

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, September 16, 2006 - - 9:30 a.m.

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

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Police Lt. Uzzell; Mr. Johnson, Director, Office of Management and Budget; Mr. Kincannon, Director, Parks, Recreation and Cultural Activities; Mr. Blakeley, Parks, Recreation and Cultural Activities; Mr. Mason, Special Assistant to the City Manager; Mr. Neckel, Director, Finance Department; Mr. Josephson, Deputy Director, Planning and Zoning; Ms. Peterson, Planning and Zoning; Mr. Hunt, Planning and Zoning; Ms. McIlvane, Deputy Director, Office of Housing; and Mr. Lloyd.

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 the Members of City Council were present.

2. Public Discussion Period.

(a) Bert Ely, P.O. Box 21010, spoke about the postal services and said with regard to the relocation of the George Mason station, he wanted to thank the City and Council for joining in the effort to keep that station located within the immediate downtown area, ideally located between Prince, Fairfax, Cameron and Patrick Streets. He said the process is moving slowly but it may not be completed by March 31 when their present lease expires. Mr. Ely said the other issue is initiatives that the Postmaster has undertaken to consider the removal of a lot of postal boxes throughout the City. He said it is important to continue to express through Business Facilitator Tom Fairchild any concerns one might have about an excessive removal of street collection boxes, as the boxes contribute to the walkability of Old Town. He said he hoped Council would be supportive of retaining collection boxes as it has been in keeping the George Mason

station in the area.

Mayor Euille said this was a topic of discussion with staff yesterday relative to the status of the post office facility on South Washington Street. He said he also has been in conversation with Bernie Allen, the executive director of the National Center for Missing and Exploited Children about their needs to expand, and the Economic Development people are working with them to help to resolve some of their immediate space needs, but to also slow the process down. Mayor Euille said the issue of the deposit boxes is new to him, and staff is trying to arrange a meeting with Congressman Moran to discuss the status of the post office, so that will be brought to his attention.

(b) Jim Hurysz, P.O. Box 5191, Arlington, spoke about energy conservation, buildings being under-insulated and inefficient windows in government buildings. He said Arlington is renovating its County office building by replacing old incandescent lighting with new incandescent lighting and it is time for local governments to set the standards for energy efficiency in buildings. Mr. Hurysz also spoke about the retirement of the Mirant Plant and said it couldn't happen too soon for him.

(c) Mariella Posey, 915 Second Street, said that with the departure of Eileen Fogarty, there are many who are concerned that her initiative of community involvement early in the concept stage of development, before any formal hearings, will slowly become a thing of the past. She asked Council to direct the new director to continue the process, as community involvement resulted in better projects throughout the City. Ms. Posey said Ms. Fogarty was a great asset to the community and was a joy to work with.

(d) Charles Trozzo, 204 Duke Street, congratulated Council on the election and the beginning of the new session. He read a letter from the Historic Restoration and Preservation Commission, in which they expressed appreciation and best wishes to Ms. Fogarty. He said there were a lot of congratulations to Ms. Fogarty at her party last night, but it is not time to rest on their laurels. It is time to pick up the beat, to recruit and hire a new planning director who will continue this direction and pursue it aggressively. He said the Planning and Zoning division has gone through a rather tough time, losing a number of personnel, and he encouraged the City's pursuing the replacement of those personnel as aggressively and timely as possible.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-13)

Planning Commission

SPECIAL USE PERMIT #2006-0052
3648 KING STREET
ATLANTIS FAMILY RESTAURANT

Public Hearing and Consideration of a request to operate a restaurant and for a parking reduction; zoned CG/Commercial General. Applicant: Vasilios Patrianakos

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 3, 9/16/06, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2006-0053
4932-B EISENHOWER AVENUE
LIGHT AUTOMOBILE REPAIR

Public Hearing and Consideration of a request to operate a light automobile repair business; zoned OCM(100)/Office Commercial Medium. Applicant: Martha Elizabeth Medin

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 4, 9/16/06, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2006-0055
610 MONTGOMERY STREET
COFFEE HOUSE

Public Hearing and Consideration of a request to operate a coffee house style restaurant and for a parking reduction; zoned CDX/Commercial Downtown(Old Town North).

Applicant: Marie Doyle

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 5, 9/16/06, and is incorporated as part of this record by reference.)

6. SPECIAL USE PERMIT #2006-0058
300 CALVERT AVENUE
NATURE BY DESIGN
Public Hearing and Consideration of a request to expand an existing outdoor garden center; zoned I/Industrial Applicant: Nature By Design by Carla Thomas and Randee Wilson

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 6, 9/16/06, and is incorporated as part of this record by reference.)

