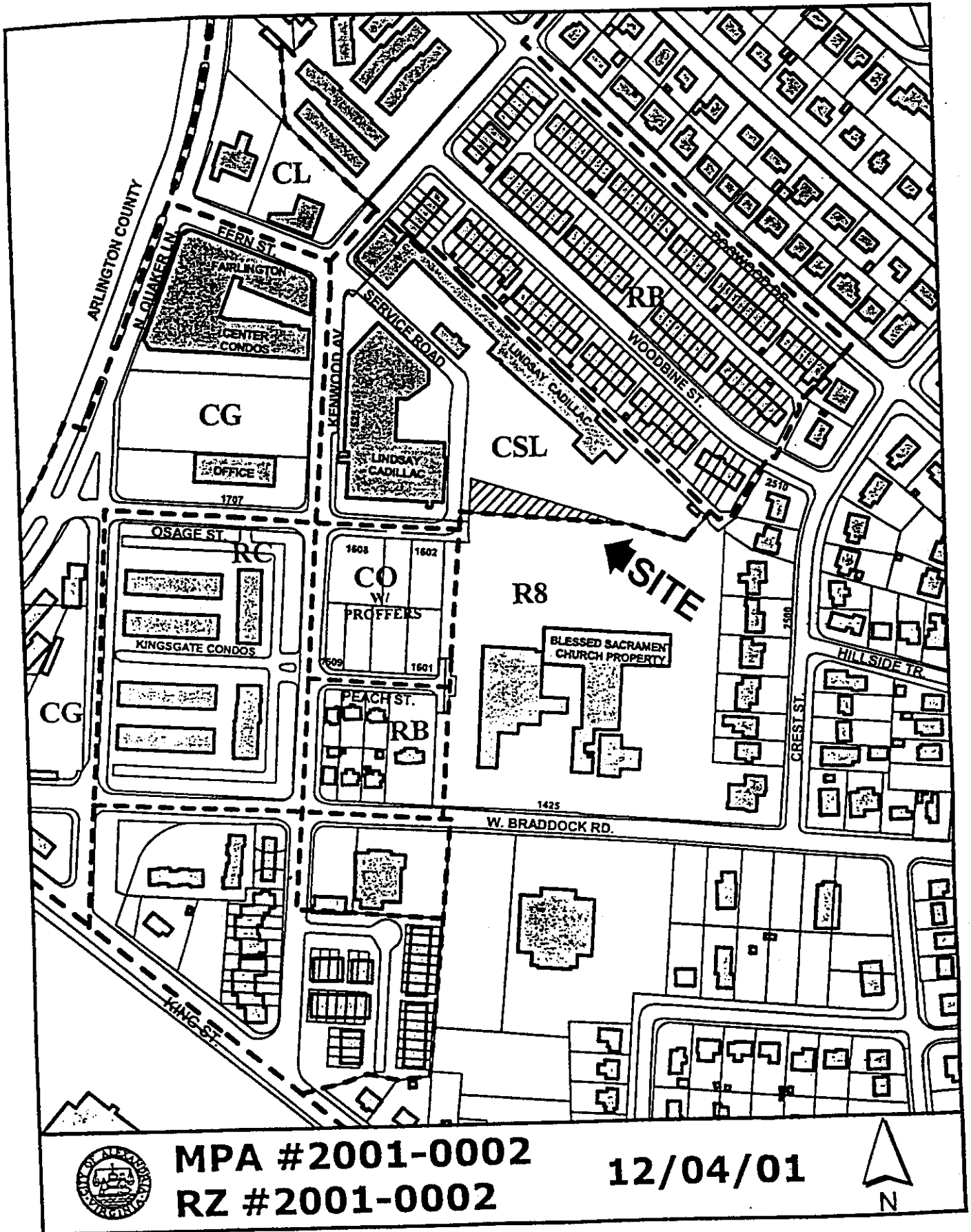
Section 7. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Attachment

Introduction: January 8, 2002
First Reading: January 8, 2002
Publication: January 10, 2002
Public Hearing: January 26, 2002
Second Reading: January 26, 2002
Final Passage: January 26, 2002

