

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting  
Saturday, April 17, 2004 - - 9:30 a.m.**

\*\*\*\*\*

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

Absent: None.

Also Present: Mr. Sunderland, City Manager; Ms. Evans, Assistant City Manager; Mr. Pessoa, City Attorney; Mr. Jinks, Assistant City Manager; Mr. Caton, Legislative Director; Ms. Fogarty, Director of Planning and Zoning; Ms. Ross, Deputy Director of Planning and Zoning; Police Lieutenant Uzzell; Ms. Boyd, Citizen Assistance; Mr. Eiffert, Deputy Director of Housing; Ms. Gordon, Public Information Officer; Mr. Dahlberg, Code Enforcement Director; and Mr. Culpepper, Deputy Director of Transportation.

Recorded By: Jackie 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.

Mayor Euille asked Bob Custard with the Health Department to speak about the Health Department's action and enforcement of the dogs and restaurants. He said he believed Council would request the City Manager to bring this forward and back to Council for reconsideration. It has to bring it in line with the Council's commitment for ensuring that restaurant businesses are open to everyone, including dog lovers and their dogs.

Mr. Custard, Director, Environmental Health of the Health Department, made a detailed presentation of the Health Department's enforcement of the City's ordinance, which has been in place since 1940. He noted the public health issues involved in serving dogs at restaurants.

Mr. Custard responded to questions from Council.

City Attorney Pessoa said he has been looking at some of the issues and said he would do a memo outlining the degree to which the City has discretion in this area, and he pointed out that the City has budgetary authority over the Health Department. He said that the cases come to his office for enforcement if they need to go to court, and at that point, the City has authority as to exactly what discretion they want to exercise and what cases they want to go forward with.

Mayor Euille said Council will revisit the ordinance before the end of June, and Council will do all it can to balance the life of the dogs and dog owners in the City.

(a) Pat Troy, 310 Wolfe Street, said he received a letter from the Health Department saying that he was declining his application to serve dogs. He said that for 24 years, he has been serving food to dogs at his restaurant, and last year he implemented a menu. He explained the process that has happened with his restaurant serving meals to dogs and the problem with the Health Department and said he received a letter on April 5 from the Health Department saying what could and could not be done. He said it needs to be looked into. He noted the gathering at 11:00 today to get petitions and let Council know that they are serious about the situation.

(b) Lucille Davis, 300 Wythe Street, Apt. 1104, said she had a concern for the mental health department and they need financial help for their staff members. She said she gets good service from mental health.

(c) Richard W. Stepp, 3303 B. Commonwealth Avenue, asked Council to give him serious review on the issues he has with the City on the lack of an adjudication system for the Code Enforcement Bureau notices for salvaged cars. He also noted that the taxicab issue of licenses has been reopened and said he would like to speak to Council on the issue.

(d) Louis Yuhasz, 302 Windsor Avenue, Charleston, South Carolina, spoke about a scholarship program he set up in honor of his father, Louis Yuhasz, a former City employee, who died of complications of a stroke. He said the scholarship is to send eight Alexandria children to summer camp designed for children who have weight problems. He thanked the City employees who have helped in his efforts.

(e) John Smucker, 108 N. Quaker Lane, said Mary Marshall, a Delegate from Arlington to the General Assembly, had a law put into effect in Virginia known as an "Alligator Leash Law." Mr. Smucker said he is a criminal, as he sat in at King Street and Washington Streets last year the day after President Bush entered Iraq and was arrested. He said he and his wife will pay real estate taxes of over \$8,000, and they will pay their taxes based on five points: If it continues a caring social services at a high level; if it continues a mix in the City and has special concerns for the Muslims who live in the west end; if it supports housing so that employees of the City can live in the City; he thanked Council for the resolution against war; and he asked to stop the trans-shipment of small arms from the City to kill people in the Suddan and other places

in Africa. He asked Council to maintain a high level of services to employees and to the citizenry.