7. SPECIAL USE PERMIT #2006-0059
607 NOTABENE DRIVE
COMMUNITY LODGINGS, INC
Public Hearing and Consideration of a request for an extension of a previously approved special use permit to expand an existing community center, with modifications, and for a parking reduction; zoned RA/Residential. Applicant: Community Lodgings, Inc. by Bonnie Baxley

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 7, 9/16/06, and is incorporated as part of this record by reference.)

8. SPECIAL USE PERMIT #2006-0060
5308 EISENHOWER AVENUE (Parcel Address: 5800 Eisenhower Avenue)
SPORTROCK, INC.
Public Hearing and Consideration of a request to change the ownership and hours of operation of an indoor amusement enterprise (rock climbing facility); zoned OCH/Office Commercial High. Applicant: Sportrock, Inc. by Lillian Chao-Quinlan

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 8, 9/16/06, and is incorporated as part of this record by reference.)

9. SPECIAL USE PERMIT #2006-0065
3108 MOUNT VERNON AVENUE
PHO VIET RESTAURANT
Public Hearing and Consideration of a request for an expansion of an existing restaurant to include an increase physical space, seating and hours of operation; zoned CRMU-M/Commercial Residential Mixed Use Medium. Applicant: Vo Thin by James C. Pan

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 9, 9/16/06, and is incorporated as part of this record by reference.)

10. SPECIAL USE PERMIT #2006-0067
2461 EISENHOWER AVENUE - 215 & 219
RESTAURANT
Public Hearing and Consideration of a request to operate a restaurant; zoned CDD-2/Coordinated Development District. Applicant: Chuchart Kampirapang

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 10, 9/16/06, and is incorporated as part of this record by reference.)

11. SPECIAL USE PERMIT #2006-0063
630 NORTH COLUMBUS STREET
PARKING REDUCTION
Public Hearing and Consideration of a request for a parking reduction for a new residential dwelling; zoned RB/Residential. Applicant: James A. Merklinger

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 11, 9/16/06, and is incorporated as part of this record by reference.)

12. SPECIAL USE PERMIT #2006-0056
3830 SEMINARY ROAD
OTRADA, ADHC, INC. (ADULT DAY HEALTH CARE CENTER, INC.)
Public Hearing and Consideration of a request to operate an adult daycare center; zoned R-20/Residential. Applicant: Alexandria Adult Day Health Care Center, Inc. by Victoria Vinokur

PLANNING COMMISSION ACTION: Recommend Approval As Amended 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 12, 9/16/06, and is incorporated as part of this record by reference.)

13. SPECIAL USE PERMIT # 2006-0050
614 SOUTH WASHINGTON STREET
ROBERTS MEMORIAL UNITED METHODIST
Public Hearing and Consideration of a request for a parking reduction; zoned CL/Commercial Low. Applicant: Roberts Memorial United Methodist Church by Joanna C. Frizzell, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 13, 9/16/06, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilwoman Pepper and carried unanimously, City Council approved the action consent calendar, with the removal of item #10, as follows:

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.
5. City Council approved the Planning Commission recommendation.
6. City Council approved the Planning Commission recommendation.
7. City Council approved the Planning Commission recommendation.
8. City Council approved the Planning Commission recommendation.
9. City Council approved the Planning Commission recommendation.
11. City Council approved the Planning Commission recommendation.
12. City Council approved the Planning Commission recommendation.
13. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

10. SPECIAL USE PERMIT #2006-0067
 2461 EISENHOWER AVENUE - 215 & 219
 RESTAURANT
 Public Hearing and Consideration of a request to operate a restaurant; zoned
 CDD-2/Coordinated Development District. Applicant: Chuchart Kampirapang

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item. No. 10, 9/16/06, and is incorporated as part of this record by reference.)

Councilman Smedberg said he wanted to make sure they are okay with the recommendation of just automatically granting an extension in operating hours. He said he was concerned with setting a precedent where restaurants come forward that are surrounded more by residential areas, where it may run into problems down the road.

Deputy Director of Planning and Zoning Josephson said staff looks at each one on a case-by-case basis and try to be consistent with a community standard for that area.

City Attorney Pessoa said from a legal perspective, as long as there is a rational basis to distinguish the hours of one restaurant from another, they are okay making that distinction.

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

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

- 14. SPECIAL USE PERMIT #2006-0057
 4800 BRENMAN PARK DRIVE
 PARK IMPROVEMENTS
 Public Hearing and Consideration of a request to install a playground at Ben Brenman Park; zoned CDD-9/Coordinated Development District. Applicant: Department of Recreation, Parks and Cultural Activities by Roger Blakeley

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 7, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14, 9/16/06, and is incorporated as part of this record by reference.)

Mayor Euille said he would dispense with the public hearing if the three speakers who are signed up in support agree, which they did.