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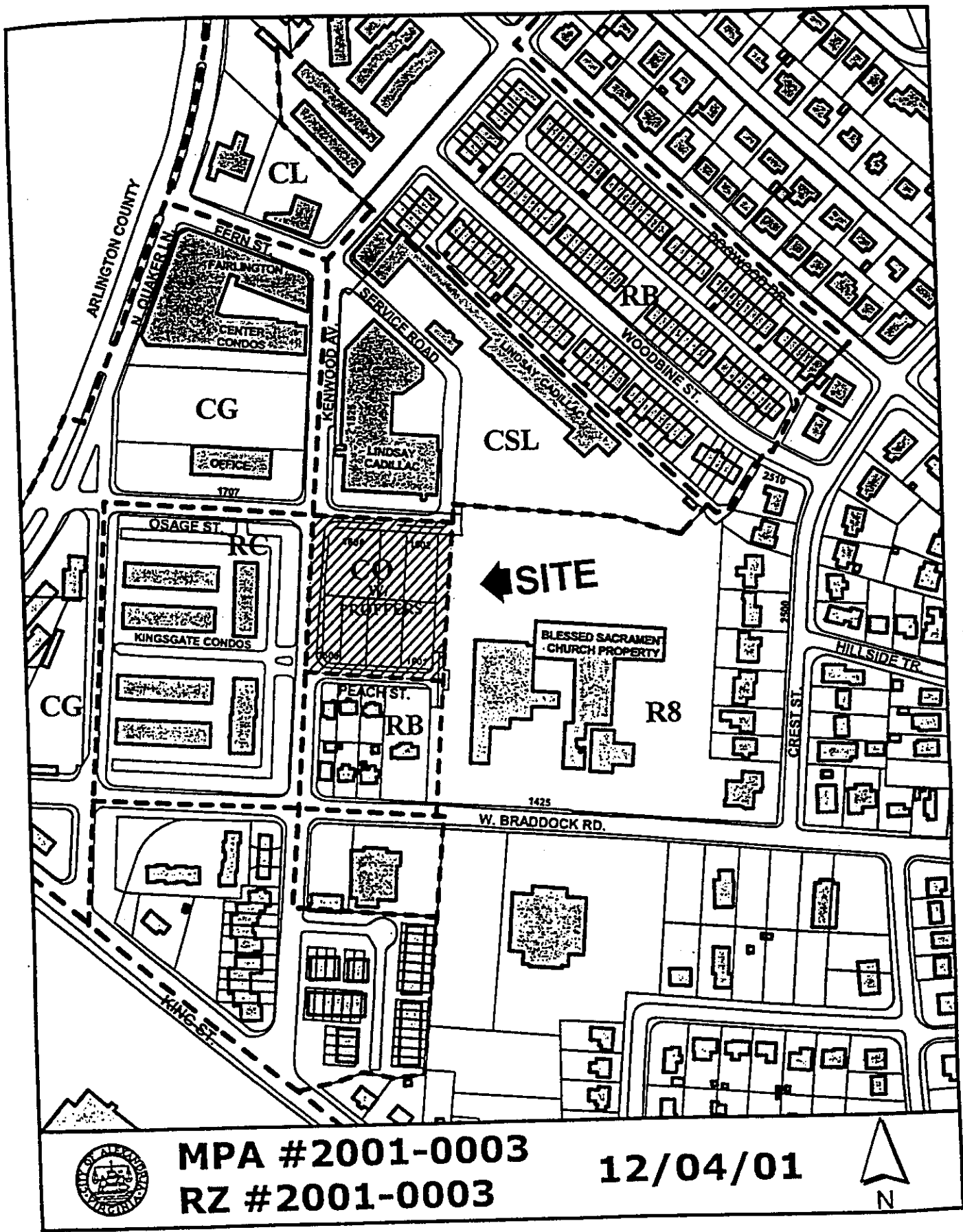
MPA #2001-0002
 RZ #2001-0002


12/04/01



2.1

3




MPA #2001-0003
RZ #2001-0003

12/04/01



2.1

17. Public Hearing, Second Reading and Final Passage of an Ordinance to amend the Zoning Map adopted by the City of Alexandria Zoning Ordinance to change the zoning of the property at 1407-1499 West Braddock Road, 1601-1608 Osage Street and 1601-1609 Peach Street (Lindsay Motor Car, Inc.) to CSL/Commercial Service Low Zone. (#21 1/8/02) **[ROLL-CALL VOTE]**

The City Clerk read the docket item.