(f) Ethel S. Underwood, 5300 Holmes Run Parkway, chair of the Armed Services and Veteran Affairs Committee of the Alexandria Branch of the NAACP, spoke about the advocacy efforts to establish working relationships with those agencies in government at the national, state and local levels who have responsibilities in the affairs of various members of armed services to ensure that the programs are administered fairly.

(g) Richard Kain, 12 Arell Court, using a powerpoint presentation, spoke about Federal spending and the City's budget, the assessed value of houses, and what happens with the taxes and the programs.

In response to a request from Vice Mayor Pepper, Assistant City Manager Jinks explained where the money was going, the budget and the tax rate, and unfunded mandates.

(h) Sarita Schotta, 104 Prince Street, said data says that heart patients live longer when there are pets in the home, school kids do better in reading programs with pets, there are therapy dogs in nursing homes, children look forward to the pet therapy day in hospitals, and the City should look at the data.

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

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

#### **Planning Commission**

3. SPECIAL USE PERMIT #2004-0007  
3016 COLVIN STREET  
Public Hearing and Consideration of a request for a special use permit to operate an automobile storage/impound lot; zoned CD/Commercial Downtown. Applicant: Abe Sbitan by James C. Pan

COMMISSION ACTION: Recommend Approval 7-0

4. SPECIAL USE PERMIT #2004-0010  
1110 KING STREET  
Public Hearing and Consideration of request for a special use permit to operate a restaurant; zoned CD/Commercial Downtown. Applicant: Michael Shad

COMMISSION ACTION: Recommend Approval 7-0

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

City Council removed items 3 and 4 from the Action Consent Calendar and considered them under separate action, as follows:

- 3. SPECIAL USE PERMIT #2004-0007  
3016 COLVIN STREET  
Public Hearing and Consideration of a request for a special use permit to operate an automobile storage/impound lot; zoned CD/Commercial Downtown.  
Applicant: Abe Sbitan by James C. Pan

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 4/17/04, and is incorporated as part of this record by reference.)

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

Robert Test, 918 Prince Street, said that on behalf of Mr. Del Brocco and his ownership across the street, that to allow the special use permit to be granted would be taking a step back of permitted uses in the zone and he requested that Council deny the request.

James C. Pan, 7000 Vantape Drive, the owner of the towing company, spoke in favor of the request.

Stanley Taylor, 1500 Collingwood Road, representing the owner, his mother, spoke in favor of the request and asked Council to approve the request.

**A MOTION WAS MADE** by Vice Mayor Pepper, seconded by Councilman Smedberg, to deny the application.

Questions from Council were answered by Ms. Ross and Mr. Dahlberg on problems in the area and permitted uses.

**WHEREUPON**, a substitute motion was made by Councilman Krupicka, seconded by Councilman Gaines and carried 5-2, to approve the Planning Commission recommendation. The vote to allow the substitute motion was as follows:

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

**WHEREUPON**, Councilman Smedberg moved an amendment to place a time limitation of four years on the special use permit. Councilmen Krupicka and Gaines accepted the amendment and then later withdrew their support of the amendment.

The vote on the substitute motion carried 5-2 and is recorded as follows:

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

4. SPECIAL USE PERMIT #2004-0010  
1110 KING STREET  
Public Hearing and Consideration of request for a special use permit to operate a restaurant; zoned CD/Commercial Downtown. Applicant: Michael Shad

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 4/17/04, and is incorporated as part of this record by reference.)

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

Michael Shad, 8509 Little River Turnpike, Annandale, the applicant, spoke in favor of the request.

Councilwoman Woodson said she wished to add to this and to all future docket items where alcohol is served on or off-premises, the following: "There be on-going employee training for sales of alcohol to minors."

Councilman Gaines requested that the following condition be added: "The applicant will encourage its employees to use mass transit and will post on its site DASH bus schedules as well as Metrobus schedules."

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation, with the following amendments: 1. Amend condition #12 to state that the applicant will encourage its employees to use mass transit and will post on its site DASH and Metrobus schedules; 2. Amend condition #14 that there be on-going employee training for sales of alcohol to minors; 3. Change the hours making the closing 12:00 midnight at the applicant's discretion, instead of at 10 p.m.; and 4. That carry-out sales of alcohol end at 10 p.m. The voting was as follows:

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

**REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

- 5. Public Hearing on the Draft One-Year Action Plan for Housing and Community Development for FY2005.