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

The voting was as follows:

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

ORDINANCES AND RESOLUTIONS

- 15. Public Hearing, Second Reading and Final Passage of an Ordinance to Expand the Membership of the Affordable Housing Advisory Committee (AHAC.) (#18, 9/12/06) **(ROLL-CALL VOTE)**

(A copy of the City Manager's memorandum dated September 5, 2006, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 9/16/06, 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; 9/16/06, 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; 9/16/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to expand the membership of the Affordable Housing Advisory Committee. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4460

AN ORDINANCE to amend and reordain Section 2-4-79 (CREATION, COMPOSITION AND ORGANIZATION) of Article H (AFFORDABLE HOUSING COMMITTEE) of Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS) of Title 2 (GENERAL GOVERNMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-4-79 (Creation, composition and organization) of Article H (Affordable Housing Committee) of Chapter 4 (Committees, Boards and Commissions) of Title 2 (General Government) of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 2-4-79 Creation, composition and organization.

(a) There is hereby established a committee known as the affordable housing advisory committee.

(b) The voting membership shall consist of 14 citizen members who shall be appointed by city council. The composition of the voting membership shall be as follows:

- (1) one commissioner from the Alexandria Redevelopment and Housing Authority;
- (2) one licensed and practicing attorney;
- (3) one builder or developer of residential property;
- (4) one real estate professional with knowledge and experience in residential real estate;
- (5) one financial professional with knowledge and experience in the field of finance as it relates to residential housing;
- (6) one landlord of residential property in the city;
- (7) one residential tenant in the city;
- (8) one homeowner in the city;
- (9) one representative of the city's faith community;
- (10) one representative of a civic association in the city;
- (11) one representative who is employed by or affiliated with an organization that promotes and maintains affordable housing;
- (12) one representative of an employer in the city who employs at least 100 employees;
- (13) one person designated by, but who need not be a member of, the Commission on Aging; and
- (14) one person who is either a City employee or a teacher with the Alexandria City Public Schools.

(c) The non-voting membership of the committee shall consist of three representatives of the city who will serve in an advisory capacity. The city representative members shall consist of one representative of each of the following city departments:

- (1) the office of housing;
- (2) the department of planning and zoning; and
- (3) the department of human services.

(d) Voting members of the committee shall be appointed in the manner prescribed in article A of this chapter. Such members shall be appointed to three-year staggered terms and shall be eligible for reappointment. One-third of the initial appointments shall be for a one year term, one-third of the initial appointments shall be for a two-year term, and one-third of the initial appointments shall be for a three-year term. Initial terms of office shall be determined by lot at the first committee meeting. Non-voting members shall be appointed by the city manager.

Section 2. Notwithstanding the amendment to the composition of the Affordable Housing Advisory Committee made by this ordinance, members of the committee serving on September 16, 2006 shall continue to serve the balance of their terms of office.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

16. Public Hearing, Second Reading and Final Passage of an Ordinance to Revise the Membership of the EMS Council. (#19, 9/12/06) **(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. 16; 9/16/06, 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. 16; 9/16/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to revise the membership of the EMS Council. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4461

AN ORDINANCE to amend and reordain Section 2-4-85 (CREATION, COMPOSITION AND ORGANIZATION) of Article J (EMERGENCY MEDICAL SERVICES COUNCIL), Chapter 4 (COMMITTEES, BOARDS AND COMMISSIONS), Title 2 (GENERAL GOVERNMENT) of The Code of the City of

Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-4-85 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

Sec. 2-4-85 Creation, composition and organization.

- (a) There is hereby established a committee known as the Emergency Medical Services Council (the "council").
- (b) The council shall consist of 16 voting members, four of whom shall be ex officio members and 12 of whom shall be appointed by city council. The four ex officio members shall be the city manager or a designee of the manager, the fire chief, the director of the fire department's emergency medical services division, and an emergency rescue technician selected from among the city's emergency rescue technicians by his peers, through a voting process established by the fire chief. The 12 members of the council to be appointed by city council shall be as follows:
 - (1) One emergency room physician from Alexandria Hospital;
 - (2) One representative of the Alexandria Medical Society who has privileges at Alexandria Hospital;
 - (3) One representative of the Emergency Nurses Association from Alexandria Hospital;
 - (4) One representative of the hospital administration at Alexandria Hospital;
 - (5) One representative of the Federation of Civic Associations;
 - (6) (Reserved)
 - (7) One representative of the Alexandria Red Cross;
 - (8) Four citizens;
 - (9) (Reserved)
 - (10) One representative of nursing homes located in the city;
and

(11) Alexandria's Operational Medical Director.

- (c) The members of the council who are to be appointed by city council shall be appointed in the manner prescribed in article A of this chapter; provided, that members who are a representative of an organization or group shall be nominated by the organization or group and appointed by city council. Such members shall be appointed to two-year terms and shall be eligible for reappointment without limitation.