It was noted that there were no speakers on this item; therefore, the public hearing was concluded.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried on a ROLL-CALL vote of 6-to-0, City Council finally passed the ordinance upon its Second Reading and Final Passage. The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Speck	out of room
	Woodson	"aye"	

The ordinance finally passed reads as follows:

ORDINANCE NO. 4235

AN ORDINANCE to amend and reordain Sheet No. 32.00 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 1407-1499 West Braddock Road, 1601-1608 Osage Street and 1601-1609 Peach Street to CSL/Commercial Service Low Zone., in accordance with the said zoning map amendments heretofore approved by city council as Rezoning Nos. 2001-0002 and 2001-0003.

WHEREAS, the City Council finds and determines that:

1. In Rezoning No. 2001-0002, an application has been made to rezone the property at 1407-1499 West Braddock Road (east of Fern Street and a portion of the Blessed Sacrament Church property) from R-8/Single-family Zone to CSL/Commercial Service Low Zone, subject to a proffer.

2. In Rezoning No. 2001-0003, an application has been made to rezone the property at 1601-1608 Osage Street and 1601-1609 Peach Street (block bounded by Kenwood Avenue, Peach Street, Osage Street, Fern Street vacated and the Blessed Sacrament Church property) from RB/Townhouse Zone and OC/Office Commercial Zone, subject to proffers, to CSL/Commercial Service Low Zone, subject to a proffer.

3. The said rezonings are in conformity with the 1992 Master Plan of the City of Alexandria, Virginia, as amended;

4. 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 Sheet No. 32.00 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 of the City of Alexandria Zoning Ordinance, be, and the same hereby is, amended by changing, in the manner set forth below, the zoning classification of the property hereinafter described:

1407-1499 West Braddock Road (east of Fern Street and a portion of the Blessed Sacrament Church property) (a portion of Zoning Map and Tax Map Parcel No. 32.00-02-10), comprising 0.18 acre of land, more or less, as shown on the as shown on sketch plan entitled "MPA #2001-0002 and RZ #2001-0002," dated December 4, 2001, attached hereto and incorporated fully herein by reference.

FROM: R-8/Single-family Zone
TO: CSL/Commercial Service Low Zone

1601-1608 Osage Street and 1601-1609 Peach Street (block bounded by Kenwood Avenue, Peach Street, Osage Street, Fern Street vacated and the Blessed Sacrament Church property) (Zoning Map and tax Map Parcel Nos. 32.00-02-07, -08, -09, -11, -12, -13 and -14), comprising 1.26 acres of land, more or less, as shown on sketch plan entitled "MPA #2001-0003 and RZ #2001-0003," dated December 4, 2001, attached hereto and incorporated fully herein by reference.

FROM: RB/Townhouse Zone and OC/Office Commercial Zone,
subject to proffers
TO: CSL/Commercial Service Low Zone

In both instances subject, however, to the following proffer:

The property shall be developed and used only in accordance with the development plan for the site approved in Development Special Use Permit No. 2001-0007, and no other development or uses shall be permitted.

Section 2. That all prior zoning proffers applicable to the property rezoned by this ordinance be, and the same hereby are, repealed.

Section 3. That the director of planning and zoning be, and hereby is, directed to record the foregoing amendments on the said map.

Section 4. That Sheet No. 32.00 of the "Official Zoning Map, Alexandria, Virginia," as so amended, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

