

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, March 15, 2008 - - 9:30 a.m.

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

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Ms. Hamer, Director, Planning and Zoning (P&Z); Mr. Josephson, Deputy Director, P&Z; Mr. Farner, Division Chief, P&Z; Mr. Culpepper, Deputy Director, Transportation and Environmental Services (T&ES); Ms. McIlvaine, Deputy Director, Office of Housing, Ms. Haefeli, Principal Planner, P&Z; Mr. Bray, Urban Planner, P&Z; Ms. Rafferty, Urban Planner, P&Z; Ms. Beeton, Division Chief, P&Z; Mr. Kagawa, Landscape Architect, Recreation, Parks and Cultural Activities; Mr. Mason, Special Assistant to the City Manager, City Manager's Office; Ms. Harris, Communications Officer, City Manager's Office; Ms. Durham, Open Space Coordinator, Recreation, Parks and Cultural Activities; Ms. Stephenson, Park Planner, Recreation, Parks and Cultural Activities; Ms. Triggs, Director, Finance; Mr. Johnson, Director, Office of Management and Budget; Mr. Milone, Division Chief, P&Z; Mr. Daly, Division Chief, T&ES/Engineering; Ms. Ryan, Urban Planner, P&Z; Mr. Spurgin, Urban Planner, P&Z; Mr. Colevas, ITS; Police Lt. Ogden; and Mr. Lloyd.

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 Council were present.

2. Public Discussion Period.

(a) Gary Carr, 216 Aspen Street, spoke in support of building more running tracks in the City, particularly at George Washington Middle School, Hammond Middle School and potentially bringing an eight lane running track to the City. Mr. Carr stated that two ideas were presented at the recent joint meeting with the Council and School

Board: the All-City Sports Facility and feasibility study for tracks in the City and he pointed out that the site for the All-City Sports Facility was not acceptable with the cost being specious at best. Mr. Carr noted that he supported an All-City Sports Facility, including a track and field, at a more appropriate location. Mr. Carr also presented Council with a few health statistics for children.

(b) Stephanie Clayton, 5333 Thayer Avenue, announced a fundraising raffle for the Scholarship Fund of Alexandria. Ms. Clayton also announced that the Spring Gala Fundraiser will be held at the Hilton Mark Center on May 10 entitled, "LEEDing Our Students to Excellence," in honor of the award-winning, environmentally-friendly school. Ms. Clayton announced that the committee would be raffling off a 2008 Toyota Prius and tickets are available for purchase at a cost of \$100 each.

(c) David Fromm, 2307 East Randolph Avenue, reported that the Del Ray Citizens Association held its 7th Annual Meet and Greet, giving the neighborhood the opportunity to meet City staff and officials and learn about services available through the City. Mr. Fromm thanked various City staff and departments for participation in the event.

(d) Amy Slack, 2307 East Randolph Avenue, thanked Thomas Watkins, Transportation and Environmental Services, for the superior service he provides to the Del Ray Community. Ms. Slack also thanked Pat Walker, Code Enforcement, for her work as liaison to the Del Ray Citizens Association. Lastly, Ms. Slack thanked Lt. Paul Story, who recently retired from the Police Department, for his service to the community.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3-5)

Planning Commission

3. SPECIAL USE PERMIT #2007-0128
700 NORTH PATRICK STREET
PERSONAL SERVICE EXPANSION
Public Hearing and Consideration of a request for a physical expansion of a hair salon and for a parking reduction; zoned RB/Townhouse. Applicant: Sophea Nuth by Robert Byrnes.

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 03/15/08, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2008-0002

118 SOUTH ROYAL STREET
GRAPE + BEAN RESTAURANT

Public Hearing and Consideration of a request to operate a restaurant; zoned CD/Commercial Downtown. Applicant: David Gwathney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 03/15/08, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2008-0006
613, 625, 627 and 641 NOTABENE DRIVE
BEVERLY PARK APARTMENTS -- PARKING REDUCTION
Public Hearing and Consideration of a request for a parking reduction for an apartment complex; zoned RA/Multifamily. Applicant: Wesley Notabene Limited Partnership

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 03/15/08, 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 Krupicka and carried unanimously, City Council approved the action consent calendar, with the exception of docket items #3 and #5, which were considered under separate motions. The approval was as follows:

4. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

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PERSONAL SERVICE EXPANSION
Public Hearing and Consideration of a request for a physical expansion of a hair salon and for a parking reduction; zoned RB/Townhouse. Applicant: Sophea Nuth by Robert Byrnes.

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 03/15/08, and is incorporated as part of this record by reference.)

Deputy Director Josephson, Planning and Zoning, responded to questions from Council about the zoning of property, nonconforming uses, the small business special use permit process and the Braddock East Plan.