(A copy of the City Manager's memorandum dated April 13, 2004, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5, 4/17/04, and is incorporated as part of this record by reference.)

There were no speakers.

The Mayor noted that final consideration would be May 11, 2004.

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

**Planning Commission (continued)**

- 6. SPECIAL USE PERMIT #2003-0112  
4949 SEMINARY ROAD  
7-ELEVEN CONVENIENCE STORE  
Public Hearing and Consideration of a request for a special use permit for continuance of a nonconforming convenience store use; zoned RC/High Density. Applicant: 7-Eleven Inc. by Maynard Sipe, attorney

COMMISSION ACTION: Recommend Approval 6-1

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 4/17/04, and is incorporated as part of this record by reference.)

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

Maynard Sipe, 9200 Church Street, Suite 400, Manassas, attorney representing the applicant, spoke in favor of the request.

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, including the continued limitation on the sale of alcohol, with an addition to condition #10 that there be on-going employee training for sales of alcohol to minors. The voting was as follows:

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

7. SPECIAL USE PERMIT #2003-0116  
 4610 KENMORE AVENUE  
 7-ELEVEN CONVENIENCE STORE  
 Public Hearing and Consideration of a request for a special use permit for continuance of a nonconforming convenience store use; zoned CG/Commercial General Zone. Applicant: 7-Eleven Inc. by Maynard Sipe, attorney (Deferred from March docket)

COMMISSION ACTION: Recommend Approval 6-1

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 4/17/04, and is incorporated as part of this record by reference.)

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

Maynard Sipe, 9200 Church Street, Suite 400, Manassas, attorney representing the applicant, spoke about the new language added and said they welcome that language.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Smedberg and carried unanimously, City Council approved the Planning Commission recommendation, with the addition to condition #11 that there be on-going employee training for sales of alcohol to minors. The voting was as follows:

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

8. SPECIAL USE PERMIT #2004-0004  
 924 QUEEN STREET  
 Public Hearing and Consideration of a request for a special use permit for a change of ownership and to change a nonconforming office space use to a nonconforming personal service use (beauty salon); zoned RB/Residential. Applicant: Dang Van Dong

COMMISSION ACTION: Recommend Denial 7-0

This item was deferred at the request of the applicant.

9. DEVELOPMENT SPECIAL USE PERMIT #2003-0035  
 4380 KING STREET  
 PARK CENTER  
 Public Hearing and Consideration of a request to amend a development special use permit, with site plan, for approval of CO Planned Unit Development ("PUD")

at Park Center to construct a multi-family condominium building and affordable units pursuant to Section 7-700 of the Zoning Ordinance; zoned CRMU-H/Commercial Residential Mixed Use-High. Applicant: A&A Limited Partnership, by Duncan W. Blair, attorney (Deferred from March docket)

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 4/17/04, and is incorporated as part of this record by reference.)

Ms. Fogarty, Mr. Culpepper and Mr. Farner and other members of staff made a presentation of the report.

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

Duncan Blair, 524 King Street, attorney representing the applicant, said they are in agreement with the staff recommendations and he requested approval of the request.

Dina L. Biblin, 4688 Kirkpatrick Lane, said she represents over 500 townhouse and condominium owners that live south of the project. Ms. Biblin spoke in opposition to the request.

After discussion of the parking issues, Mayor Euille asked staff to take a look at Ms. Biblin's suggestion to make additional parking available after 6:30 p.m. to 6:30 a.m.

Tom Burke, 2909 S. Dinwiddle Street, Arlington, spoke in opposition to the request.

Nancy Hunt, 4809 S. 28th Street, president of the Fairlington Citizens Association, spoke in opposition to the request.

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

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

**A MOTION WAS MADE** by Councilman Macdonald, seconded by Vice Mayor Pepper, to remand this item back to the Planning Commission to look into more detail a number of questions raised by the community.

Questions were asked by Council on the parking, the traffic counts, shuttle



buses, and were answered by Planning and Zoning, Transportation and Environmental Services staff and Mr. Blair.

**WHEREUPON**, upon substitute motion by Councilwoman Woodson, seconded by Councilman Smedberg and carried 6-1, City Council approved the Planning Commission recommendation, with the following amendments: 1. The Plan has clear language that the 83,000 square feet of unused development is null and void with the completion of the building; and 2. Prior to final site plan approval, the Director of Planning and Zoning will report back to Council in a public hearing on the parking issue and what the transportation management plan will be.

(Part of the approval is to direct staff to explore the possibility of partnership or going under contract with Mark Center to work on a transportation plan at the peak hours to help augment the existing WMATA and DASH bus service; the TMP review, transit issues and free parking at the other buildings are part of the main motion.)

Vice Mayor Pepper withdrew her second to the original motion.

The voting on the substitute motion was as follows:

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

\* \* \* \* \*

(City Council took a five-minute recess.)

\* \* \* \* \*

- 10. DEVELOPMENT SPECIAL USE PERMIT #2003-0006  
600 RUSSELL ROAD  
MAURY ELEMENTARY SCHOOL  
Public Hearing and Consideration of a request for a development special use permit, with site plan, to allow for the expansion and renovation of Maury Elementary School; R-5/Residential. Applicant: Alexandria City Public Schools, by Johann Dobak

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 4/17/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilwoman Woodson, seconded by Councilman Smedberg and carried unanimously, City Council approved the Planning

Commission recommendation. The voting was as follows:

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

11. SPECIAL USE PERMIT #2004-0011  
800-840 NORTH HENRY STREET  
ON SITE SOURCING  
Public Hearing and Consideration of a review of special use permit; zoned CRMU-H/Commercial Residential Mixed Use. Applicant: Department of Planning and Zoning

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 4/17/04, and is incorporated as part of this record by reference.)

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

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

**(City Council took the following item out of turn.)**

14. Public Hearing on an Ordinance to Establish the Real Estate and Personal Property Tax Rates for Calendar Year 2004, Including the Effective Rate Increase as Required by Virginia Code Section 58.1-3321. (#18, 4/13/04)

(A copy of the City Manager's memorandum dated April 6, 2004, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14, 4/17/04, 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. 14, 4/17/04, 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. 14,

4/17/04, and is incorporated as part of this record by reference.)

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

Jared Huebel, 338 N. Pitt Street, spoke about the increase in real estate taxes, the assessments going up and the market value of property, and the cost effectiveness of the parking enforcement program.

Van Van Fleet, 26 Wolfe Street, spoke about a retired citizen who spoke to him about having to go back to work to pay his taxes. He said that spending needs to be curbed and he spoke about lowering the tax rate and not continually increasing spending as it goes along.

Richard Kain, 12 Arell Court, said that to get control, Council has to curb spending and it needs to decide to take fewer dollars in and then figure out what it can do with those dollars. He said the Capital Improvement Budget goes up year after year and is a problem.

City Council closed the public hearing and noted that action on the ordinance would be taken on May 3, 2004.

12. SPECIAL USE PERMIT #2003-0111  
815 1/2 KING STREET  
OLD TOWN THEATER  
Public Hearing and Consideration of a request for a special use permit amendment to allow an intensification of theater uses, and for the reduction of required parking; zoned CD/Commercial Downtown Zone. Applicant: Old Town Theater, Inc. by Duncan W. Blair, Esq., attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated April 6, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 4/17/04, and is incorporated as part of this record by reference.)

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

Duncan Blair, 524 King Street, attorney representing the owner, spoke in favor of the request and noted the type of theater uses that would be in the theater.

Julie Crenshaw, 816 Queen Street, spoke in favor of the request. She encouraged the Council to allow the owner to have the flexibility to open the theater under the business plan the owner would like.

Carolyn Merck, 324 N. Royal Street, president of the Old Town Civic Association, spoke in favor of the request and noted that they have two concerns--the hours of

operation Monday through Thursday should be limited to midnight or so that the theater close around midnight, and the conditions under which the beer and wine will be sold - that it be limited to the lobby areas, except during limited performances.

Van Van Fleet, 26 Wolfe Street, spoke in favor of the request and noted those who live in the area who had no problem with the request.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Macdonald and carried unanimously, City Council approved the Planning Commission recommendation, with an amendment to the conditions that there be on-going employee training for sales of alcohol to minors and to encourage employee use of mass transit, and with the condition as noted in the additional language provided by staff for condition #14, dated April 13, 2004. The voting was as follows:

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

Mayor Euille said staff should agree that the language added on alcohol sales should be added to all applications for special use permit for alcohol sales and also the condition on encouraging employee use of transit.

13. REZONING #2002-0004  
11-21 NORTH QUAKER LANE  
QUAKER VIEW  
Public Hearing and Consideration of a request to rezone the property to amend a proffer prohibiting residential use; zoned CL/Commercial Low. Applicant: Jade Development Company, by Duncan Blair, Esq., attorney

COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated March 2, 2004, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 4/17/04, and is incorporated as part of this record by reference.)

Mayor Euille noted that this item requires a super-majority vote, which means it needs to carry 6-1, because of the protest petition that was filed.

Ms. Fogarty and Mr. Culpepper made a presentation of the report.

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

Duncan Blair, 524 King Street, noted the exhibits that he has will be part of the record and he submitted them to the City Clerk. He noted his objection to the timeliness of the protest and the objection to the fact that the determination was made

that when it was referred back to the Planning Commission and came forward with the approval, it still requires a super-majority vote. Mr. Blair then spoke in favor of the request for rezoning.

Jon Luria, 8230 Old Courthouse Road, Vienna, Jade Development Group, in response to a question from Vice Mayor Pepper, said they would build the office building if the plan is rejected. He noted that they went from eight to six townhouses and are willing to compromise to five townhouses, and would bring the traffic trips down to what it would be for three single-family houses.

Dick Hobson, 99 N. Quaker Lane, noted that he filed a protest petition previously and has filed another protest petition and he filed another petition today on people who live on Quaker Lane between Duke Street and Trinity, which he submitted for the record. Mr. Hobson spoke in opposition to the rezoning and said the site should be acquired for open space.

Kathleen McBride, 14 Norell Court, spoke in opposition to the rezoning based on the traffic issue.

Katy Cannady, 20 E. Oak Street, spoke in opposition to the rezoning.

Suzanne Scoville, 59 Arell Court, president of the Quaker Village Homeowners Association, spoke in opposition to the rezoning.

James Hendrickson, 151 N. Quaker Lane, spoke in opposition to the rezoning.

Diane Kain, 12 Arell Court, spoke in opposition to the rezoning and asked Council to acquire it for open space.

G. Dave Webster, 617 Kings Cloister Circle, president of the Quaker Professional Square Office Condominium, immediately contiguous to the site, stated that they unanimously support the project.

Richard Kain, 12 Arell Court, spoke in opposition to the rezoning and suggested that the property be bought for open space.

Joanna Culver, 35 Arell Court, spoke in opposition to the rezoning.

Cynthia Geerne, 11 Ft. Worth Parkway, spoke in opposition to the rezoning.

Howard Miller, 7639 Kingsbury Road, spoke in opposition to the rezoning.

Mr. Blair, speaking in rebuttal, said that Council's action today doesn't cure the issue brought up today, but says that this use is more appropriate.

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman

Gaines and carried unanimously, City Council denied the Planning Commission recommendation to allow the rezoning.