Section 2. That no provision of this ordinance shall be deemed to affect the appointments or terms of the members of the Emergency Medical Services Council in office on the effective date hereof.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

- 17. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the Eisenhower East Small Area Plan. (#20, 9/12/06) **(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. 17; 9/16/06, 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. 17, 9/16/06, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Gaines and carried unanimously by roll-call vote, City Council passed an ordinance to amend the Eisenhower East Small Area Plan. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4462

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. 2006-0002 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. 2006-0002, an application has been made to amend the Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, as variously described *infra* .

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 Eisenhower East Small Area Plan Chapter of the 1992 Master Plan (1998 ed.) of the City of Alexandria, be, and the same hereby is, amended as described in the staff report and exhibits from the June 17, 2006 public hearing meeting of City Council, attached hereto and incorporated fully herein by reference.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing amendments, as the Eisenhower East Small Area Plan Chapter of 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia.

Section 3. That all provisions of the of the 1992 Master Plan (1998 ed.) of the City of Alexandria, Virginia, as may be inconsistent with the provisions of this ordinance be, and same hereby are, repealed.

Section 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.

18. Public Hearing, Second Reading and Final Passage of an Ordinance to Approve an Encroachment for St. Paul's Episcopal Church. (#21, 9/12/06) (**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; 9/16/06, 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; 9/16/06, and is incorporated as part of this record by reference.)

City Attorney Pessoa asked Council to substitute the updated attachments that are on the dais.

WHEREUPON, upon motion by Vice Mayor Macdonald, seconded by Councilwoman Pepper and carried unanimously by roll-call vote, City Council passed an ordinance to approve an encroachment for St. Paul's Episcopal Church. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4463

AN ORDINANCE authorizing the Trustees of St. Paul's Episcopal Church, Alexandria, Virginia, to establish and maintain an encroachment for an ADA compliant ramp, stairs and landing.

WHEREAS, the Trustees of St. Paul's Episcopal Church, Alexandria, Virginia, ("Owners") are the Owners of the property located at 228 South Pitt Street, in the City of Alexandria, Virginia; and

WHEREAS, Owners desire to establish and maintain an ADA compliant ramp, stairs and landing which will encroach into the public sidewalk right-of-way along the church building in the 400 block of Duke Street; 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 Owners be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way along the 400 block of Duke Street, in the City of Alexandria, said encroachment consisting of an ADA compliant ramp, stairs and landing, as generally shown on the plans 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 Owners of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

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

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

This liability insurance policy shall identify the City of Alexandria and Owners as named insureds and shall provide for the indemnification of the City of Alexandria and Owners 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, Owners 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 Owners. Nothing in this section shall relieve Owners of their obligations and undertakings required under this ordinance.

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

- (a) Neither the City of Alexandria nor any public utility company shall be responsible for damage to Owners' 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 Owners shall maintain a minimum four-foot wide sidewalk.
- (c) The Owners shall provide a final plan showing the number of treads, rise height and landing dimensions of the steps.
- (d) The Owners shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.
- (e) All improvements to the City right-of-way such as curbing, sidewalk, driveway aprons, etc., must be City standard design.
- (f) The sidewalk shall remain open during construction.
- (g) The Owners shall provide a final plan showing the ramp slope. The ramp and steps shall comply with ADA requirements.
- (h) The existing tree well opposite the proposed ramp shall be relocated to be centered between the two existing tree wells.
- (i) The dimensions of the relocated tree well shall be a minimum of four feet in width (from the curb) and a minimum of six feet in length.
- (j) The relocation of the tree well shall be performed by the Owners. The work shall be completed prior to the installation of the ADA ramp.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners 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 Owners 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 Owners the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owners without cost to the city. If Owners 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 Owners, and shall not be liable to Owners 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 (19-20)

Planning Commission (continued)

19. SPECIAL USE PERMIT #2006-0032
235 SOUTH VAN DORN STREET
RESTAURANT
Consideration of a request for a special use permit to allow the sale of prepared food items at an existing grocery store (restaurant); zoned CG/Commercial General. Applicant: Lady Guadamuz (Deferred from the June and July dockets)

PLANNING COMMISSION ACTION: Deferred

20. SPECIAL USE PERMIT #2005-0042
5601 COURTNEY AVENUE; 730 S. VAN DORN ST; 750 S VAN DORN ST;
720 S VAN DORN ST
VIRGINIA PAVING COMPANY
Consideration of a request for a special use permit amendment to change the hours by which vehicles may exit and enter an existing asphalt plant and to permit a stack height of 20 meters; zoned I/Industrial. Applicant: Virginia Paving Company by Mary Catherine Gibbs, attorney

PLANNING COMMISSION ACTION: Deferred

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferrals.

* * * * *

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, the public hearing meeting of September 16, 2006, was adjourned at 9:57 a.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk