

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, May 14, 2005 - - 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. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Assistant City Manager; Mr. Jinks, Assistant City Manager; Ms. Davis, Director of Office of Housing; Mr. Culpepper, Deputy Director, Transportation and Environmental Services; Ms. Fogarty, Director, Planning and Zoning; Ms. Fogle, Division Chief, Planning and Zoning; Mr. Josephson, Deputy Director, Planning and Zoning; Mr. Forman, Urban Planner, Planning and Zoning; Ms. Peterson, Planning and Zoning; Mr. Neckel, Director of Finance; Ms. Smith-Page, Director, Real Estate Assessments; Ms. Gordon, Public Information Officer; Mr. Dahlberg, Director, Code Enforcement; Police Lt. Story, Police Department; Mr. Fairchild, Business Facilitator; Ms. Barnett, Deputy Director, Parks, Recreation and Cultural Activities; Mr. Johnson, Director, Office of Management and Budget; Police Lt. Uzzell; Ms. Goodwine, ITS and Mr. Farid, ITS.

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

OPENING

1. Calling the Roll.

The meeting was called to order by Mayor Euille, and the Deputy City Clerk called the Roll; all the Members of City Council were present.

2. Public Discussion Period.

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-5)

Planning Commission

- 3. SPECIAL USE PERMIT #2005-0019
 29 EAST WALNUT STREET
 SUBSTANDARD LOT DEVELOPMENT and PARKING REDUCTION
 Public Hearing and Consideration of a request for a special use permit to construct a single family dwelling on a substandard lot and for a reduction in required parking (tandem); zoned R-2-5/Residential. Applicant: Mark R. Poskaitis by Duncan Blair, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated May 3, 2005, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3, 5/14/05, and is incorporated as part of this record by reference.)

- 4. SPECIAL USE PERMIT #2005-0015
 22 SOUTH QUAKER LANE
 NURSING SCHOOL - EXPANSION
 Public Hearing and Consideration of a request for a special use permit amendment to increase the number of students allowed at a nursing school; zoned CSL/ Commercial Service Low. Applicant: Mariatu Kargbo

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated May 3, 2005, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4, 5/14/05, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

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

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

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the action consent calendar, with the exception of docket item #5, which was considered under separate motion. The action of City Council follows:

- 3. City Council approved the Planning Commission recommendation.

4. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

5. SPECIAL USE PERMIT #2005-0016
405 EAST BRADDOCK ROAD
7-ELEVEN, INC.

Public Hearing and Consideration of a request for a special use permit to operate a nonconforming convenience store; zoned CSL/Commercial Service Low. Applicant: 7-Eleven, Inc. by Maynard Sipe

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated May 3, 2005, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5, 5/14/05, and is incorporated as part of this record by reference.)

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

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

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

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

6. Consideration of the Draft Consolidated Plan for Housing and Community Development for FY 2006-2010. (#8, 4/16/05)

(A copy of the City Manager's memorandum dated May 11, 2005, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6, 5/14/05, and is incorporated as part of the record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Draft Consolidated Plan for Housing and Community Development for 2005-2010, which includes the one-year action plan containing the City's application for City Fiscal Year 2006 funding for \$1,411,586 in Community Development Block Grant (CDBG) monies and \$874,864 in Home Investment Partnerships Program (HOME) monies and authorized the City Manager to execute all necessary documents related to the Consolidated Plan, Action Plan and the CDBG and HOME grants. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

The following two items were heard together:

7. MASTER PLAN AMENDMENT #2005-0002 (A)
TEXT AMENDMENT #2005-0002 (B)
REZONING #2005-0003 (C)
KING STREET RETAIL STRATEGY

Properties adjoining the King Street right-of-way, from the properties adjoining all four corners of the intersection of King Street and Union Street, to the centerpoint of the intersection of King Street and Commonwealth Avenue, and including the property at the southwest corner of the intersection of Commerce Street and South Fayette Street.