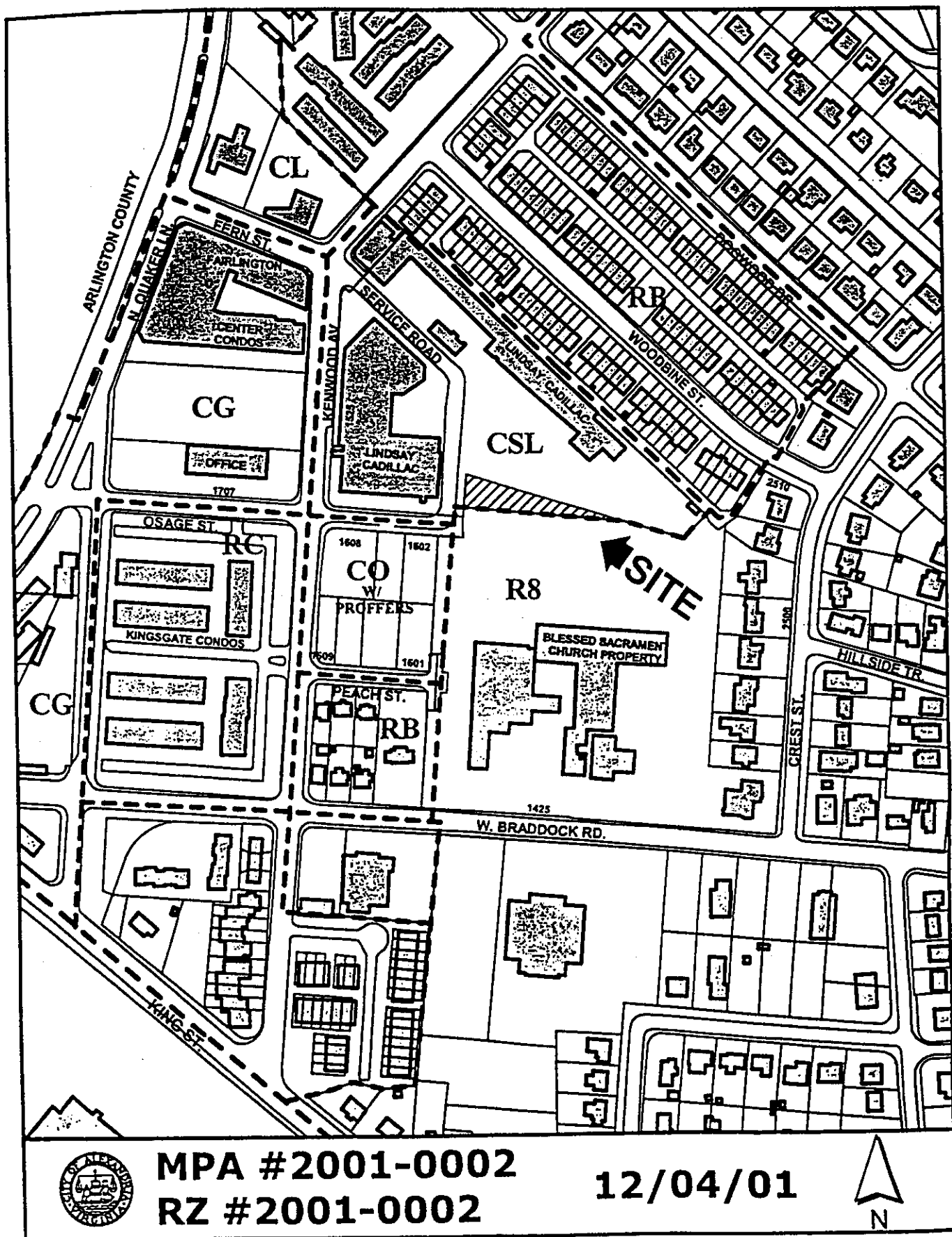
Section 5. That this ordinance shall become effective on the date and at the time of its final passage.