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

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

5. SPECIAL USE PERMIT #2008-0006
613, 625, 627 and 641 NOTABENE DRIVE
BEVERLY PARK APARTMENTS -- PARKING REDUCTION
Public Hearing and Consideration of a request for a parking reduction for an apartment complex; zoned RA/Multifamily. Applicant: Wesley Notabene Limited Partnership

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 03/15/08, and is incorporated as part of this record by reference.)

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

(a) James T. Rorke, 3816 Charles Avenue, president of the Lenox Place Homeowners Association, spoke about the parking situation in the neighborhood. Mr. Rorke stated that the parking problem in the area has been addressed on a piecemeal basis and because the reduction would exacerbate the problem, the homeowners association was opposing the special use permit (SUP).

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

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

Councilman Krupicka stated that the report implies that there is not a parking problem in the neighborhood and it should at least acknowledge, for the neighborhood, that there is a problem and acknowledge that there is the need to work toward a better solution. Councilman Krupicka also noted that the Affordable Housing Policy Task Force would be examining a number of Planning and Zoning issues that affect affordable housing, including parking.

Vice Mayor Pepper inquired whether the 300 deficit parking spaces was a current figure and how big was the parking shortage.

In response to Vice Mayor Pepper, Deputy Director Culpepper, Transportation and Environmental Services, stated that the number was not current and not related to a parking study but a comparison of physical spaces versus the requirement under the Zoning Ordinance, if these properties were developed today. Mr. Culpepper noted that the peak parking shortage occurred on Sunday night and there was about a 95% occupancy rate in the area.

Councilman Smedberg stated that the staff reports needs to be more honest about the parking situation in the area and the issue needs to be addressed in a more comprehensive way.

Councilman Krupicka noted that staff has recommended adding a parking policy manager to create a more proactive approach to parking issues.

Mayor Euille stated that there should not be staff reports submitted with "no comment" and then staff make acknowledgments there is a problem. Mayor Euille noted that there is the impression that the problem is not being addressed properly.

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Smedberg and carried unanimously, City Council approved the Planning Commission recommendation with the recognition in the final staff report that there are parking issues in the neighborhood that will be addressed. The voting was as follows:

Krupicka	"aye"	Pepper	"aye"
Smedberg	"aye"	Gaines	"aye"
Euille	"aye"	Smedberg	"aye"
	Wilson	"aye"	

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

*****Please note: Items 5.1 and 5.2 were heard after docket item #13*****

- 5.1. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Establish the General Real Estate and Personal Property Tax Rates for Calendar Year 2008. (#28.1, 3/11/08)

(The City Manager's memorandum dated March 14, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5.1 and 5.2; 03/15/08, and is incorporated as part of this record by reference.)

- 5.2 Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Establish the Additional Real Estate Tax Rate for Commercial and Industrial Property for Calendar Year 2008. (#28.2, 3/11/08)

(The City Manager's memorandum dated March 14, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5.1 and 5.2; 03/15/08, and is incorporated as part of this record by reference.)

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

6. DEVELOPMENT SPECIAL USE PERMIT #2004-0033
2712 DUKE STREET
ANIMAL HOSPITAL

Public Hearing and Consideration of a request for a development special use permit, with site plan and subdivision, to construct an animal hospital; zoned CG/Commercial General. Applicant: Duke Street, LLC by Duncan Blair, attorney

PLANNING COMMISSION ACTION: Recommend Approval w/amendments 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6, and is incorporated as part of this record by reference.)

Mr. Farner, Planning and Zoning, gave a brief presentation of the proposed project including parking, green building elements and other development in the vicinity.

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

(a) Duncan W. Blair, Esq, 524 King Street, attorney for the applicant, spoke in support of the application and explained the proposed project, the purchase of a stoplight and relocation of Witter Street.

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"	Lovain	"aye"
	Wilson	"aye"	

Councilman Wilson inquired why the maintenance of the bus shelter by the applicant had been deleted from the staff report and how maintenance of bus shelters was handled throughout the City. Councilman Wilson requested that the language be amended to include some maintenance of the bus shelter by the applicant.

In response to Councilman Wilson, Deputy Director Culpepper stated that bus shelter maintenance has been included in SUPs as a customary practice and that the businesses are not equipped to repair the structure. Deputy Director Culpepper noted that the concern was with the upkeep of the shelter.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Councilman Wilson and carried unanimously, City Council approved the Planning Commission recommendation with the addition of language in condition 1(e) stating that the applicant agrees to assist the City in the maintenance of the bus shelter by advising of deficiencies and participating in the cleaning of litter and debris that may be located in the area. The voting was as follows:

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

7. MASTER PLAN AMENDMENT #2006-0005
BRADDOCK ROAD METRO SMALL AREA PLAN AMENDMENT
Public Hearing and Consideration of a request for a revision of, supplement to, and amendment of the Braddock Road Metro Station Small Area Plan chapter of the Master Plan, to include the Braddock Metro Neighborhood Plan. Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the City Manager memorandum dated March 7, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 03/15/08, and is incorporated as part of this record by reference.)

Ms. Hamer, Director, Planning and Zoning, gave a presentation to Council of the elements of the Braddock Road Metro Neighborhood Plan, including development (residential and commercial), transportation and quality of life. Ms. Hamer also answered questions from Council about the proposed plan.

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

(a) Herb Cooper-Levy, 1527 Oronoco Street, representing Alexandrians Delivering Smart Growth Around Metro Stations (ADAM), spoke in support of the proposed amendment. Mr. Cooper-Levy stated that development around the Braddock Metro Station would benefit the City tremendously by promoting smart growth. Mr. Cooper-Levy stated that the Affordable Housing Workgroup would be recommending that a chapter be added to the Master Plan that addresses the affordable housing in this area and throughout the City.

(b) Niki Clayton, 507 North Patrick Street, spoke in opposition to certain sections of the plan, including height of the buildings in some of the development. Ms. Clayton stated that the commercial development coming to the area would probably be more mainstream and not provide the local flavor the neighborhood is hoping to get. Ms. Clayton also noted that parking would continue to be a problem. Ms. Clayton stated that the plan was more of a philosophy rather than a plan for development.

(c) Mary Rust, 507 North West Street, spoke in support of transit-oriented development and it will have a positive change on the traffic problems. Ms. Rust stated that this type of development will provide the amenities people are looking for in the community. Ms. Rust stated that concentrated development around metro stations will maximize economic return for everyone.

(d) Lisa Lettieri, 513 East Nelson Avenue, spoke in support of the plan because it provides a plan of action for a sustainable future for the neighborhood and the City.

(e) John W. Rust, 1215 Cameron Street, spoke in support of the plan noting people are increasingly looking for urban lifestyles, smaller homes near public transportation and proximity to parks, shops and other cultural amenities.

(f) Ed Ablard, 18 West Del Ray Avenue, spoke in support of most of the plan but expressed concern about the definition of mixed-use and the amount of affordable rental housing versus owner occupied housing provided by the plan, stating that it was insufficient. Mr. Ablard noted that the dissemination of the plan has been inadequate and the number of people who have reviewed the plan has been small. Mr. Ablard offered an alternative suggestion for the location of the proposed park in the plan.

(g) John W. Fay, 505 East Braddock Road, noted that the plan did not fully exam the issue of affordable housing and he requested that Council take a closer look at the issue. Mr. Fay stated that the plan provides for high rise apartment buildings, which are not generally affordable. Mr. Fay requested that the floor area ratio (FAR) not be increased.

(h) Richard Calderon, 505 East Braddock Road, president of Colecroft Station Board of Directors, stated that the plan underestimates the amount of traffic that

will be generated by the new growth to the area. Mr. Calderon noted that the increase in traffic will not only cause congestion on Route 1, but onto the side streets. Mr. Calderon urged Council to eliminate everything but local offices from the plan, enhance the Metro parking lot as hard surface weekend park, and cap the FAR to 1.5. Mr. Calderon stated that these changes will lower peak hour traffic.

(i) Maria Willcox, 334 North Columbus Street, urged deferral of the proposed plan pending a rewrite that addresses the impact of the density and the traffic that the increased density will bring to the neighborhood. Ms. Willcox stated that the current plan with increased traffic congestion will depress property values and quality of life in the residential neighborhoods.

(j) William Cromley, 421 North Alfred Street, spoke in support of the plan noting that density would be beneficial by bringing amenities to the neighborhood. Mr. Cromley stated the plan was the result of compromise and pointed out that Ms. Hamer taught the basics of planning and listened to the neighborhood, which led to a successful proposal.

(k) Heidi Ford, 1022 Oronoco Street, requested that the proposed plan be deferred until the issues of density and traffic can be addressed in-depth. Ms. Ford stated that the plan will create a Ballston or Carlyle, changing the character of the neighborhood. Ms. Ford stated that the traffic portion of the plan was incoherent and unconvincing. Ms. Ford noted that the plan does not clearly state the intent to preserve street side parking in the area and should be clearly stated. Ms. Ford also noted that the plan spoke about the possibility of gentrification and she was opposed to the use of the language and asked that it be changed.

(l) Mike Ernst, 67 Kennedy Street, spoke in support of the plan and stated that the plan allows for and requires the type of vibrant, urban development that the City needs to grow and thrive.