Public Hearing and Consideration of a request for: (1) an amendment to the City's Master Plan, adopting the King Street Retail Strategy as a chapter of the Master Plan; (2) enactment of Section 6-700 of the Alexandria Zoning Ordinance pertaining to the King Street Urban Retail zone; and (3) amendments to the City of Alexandria zoning map to reflect the King Street Urban Retail zone. Applicant: Staff, Department of Planning and Zoning

PLANNING COMMISSION ACTION:

MPA:	Recommend Approval (subject to amendments by staff)	7-0
TA:	Recommend Approval (subject to amendments by staff)	7-0
REZ:	Recommend Approval (subject to amendments by staff)	7-0

(A copy of the Planning Commission report dated May 3, 2005, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7, 5/14/05, and is incorporated as part of this record by reference.)

8. TEXT AMENDMENT #2005-0003 (D)
REZONING #2005-0005 (E)
KING STREET OUTDOOR DINING

Bounded by the sidewalk right-of-way area along King Street, from the Potomac River to the intersection of King Street and Daingerfield Road, and along all streets intersecting therewith, north to Cameron Street, and south to Prince Street, and into the public sidewalk right-of-way along the south side of Diagonal Road to a point 772 feet west of the intersection of Diagonal Road and Daingerfield Road.

Public Hearing and Consideration of a request for: (1) enactment of Section 6-800 of the Alexandria Zoning Ordinance pertaining to the King Street Outdoor Dining Overlay Zone; and (2) amendment to the City of Alexandria zoning map to reflect the King Street Outdoor Dining Overlay Zone. Applicant: Staff, Department of Planning and Zoning

PLANNING COMMISSION ACTION:

TA: Recommend Approval (subject to amendments by staff) 7-0
REZ: Recommend Approval (subject to amendments by staff) 7-0

(A copy of the Planning Commission report dated May 3, 2005, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8, 5/14/05, and is incorporated as part of this record by reference.)

Planning and Zoning Director Fogarty gave an overview of the proposed King Street Retail Strategy and King Street Outdoor Dining Program and answered questions from Council.

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

(a) Nina Tisara, 1607 King Street, spoke in support of the King Street Retail Strategy.

(b) David M. Martin, 1400 King Street, spoke in support of the King Street Retail Strategy.

(c) Joseph M. Egerton, 106 West Bellafonte Avenue, spoke in support of the King Street Retail Strategy.

(d) Charlie Collum, 801 North Fairfax Street, Suite 402, spoke on behalf of the Chamber of Commerce, in support of the King Street Retail Strategy and the Outdoor Dining Program.

(e) Lonnie Rich, 801 North Fairfax Street, Suite 402, spoke on behalf of the Chamber of Commerce, in support of the King Street Retail Strategy and requested one amendment allowing administrative special use permit approval for restaurants with 60 seats or under and for outdoor dining with a two year sunset period.

(f) Lois L. Walker, 417 South Royal Street, spoke in support of the King Street Retail Strategy and Outdoor Dining Program.

(g) Mark Feldheim, 1215 Prince Street, spoke in support of the King Street Retail Strategy.

(h) Laura Foltz, 113 King Street, spoke on behalf of the owner of the Silver Parrot, Ltd, expressing some concerns about the Outdoor Dining Program, including visibility of their store, the canopy of the umbrellas and unpleasant odors coming from the restaurant.

(i) John Redman, 118 North Union Street, spoke in support of King Street Retail Strategy and Outdoor Dining Program and expressed concern about the noise from the motorcycles and street performers.

(j) Pat Troy, 310 Wolfe Street, spoke in support of the King Street Retail Strategy and Outdoor Dining Program.

(k) Michael Hobbs, 419 Cameron Street, spoke on behalf of the Old Town Civic Association in support of the King Street Retail Strategy and Outdoor Dining Program, noting their concerns about parking, proposed administrative approval for restaurants, and the implementation process.

(l) Margaret Janowsky, 106 West Braddock Road, spoke in opposition of the Outdoor Dining Program.

(m) Marguerite Lang, 14 West Rosemont Avenue, spoke in support of the King Street Retail Strategy and Outdoor Dining Program.

(n) Gayle Reuter, 110 East Del Ray Avenue, spoke in support of the King Street Retail Strategy and Outdoor Dining Program.

(o) Julie Crenshaw, 816 Queen Street, expressed concern about some community representatives' interpretation of the plan's objective, implementation of the strategy in a smooth manner, and noise from the motorcycles on the lower end of King Street.