KERRY J. DONLEY
Mayor

Attachment

Introduction: January 8, 2002
First Reading: January 8, 2002
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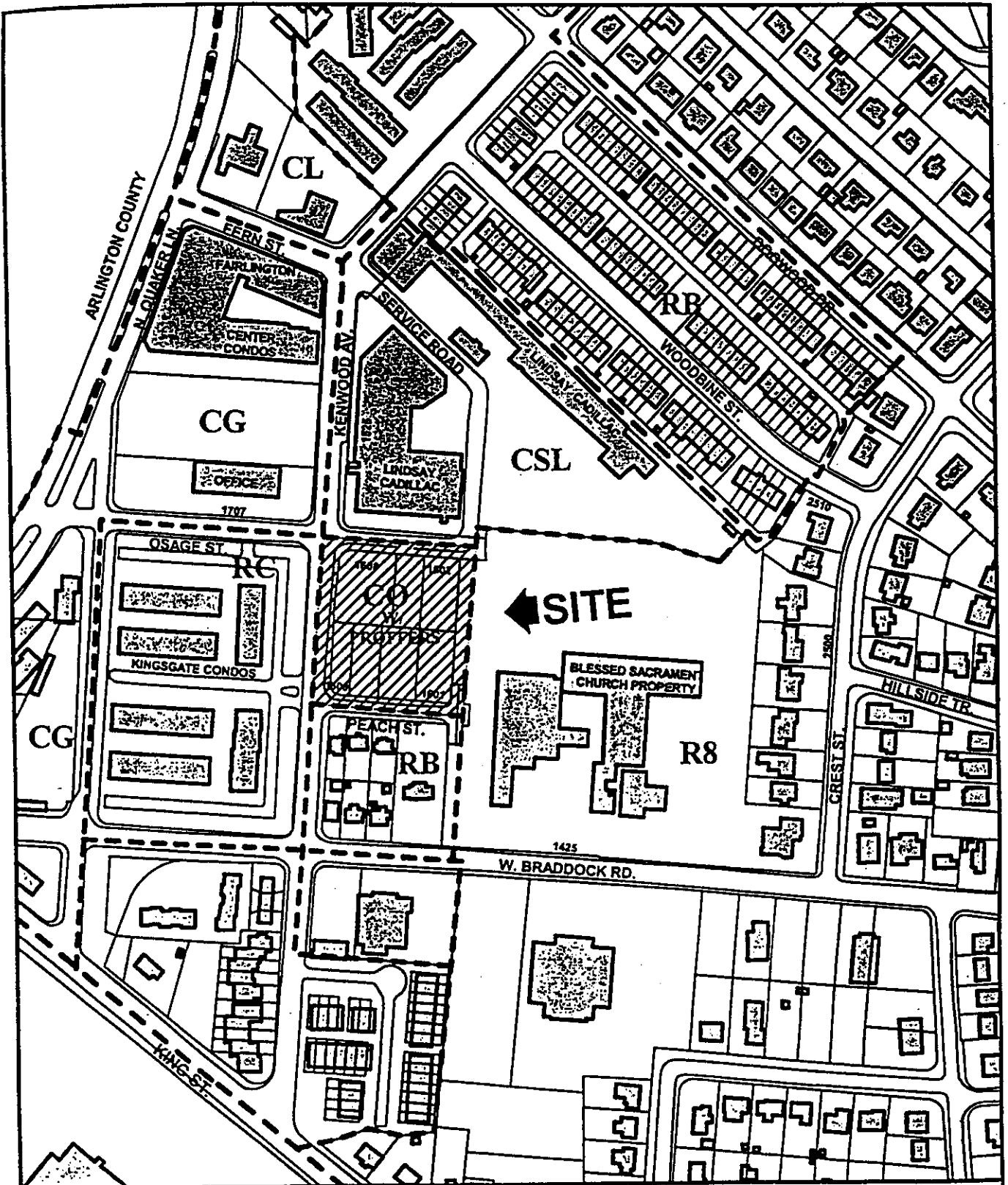
MPA #2001-0002
RZ #2001-0002

12/04/01



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MPA #2001-0003
RZ #2001-0003

12/04/01



2.1

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REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (18-22)

Planning Commission (continued)

18. REZONING #2001-0005 -- 4320 SEMINARY RD -- ALEXANDRIA HOSPITAL -- Public Hearing and Consideration of a request to change the zoning of the subject property from R-12/Residential to R-8/Residential. Applicant: Inova Alexandria Hospital, by J. Howard Middleton, Jr., attorney.

COMMISSION ACTION: Deferred

19. DEVELOPMENT SPECIAL USE PERMIT #2001-0020 -- 4320 SEMINARY RD -- ALEXANDRIA HOSPITAL -- Public Hearing and Consideration of a request for a development special use permit, with site plan, to construct an addition to the hospital and for a structured parking facility; zoned R-12/Residential (R-8/Residential pending). Applicant: Inova Alexandria Hospital, by J. Howard Middleton, Jr., attorney.

COMMISSION ACTION: Deferred

20. SPECIAL USE PERMIT #2001-0120 -- 221 W GLEBE RD -- Public Hearing and Consideration of a request for a special use permit for a restaurant; zoned CG/Commercial General. Applicant: Pamela Cheng.

COMMISSION ACTION: Deferred 6-0

21. SPECIAL USE PERMIT #2001-0119 -- 221 W GLEBE RD -- Public Hearing and Consideration of a request for a special use permit for a market; zoned CG/Commercial General. Applicant: Pamela Cheng.

COMMISSION ACTION: Deferred 6-0

**Board of Architectural Review
Old and Historic Alexandria District (continued)**

22. CASE BAR-2001-291 -- 815 PRINCE STREET -- Public Hearing and Consideration of an appeal of a decision of the Board of Architectural Review, Old and Historic Alexandria District, on December 5, 2001, approving, as amended, a request for approval of alterations to the dwelling located at 815 Prince Street, zoned RA Residential. APPLICANT AND APPELLANT: Edward B. Murphy by Duncan W. Blair, Esquire.