Councilman Krupicka noted for the record that Mr. Blair had indicated that he felt rezoning it was consistent to everything else that was happening in the neighborhood, and he did not feel it was true. Councilman Krupicka said if it looks to the commercial building adjacent to it, townhomes are not the only thing conceived of for this neighborhood. He said he had concerns that the applicant would put in a commercial building. He said that when and if a commercial building is proposed, he didn't want people to say that they weren't warned. He said he thought the hot right here was inappropriate, even though the Fire Department needed it, but he did not feel it should be available for cars. He said he would like the pedestrians to feel safe crossing that intersection. He said he mentioned several times to staff that he wanted the hot right only for the Fire Department, but this proposal doesn't have that in it. Councilman Krupicka said this intersection wasn't on one of the worst intersections in the City, and he agreed that the intersection had problems, due to fact that there is an incredibly steep hill at the base of a very heavily trafficked road and it is a unique topography for intersection, which leads to the safety issues that have been articulated. Councilman Krupicka said he didn't think five townhomes wasn't a bad use, and the traffic patterns of three single-family homes is exactly the same as five townhomes. He said he also thought commercial uses are needed, as there aren't enough in the City. He said if the sense of the Council is that they want to see it commercial, then so be it and he would be comfortable supporting that sense.

Councilman Macdonald said what is not strange about this is that they are taking a look at something, in light of what it knows today, and many feel that the development is not appropriate - commercial or residential. He said that just because something falls back on a by-right zone doesn't mean that it is acceptable.

The voting was as follows:

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

## **ORDINANCES AND RESOLUTIONS**

15. Public Hearing on an Ordinance to Increase the Sewer Line Maintenance Charge Imposed by Section 5-6-26 of the City Code. (#19, 4/13/04)

(A copy of the City Manager's memorandum dated April 6, 2004, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15, 4/17/04, 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. 15, 4/17/04, 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. 15, 4/17/04, and is incorporated as part of this record by reference.)

City Council closed the public hearing and noted that action would be taken on May 3, 2004.

16. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Membership of the Environmental Policy Commission. (#20, 4/13/04) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated April 7, 2004, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16, 4/17/04, 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. 16, 4/17/04, 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. 16, 4/17/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, this item was deferred to the next legislative meeting. The voting was as follows:

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

17. Public Hearing, Second Reading and Final Passage of an Ordinance to Extend the Franchise Authorization for Washington Gas Facilities to be Installed and Maintained in the Public Rights-of-Way, and to Authorize the Installation and Maintenance of a New Facility to Serve the WMATA Bus Depot at 3501 South Glebe Road, in Arlington. (#21, 4/13/04) **[ROLL-CALL VOTE]**

This item was deferred.

18. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve

an Encroachment For Outdoor Restaurant Seating at 103 North Alfred Street.  
(#22, 4/13/04)[**ROLL-CALL VOTE**]

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 18, 4/17/04, 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. 18, 4/17/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE NO. 4345

AN ORDINANCE authorizing the tenant of 103 North Alfred Street to establish and maintain an encroachment for outdoor restaurant seating at 103 North Alfred Street, in the City of Alexandria, Virginia.

WHEREAS, Serendipitous, Inc., T/A Bittersweet ("Tenant") is the Tenant of the property located at 103 North Alfred Street, in the City of Alexandria, Virginia; and

WHEREAS, Tenant desires to establish and maintain outdoor restaurant seating which will encroach into the public sidewalk right-of-way at 103 North Alfred Street; and

WHEREAS, the public sidewalk right-of-way at that point on at 103 North Alfred Street will not be significantly impaired by this encroachment; and

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

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



THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Tenant be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 103 North Alfred Street, in the City of Alexandria, said encroachment consisting of outdoor restaurant seating, as generally shown on the plat attached hereto, 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 Tenant of liability for any negligence on his 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 Tenant maintaining, at all times and at his 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 Tenant as named insureds and shall provide for the indemnification of the City of Alexandria and Tenant 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, Tenant 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 Tenant. Nothing in this section shall relieve Tenant of his obligations and undertakings required under this ordinance.

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

- (a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Tenant's property encroaching into the public right-of-way during repair, maintenance or replacement of the public

right-of-way or any public facilities or utilities in the area of encroachment.