(p) Sherry Brown, 1600 Prince Street, Unit 603, spoke in support of the King Street Retail Strategy and Outdoor Dining Program.

(q) Amy Slack, 2307 East Randolph Avenue, spoke about the proposed administrative approval for restaurants and the valet parking items included in the King Street Retail Strategy.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council closed the public hearing. The voting

was as follows:

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

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council approved the Planning Commission recommendation for docket items 7 and 8, with the following amendments: (1) the King Street Outdoor Dining will be effective January 1, 2006, with the pilot program remaining in effect for the rest of the year; (2) critical elements, such as sidewalk regulation standards, cleanliness and code enforcement issues, will be addressed immediately; (3) allow some type of accommodation for retailers being impacted by current outdoor dining equipment; (4) include under Storefront Guidelines the following language, "Prohibiting tinted, reflective or colored glass that restricts the pedestrian's view into ground-floor windows;" (5) include in Section 6-707 Use limitations a new subsection (E) to read: "The property owner and occupant shall maintain all building and property appurtenances located within or over the public right-of-way in a safe, clean and attractive fashion, as reasonably determined by the director;" (6) change of the membership of the advisory group to include the representatives from civic associations and other organizations in and around the King Street Retail Zone; (7) a Planning Commission analysis of the Outdoor Dining Pilot program prior to final implementation and (8) staff review of the inclusion of the additional parts of King Street in one of the Historic Districts. Council requested staff review the Special Use Permit process for certain businesses (restaurants and other small businesses), eliminating the requirement of coming before Council. The voting was as follows:

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

9. **SPECIAL USE PERMIT #2005-0017**
408 EAST GLEBE ROAD AND 3006 JEFFERSON DAVIS HIGHWAY
AUTOMOBILE RENTAL AND LEASING
Public Hearing and Consideration of a request for a special use permit to operate an automobile rental and leasing business; zoned CSL/ Commercial Service Low. Applicant: Fitzgerald Automall by Peter Sypolt

PLANNING COMMISSION ACTION: Recommend Denial 7-0

(A copy of the Planning Commission report dated May 3, 2005, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9, 5/14/05, and is incorporated as part of this record by reference.)

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

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

ORDINANCES AND RESOLUTIONS

11. Public Hearing, Second Reading and Final Passage of an Ordinance to Dedicate One Cent of the Real Estate Tax Rate to Affordable Housing, Beginning July 1, 2005. (#20, 5/10/05) (**ROLL-CALL VOTE**)

(A copy of the City Manager's memorandum dated May 11, 2005 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11, 5/14/05, and is incorporated as part of the record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 11, 5/14/05, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 11, 5/14/05, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to dedicate one cent of the real estate tax rate to affordable housing, beginning July 1, 2005. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4397

AN ORDINANCE to amend Chapter 1 (GENERAL PROVISIONS) of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Section 3-1-5 (ALEXANDRIA AFFORDABLE HOUSING INITIATIVES ACCOUNT).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 1 of Title 3 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 3-1-5, to read as follows:

Section 3-1-5 Alexandria Affordable Housing Initiatives Account.

(a) Establishment of account. There is hereby established for the City of Alexandria a permanent account within the Alexandria Affordable Housing Fund to be known and designated as The City of Alexandria Affordable Housing Initiatives Account, which Account shall be accounted for and maintained separate and apart from all other accounts maintained by the City of Alexandria.

(b) Funding of account. There is hereby assigned and appropriated to such Account, for the fiscal year commencing July 1, 2005 and in each succeeding fiscal year, from the tax on real estate levied pursuant to section 3-2-181 of this code, in addition to all other appropriations made to such Account, if any, the sum of \$0.01 on each \$100 of the assessed value of all real estate subject to such tax.

(c) Expenditures from account. Notwithstanding any contrary provision of law, appropriations from the said Account shall be authorized and made exclusively to assist, finance and support, directly or indirectly, the provision of housing which is affordable to households with incomes up to the limits established in the City's Affordable Housing Policy, as from time to time amended. Unexpended appropriations to such Account shall not lapse or expire at the end of the fiscal year in which made, irrespective of whether such appropriations were encumbered within such fiscal year.

(d) The provision of housing defined. As used in this section, the provision of housing includes, without limitation, the preservation of existing housing; the construction of new housing, or financial or other assistance for the purchase and/or rental of housing units, in accordance with the City's Affordable Housing Policy, or with the City's Consolidated Plan for Housing and Community Development, as from time to time amended.

12. Public Hearing, Second Reading and Final Passage of an Ordinance to Adopt the New Mount Vernon Avenue Small Area Plan. (#21, 5/10/05) **(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. 12, 5/14/05, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the

Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 12, 5/14/05, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council closed the public hearing and passed an ordinance to adopt the New Mount Vernon Avenue Small Area Plan. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4398

AN ORDINANCE to amend and reordain the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, by adopting and incorporating therein the amendment heretofore approved by city council to such master plan as Master Plan Amendment No. 2005-0001, and no other amendments, and to repeal all provisions of the said master plan as may be inconsistent with such amendment.

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

1. In Master Plan Amendment No. 2005-0001, the planning commission, on its own motion, initiated a comprehensive amendment to the 1992 Master Plan (1998 ed.) of the City of Alexandria, by adopting an amendment to the Potomac West Small Area Plan Chapter, to include the Mt. Vernon Avenue Business Area Plan and new and revised CDD guidelines.
2. The said amendment has heretofore been approved by the planning commission and city council after full opportunity for comment and public hearing.
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the amended Potomac West Small Area Plan Chapter, including the Mt. Vernon Avenue Business Area Plan and new and revised CDD guidelines, attached hereto and incorporated fully herein by reference, be, and the same hereby is, adopted as an amendment to the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 2. That all provisions of the Potomac West Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of Section 1 of this ordinance be, and same hereby are, repealed.

Section 3. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan amendment, as part of 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 4. 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 5. That the city clerk shall transmit a duly certified copy of this ordinance to the Clerk of the Circuit Court of the City of Alexandria, Virginia, and that the said Clerk of the Circuit Court shall file same among the court records.

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

13. Public Hearing, Second Reading and Final Passage of an Ordinance to Adopt Zoning Regulations to Implement the New Mount Vernon Avenue Small Area Plan. (#22, 5/10/05) **(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. 13, 5/14/05, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 13, 5/14/05, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Krupicka and carried unanimously by roll-call vote, City Council closed the public hearing and passed an ordinance to adopt zoning regulations to implement the New Mount Vernon Small Area Plan. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4399

AN ORDINANCE to amend and reordain the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 (OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES); to add a new Section 6-600 (MOUNT VERNON AVENUE URBAN OVERLAY ZONE) to Article VI (SPECIAL AND OVERLAY ZONES), and to amend and reordain and Subsection (A) (CDD DISTRICTS), of Section 5-602 (COORDINATED DEVELOPMENT DISTRICTS CREATED, CONSISTENCY WITH MASTER PLAN, REQUIRED APPROVALS), by adding thereto new Paragraph (13)(TRIANGLE SITES) and new Paragraph 14(GIANT AND CVS SITES), and to amend and reordain Article 2 (DEFINITIONS) by adding thereto corresponding definitions, all of the City of Alexandria Zoning Ordinance, in accordance with the said zoning map and text amendments heretofore approved by city council as Rezoning No. 2005-0001 and Text Amendment No. 2005-0001.

WHEREAS, the City Council finds and determines that:

1. In Rezoning No. 2005-0001 and Text Amendment No. 2005-0001, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, on its own motion initiated the comprehensive rezoning of the area comprising the Mt. Vernon Avenue Business Area portion of the Potomac West Small Area Plan;

2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;

3. The said rezoning is in conformity with the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, as amended, and

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 "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 establishing the Mount Vernon Avenue Urban Overlay Zone, as shown on the sketch plan entitled "Proposed Mt. Vernon Av. Urban Overlay Zone, MPA #2005-0001, TA #2005-0001, REZ #2005-0001," dated March 1, 2005, Exhibit 1-1, attached hereto and incorporated fully by reference, and by establishing the Retail Focus Area within such Overlay Zone, as shown on the sketch plan entitled "Legend, Proposed Retail Focus Area and Proposed Mt. Vernon Av. Urban Overlay Zone," undated, Exhibit 1-2, attached hereto and incorporated fully by reference.