BOARD ACTION: Approved as amended, 4-3

The applicant had requested that this be remanded back to the Board of Architectural Review at the January 22, 2002 Regular Meeting in order for it to be heard at the Board of Architectural Review, Old and Historic Alexandria District Meeting on February 5, 2002.

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Without objection, City Council noted the deferrals and the remand.

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER (continued)

23. Consideration of Update Report on Items Before the 2002 General Assembly Session. (#17 1/22/02)

(A copy of the Legislative Director's memorandum dated January 19, 2002, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 23; 1/26/02, and is incorporated herewith as part of this record by reference.

A copy of the verbatim transcript of this item is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 23; 1/26/02, and is incorporated herewith as part of this record by reference.)

With respect to HB 506, Legislative Director Caton stated that the City position should be corrected to read "oppose." City Council noted the correction.

WHEREUPON, upon motion by Councilman Euille, seconded by Councilwoman Pepper and carried on a vote of 6-to-1, City Council pulled HJ 131 from the legislative package to vote on it separately. The voting was as follows:

Euille	"aye"	Cleveland	"aye"
Pepper	"aye"	Eberwein	"no"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

THEREUPON, a motion was made by Councilman Euille and seconded by Vice Mayor Cleveland that Council oppose the constitutional amendment HJ 131.

WHEREUPON, a motion was made Councilwoman Pepper to withdraw HJ 131 from the rest of the package that we are voting on today so that it's not a matter of whether we're for or against it, but a matter that we just need to have more of a discussion on before we in any way move forward in approving it.

Mayor Donley stated that Councilwoman Pepper has made a substitute motion that we basically remove this from the package and take no position on the item, and asked if there is a second to her substitute motion?

Councilman Euille withdrew his motion and accepted the substitute motion.

Mayor Donley asked if this was acceptable to the seconder of Mr. Euille's motion?

Vice Mayor Cleveland replied in the affirmative.

Mayor Donley indicated that's acceptable to the seconder so it was deemed that the original motion was withdrawn; therefore, the substitute motion is in order.

WHEREUPON, Council returned to the motion made by Councilwoman Pepper, seconded by Councilman Euille and carried on a vote of 4-to-3, Council removed HJ 131 from the package and took no position on the item. The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"no"
Donley	"no"	Speck	"no"
		Woodson	"aye"

Mayor Donley noted that HJ 131 is withdrawn from the package, and Council took no position on it. Mayor Donley stated that Council will now move to the original recommendation which is the entire package, keeping in mind the discussion Council had and the positions it took on Tuesday night, so essentially what Council has before it is everything with the exception of HJ 131.

Legislative Director Caton will include tree canopies in his next report. In addition, if Mr. Caton is incorrect in stating that all bills concerning legislation to increase the sales tax for transportation, education, or both, exempt food and drugs, he will note it in his next report.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried unanimously, City Council formally adopted the positions contained in the Legislative Subcommittee recommendation with the exception of HJ 131. The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Euille	"aye"	Eberwein	"aye"
Donley	"aye"	Speck	"aye"
		Woodson	"aye"

* * * * *

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilwoman Pepper, seconded by Councilwoman Woodson and carried unanimously, at 11:45 a.m., the Public Hearing Meeting of Saturday, January 26, 2002, was adjourned. The voting was as follows:

Pepper	"aye"	Cleveland	"aye"
Woodson	"aye"	Eberwein	"aye"
Donley	"aye"	Euille	"aye"
		Speck	"aye"

* * * * *

APPROVED BY:

KERRY J. DONLEY

MAYOR

ATTEST:

Beverly I. Jett, CMC

City Clerk

* * * * *

NOTE: Immediately following the adjournment of this meeting, City Council continued its Work Session on the Report from the Upper Potomac Task Force. Presentations were made by Planning and Zoning Deputy Director Ross and Planning and Zoning Division Chief Fogle with respect to the concept plan for East Reed Avenue. Members of City Council directed questions to staff and participated in the discussion.

Mayor Donley noted that there is agreement not only on the short-term items, but also to continue the process.

The Work Session was concluded at 12:40 p.m

(A copy of the agenda for this work session and the materials that were presented to City Council are on file in the office of the City Clerk and Clerk of Council and incorporated herewith as part of the record by reference.)

* * * * *