- (b) A minimum pedestrian pathway of five feet shall be maintained, including where there are sidewalk features, such as light posts, trees or tree wells.
- (c) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- (d) Tenant shall control cooking odors, smoke and other air pollution from Tenant's operations at the site, and prevent them from leaving the property of becoming a nuisance to neighboring properties or the public, as determined by the Director of Transportation and Environmental Services.
- (e) Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line, including within the encroachment area.
- (f) Tenant shall provide a menu or list of foods to be handled at this facility to the Alexandria Health department prior to opening outdoor seating.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Tenant 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 Tenant's 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 Tenant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Tenant without cost to the city. If Tenant 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 Tenant, and shall not be liable to Tenant for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

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

19. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve an Encroachment For a Utility Vault Under the Sidewalk at 124 South West Street. (#23, 4/13/04) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 19, 4/17/04, 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. 19, 4/17/04, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Smedberg and carried unanimously by roll-call vote, City Council finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

#### ORDINANCE 4343

AN ORDINANCE authorizing the owner of 124 South West Street to establish and maintain an encroachment for an underground utility vault at 124 South West Street in the City of Alexandria, Virginia.

WHEREAS, Riverport Land Company and/or Meushaw Development Company ("Owner") are the Owner of the property located at 124 South West Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain an underground utility vault which will encroach into the public sidewalk right-of-way at 124 South West Street; and

WHEREAS, the public sidewalk right-of-way at that point on at 124 South West Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning

Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 124 South West Street, in the City of Alexandria, said encroachment consisting of an underground utility vault, as generally shown on the plat attached hereto, the specific location and other features to be approved by the Director of Planning and Zoning and Director of Transportation and Environmental Services, 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 his 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 his 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 his obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain

said encroachment shall in addition be subject to and conditioned upon the following terms:

- (a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Owner's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.
- (b) A minimum pedestrian pathway of five feet shall be maintained, including where there are sidewalk features, such as light posts and trees.
- (c) Owner shall amend the approved development plan to show the proposed utility vault.
- (e) The cover of the vault shall be flush with the sidewalk and shall be brick or comparable material to the satisfaction of the Director of Planning and Zoning and Director of Transportation and Environmental Services.

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

20. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve an Encroachment For Outdoor Restaurant Seating at 6 King Street. (#32, 4/13/04) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 20, 4/17/04, 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. 20, 4/17/04, and is incorporated as part of this record by reference.)

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

Erika Byrd, 1750 Tysons Blvd., attorney representing the applicant, spoke in favor of the request for the ordinance for encroachment.

Sarita Schotta, 104 Prince Street, spoke in opposition to a fast food type atmosphere outside that creates a lot of rubbish.

Charlotte Hall, 205 The Strand, spoke in support of the application for outdoor seating. She noted that she represents both Potomac Riverboat Company and Old Town Business Association as its president.

Julie Crenshaw, 816 Queen Street, spoke about the diesel fumes and the emissions that would get into the food and water and said she is not against dining on King Street.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Woodson and carried unanimously by roll-call vote, City Council closed the public hearing and finally passed the Ordinance upon its Second Reading and Final Passage. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4344

AN ORDINANCE authorizing the tenant of 6 King Street to establish and maintain an encroachment for outdoor restaurant seating at 6 King Street, in the City of Alexandria,

Virginia.

WHEREAS, Thaiphon of Old Town, Inc. ("Tenant") is the Tenant of the property located at 6 King Street, in the City of Alexandria, Virginia; and

WHEREAS, Tenant desires to establish and maintain outdoor restaurant seating which will encroach into the public sidewalk right-of-way at 6 King Street; and

WHEREAS, the public sidewalk right-of-way at that point on at 6 King Street will not be significantly impaired by this encroachment; and

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

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

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Tenant be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 6 King Street, in the City of Alexandria, said encroachment consisting of outdoor restaurant seating, as generally shown on the plat attached hereto, 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 Tenant of liability for any negligence on his 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 Tenant maintaining, at all times and at his 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 Tenant as named insureds and shall provide for the indemnification of the City of Alexandria and Tenant 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, Tenant 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 Tenant. Nothing in this section shall relieve Tenant of his obligations and undertakings required under this ordinance.