Section 2. That 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 establishing CDD #13, as shown on the sketch plan entitled "Proposed

CDD #13, MPA #2005-0001, TA #2005-0001, REZ #2005-0001," dated March 1, 2005, Exhibit 2, attached hereto and incorporated fully by reference.

Section 3. That 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 establishing CDD #14, as shown on the sketch plan entitled "Proposed CDD #14, MPA #2005-0001, TA #2005-0001, REZ #2005-0001," dated March 1, 2005, Exhibit 3, attached hereto and incorporated fully by reference.

Section 4. That Subsection (A) of Section 5-602 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding there to a new Paragraph (13), as shown on Exhibit 4, attached hereto and incorporated fully by reference.

Section 5. That Subsection (A) of Section 5-602 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding there to a new Paragraph (14), as shown on Exhibit 5, attached hereto and incorporated fully by reference.

Section 5. That Article 6 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Section 6-600, as shown on Exhibits 6-1 through 6-15 inclusive, attached hereto and incorporated fully by reference.

Section 6. That Article 2 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto new Sections 2-127.1, 2-182.1 and 2-198.1, as shown on Exhibit 7, attached hereto and incorporated fully by reference.

Section 7. That the director of planning and zoning be, and hereby is, directed to record the foregoing map and text amendments.

Section 8. That the Sheets of the "Official Zoning Map, Alexandria, Virginia," as amended pursuant to Sections 1, 2 and 3 of this ordinance, Section 5-602, as amended pursuant to Sections 4 and 5 of this ordinance, Article 6, as amended pursuant to Section 5 of this ordinance, and Article 2, as amended by Section 6 of this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 9. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are on such date pending before any city department, agency or board, or before city council, shall apply to all such applications which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

14. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve an Encroachment into the Sidewalk at 315 North Payne Street. (#23, 5/10/05) **(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. 14, 5/14/05, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 13, 5/14/05, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to approve an encroachment into the sidewalk at 315 North Payne Street. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4400

AN ORDINANCE authorizing the owner of 315 North Payne Street to establish and maintain an encroachment for a retaining wall and fence.

WHEREAS, Linda Lewis ("Owner") is the Owner of the property located at 315 North Payne Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain retaining wall and fence which will encroach into the public sidewalk right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location 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 315 North Payne Street, in the City of Alexandria, said encroachment consisting of a retaining wall and fence extending no more than five and one-half feet into, and 30 feet along, the public right-of-way of North Payne Street in front of the property, as generally shown on the plat and elevation drawings 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 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.

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

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

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

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

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

15. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve an Encroachment into the Sidewalk at Stabler Leadbeater Apothecary Museum. (#24, 5/10/05) **(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. 15, 5/14/05, 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. 15, 5/14/05, and is incorporated as part of this record by reference.)

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

Krupicka and carried unanimously by roll-call vote, City Council closed the public hearing and passed an ordinance to approve an encroachment into the sidewalk at Stabler Leadbeater Apothecary Museum. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4401

AN ORDINANCE authorizing the Stabler Leadbeater Apothecary Museum to establish and maintain an encroachment for a temporary stoop and access ramp.

WHEREAS, the Stabler Leadbeater Apothecary Museum ("Owner") is the Owner of the property located at 105-107 South Fairfax Street, in the City of Alexandria, Virginia; and

WHEREAS, Owner desires and is required by law to establish and maintain a temporary stoop and access ramp which will encroach into the public sidewalk right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location 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 105-107 South Fairfax Street, in the City of Alexandria, said encroachment consisting of a temporary wood and metal stoop and access ramp extending no more than five feet into, and 17 feet along, the public right-of-way of South Fairfax Street in front of the property, as generally shown on the plat and elevation drawings 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 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) The Director of Planning and Zoning shall review the encroachment permit one year after construction is complete, and shall docket the matter for consideration by the Planning Commission and City Council if: (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit 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 encroachment and that new or revised conditions 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, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

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

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

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

Section 8. 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 (#16)

Planning Commission (continued)

16. SPECIAL USE PERMIT #2004-0105
219 A NORTH WEST STREET (rear)
DEVELOPMENT W/O STREET FRONTAGE and PARKING REDUCTION
Public Hearing and Consideration of a request for a special use permit to construct a single family dwelling on a lot without street frontage and for a reduction in required parking; zoned RB/Residential. Applicant: Sarah Allen

PLANNING COMMISSION ACTION: Deferred

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferral.

17. Restructuring of the Admissions Tax.

Council withdrew this docket item.

Council took a 30 minute recess.

10. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the City's Taxicab Regulations. **THIS ITEM WILL BE HEARD AT 1:00 P.M. (#20, 4/26/05) (ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated May 11, 2005 is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10, 5/14/05, and is incorporated as part of the record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 10, 5/14/05, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 3 of Item No. 10, 5/14/05, and is incorporated as part of this record by reference.)

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

(a) Bill Harris, 1106 Tuckahoe Lane, spoke on behalf of Senior Services, in favor of the continuation of the Senior Taxi Program and DOT Program.

(b) Chet Avery, 16 East Linden Street, spoke on behalf of the Commission with Disabilities, in favor of the continuation of the DOT Program.

(c) Lonnie Rich, 1199 North Fairfax Street, attorney representing Yellow Cab Company, requested that Council allow the cab companies to maintain certificate ownership in order to manage drivers and to maintain a stream of income to manage the business. Mr. Rich stated that if drivers will be permitted to transfer, the following two alternatives will be acceptable to Yellow Cab Company: (1) allow the dispatch companies to replace drivers or (2) make the transfer number a smaller percentage with driver dispatch requirements tied the right to transfer. Mr. Rich requested that the dispatch requirements be enforced on both cab companies and the drivers and that many of the business intrusive requirements be removed from the proposed ordinance, specifically Article 7. Mr. Rich noted a driver shortage because of difficulties with the

testing requirements.

(d) Barbara Beach, 416 Prince Street, requested that Council vote against the proposed ordinance and enforce the City's current taxi regulations.

(e) Abbasali Abousaidi, 3801 Mount Vernon Avenue, representing the Tenants' and Workers' Support Committee (TWSC) and Alexandria United Taxi Drivers Organization (AUTO), stated that 20% is the minimum acceptable percentage of driver movement in order create free market competition.

(f) Mulugeta Yimer, 3801 Mount Vernon Avenue, representing TWSC and AUTO, requested (1) that the language of the ordinance be edited to legalize the gray market to sell taxis, clarifying the insurance requirements, and several others; (2) eliminate the provisions for the "death penalty" (closing of cab companies) allowing drivers to affiliate with another company; and (3) permit a minimum of 20% of all drivers to move each year from each company.

(g) Stefanie Reponen, 1461 North Highview Lane, spoke on behalf of the Commission on Aging, in support of maintaining the Senior Taxi Program, stating the following: (1) inclusion of a defined quality assurance process; (2) there will be a review including seniors and persons with disabilities; (3) inclusion of a defined training plan to educate taxi drivers on serving elderly and disabled customers; (4) support for any company serving elderly and persons with disabilities; and (5) resources for the support and enforcement of regulations instituted by Council.

(h) Josh Henson, P.O. Box 2196, Falls Church, attorney representing King Cab Company and Columbus Cab Company, requested that Council vote against the proposed ordinance because it would lead to the closing of the two companies he represents.

(i) Kathleen Henry, 510 Four Mile Rd., #302, representing Alexandria United Taxi Cooperative and AUTO, requested that the taxi regulations contain the following: (1) authorizations to operate taxis must be issued to taxi owners; (2) the City may limit the number of cabs by limiting the number of owner authorizations issued; (3) taxi owners must be free to choose whether or not to affiliate with a dispatch company; (4) taxi owners must be free to move between dispatch companies or to create their own companies; and (5) there should be no restrictions on the size of dispatch companies.

(j) Jim Yates, Mt. Vernon Avenue, spoke in support of the current ordinance and increased enforcement of the ordinance. Mr. Yates noted that there was a problem with the testing of the drivers.

Council and staff participated in a discussion concerning the proposed taxi cab ordinance. An executive session concerning taxi cab regulation was scheduled for May 17, 2005 following the work session. The issue was docketed for discussion on June 14.