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

- (a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Tenant's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.
- (b) A minimum pedestrian pathway of five feet shall be maintained, including where there are sidewalk features, such as light posts and trees.
- (c) Tenant shall obtain, at its expense, one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way.
- (e) Tenant shall install and maintain landscaped planters, to include four seasons of plants in at least two black containers of a size, style and location approved by the Director of planning and Zoning.
- (f) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- (g) Tenant shall control cooking odors, smoke and other air pollution from Tenant's operations at the site, and prevent them from leaving the property of becoming a nuisance to neighboring properties or the public, as determined by the Director of Transportation and Environmental Services.
- (h) Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line, including within the encroachment area.
- (i) Tenant shall provide a menu or list of foods to be handled at this facility to the Alexandria Health department prior to opening.
- (j) Tenant shall conduct employee training sessions on an ongoing basis, including as new employee orientation, to clearly explain all encroachment provisions and requirements.



- (k) The Director of planning and Zoning shall review restaurant operations one year after the effective date of this ordinance, and shall docket this encroachment for consideration by the Planning Commission and City Council if (a) there have been documented violations of the conditions of this ordinance, (b) the Director has received a request from any person to docket this encroachment for review as a result of a complaint that rises to the level of a violation, or (c) the Director has determined that there are problems with the operation of the restaurant use or that new or revised conditions for this encroachment are needed.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Tenant 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 Tenant's 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 Tenant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Tenant without cost to the city. If Tenant 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 Tenant, and shall not be liable to Tenant for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

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

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

### **DEFERRAL/WITHDRAWAL CONSENT CALENDAR (21-24)**

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

21. TEXT AMENDMENT #2004-0003  
SPECIAL USE PERMIT REGULATIONS  
Public Hearing and Consideration of a text amendment to Section 11-207(C)(5) and 11-503 (A) of the Zoning Ordinance to increase the fines for repeat special use permit violators and to change the special use permit ownership requirements. Applicant: Department of Planning and Zoning

COMMISSION ACTION: Deferred

22. SPECIAL USE PERMIT #2003-0028  
1950 DUKE STREET  
CARLYLE DEVELOPMENT  
Public Hearing and Consideration of a request for an amendment to the current special use permit conditions to revise the definition of retail; zoned CDD-1/Coordinated Development District. Applicant: Carlyle Development Corporation & LCOR Ballenger Ave., LLC by Jonathan P. Rak, attorney

COMMISSION ACTION: Deferred

23. SPECIAL USE PERMIT #2004-0009  
1301 NORTH QUAKER LANE (Parcel Address: 3425 King Street)  
Public Hearing and Consideration of a request for a special use permit to operate a restaurant; zoned CG/Commercial General. Applicant: Zak Driouche

COMMISSION ACTION: Deferred

24. ENCROACHMENT #2003-0010  
2201 JEFFERSON DAVIS HWY  
POTOMAC YARDS - LANDBAY A  
Public Hearing and Consideration of a request for an encroachment of residential lots with fencing, columns or a wall into the public right-of-way; zoned CDD-10/Coordinated Development District. Applicant: Potomac Greens Associates LLC., by Jonathan Rak, attorney

COMMISSION ACTION: Deferred

#### **END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

Without objection, City Council deferred the items.

\* \* \* \* \*

**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilman Gaines, seconded by Councilman Smedberg and carried unanimously, at 4:22 p.m., the Public Hearing Meeting of April 17, 2004, was adjourned. The voting was as follows:

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

\* \* \* \* \*

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jackie M. Henderson, City Clerk

***This docket is subject to change.***

\* \* \* \* \*

***Full-text copies of ordinances, resolutions, and agenda items are available in the Office of the City Clerk and Clerk of the Council.***

\* \* \* \* \*

***Individuals with disabilities who require assistance or special arrangements to participate in the City Council meeting may call the City Clerk and Clerk of Council's Office at 838-4500 (TTY/TDD 838-5056). We request that you provide a 48-hour notice so that the proper arrangements may be made.***

\* \* \* \* \*