(m) Nancy Hughes, 1253 Madison Street, expressed concern about canyons being created by high density development. Ms. Hughes stated that the desire of the community was to receive the same consideration as the rest of Old Town when considering density. Ms. Hughes stated that the amount of density is not attuned to the neighborhood's character. Ms. Hughes spoke in opposition to the plan and requested deferral on the plan.

(n) Leslie Zupan, 1309 Queen Street, president of Inner City Civic Association, thanked the Mayor and members of Council for joining them on the neighborhood walk. Ms. Zupan stated that there are positive aspects to the plan. Ms. Zupan also stated that the neighborhood still had concerns about traffic, parking, public housing and the retail initiatives. Ms. Zupan stated that the streets of the neighborhood may not be able to handle the amount of traffic generated by the increased density, noting that the networks of streets will be overwhelmed. Ms. Zupan pointed out that there were major concerns about the configuration of the Metro parking lot with

increased density. Ms. Zupan noted that there were gaps in the area where there are no parking districts requirements with little or no weekend enforcement. Ms. Zupan stated that the public housing needs to be deconcentrated and redeveloped similar to the public housing at Chatham Square. Ms. Zupan stated that there are real concerns about the retail and that the retail portion has not been fully explored. Finally, Ms. Zupan reiterated that the neighborhood is strongly opposed to funding the Bus Rapid Transit (BRT).

(o) Carolyn Nash, 523 North West Street, thanked Ms. Hamer and Council for all the work on the plan. Ms. Nash stated that the neighborhood strongly supports a cut through under the Metro toward Del Ray because it is essential for increased ridership at the Braddock Metro Station. Ms. Nash stated that the neighborhood strongly endorsed the redesign of the intersection at Wythe, Braddock and North West for pedestrian safety reasons. Ms. Nash pointed out that there is currently a parking problem in the area and a reduction in the parking requirement will exacerbate the problem.

(p) Julie Crenshaw Van Fleet, 26 Wolfe Street, inquired how the City would reconcile the Parker-Gray historic preservation with the proposed plan. Ms. Van Fleet stated that it would be difficult to maintain preservation standards while increasing traffic and density in the area. Ms. Van Fleet noted that many people use the Braddock Metro Station parking lot as a place to park their cars and take the metro into the City, maybe there should be underground parking to accommodate that constituency. Ms. Van Fleet also pointed out that the Post Office site may not be an option for location of the park because there is no mention of the Federal Government agreeing to that particular proposal. Ms. Van Fleet noted that there has been a lot of hard work put into the plan but there are still some feasibility questions that need to be studied further to show an improvement of the quality of life for the neighborhood. Ms. Van Fleet requested that Council be mindful of implementation of items in the plan.

(q) Patricia Soriano, 5405 Barrister Place, speaking on behalf of the Sierra Club, spoke in support of the proposed plan for its bold redevelopment and envisage of a vibrant and thriving mixed-use commercial and residential community based on transit-oriented development criteria. Ms. Soriano noted that the inclusion of pedestrian and bicycle friendly streets, sidewalks, access to quality public transportation, development of parks and open space and green building standards make this vision pragmatic as well as principled. Ms. Soriano noted that the plan is in line with the Sierra Club's National Urban and Land-Use Policy Guidelines.

(r) Patricia Shubert, 907 Oronoco Street, spoke in support of the proposed plan. Ms. Shubert thanked staff and consultants for all their work on the plan.

(s) Charlotte Landis, 433 North Patrick Street, stated that there has been a lot of input from residents who do not reside within the immediate boundaries of the plan. Ms. Landis stated that the area's infrastructure cannot support the density proposed in the plan. Ms. Landis noted that if smart growth was the central concept of

the plan, density would be occurring 360 degrees around the Metro Station. Ms. Landis inquired whether there were any public housing units in the Potomac Yard development and about the amount of density in Landbay L.

(t) Sarah Becker, 1200 Princess Street, stated that community building was a euphemism for branch and profit center. Ms. Becker noted that the community process has been a top down approach. Ms. Becker pointed out that some of the needs have not been heard and requested that an alternative truck route be revisited in terms of the proposed plan, in order to address the traffic concerns along Route 1.

(u) Gillian A. Chen, 722 North Columbus Street, recommended that density around the Metro Station be reviewed to allow the neighborhood to be seen from the Metro Station, creating a sense of place. Ms. Chen stated that parking on North Columbus is not restricted on one side during the day causing a parking problem. Ms. Chen noted that she purchased her home with the impression that the brick public housing behind her would not change into 30-40 foot buildings.

(v) Maria Wasowski, 306 Hume Avenue, stated that cities are living, breathing entities that need to be allowed to grow organically and most cities have different types of neighborhoods and buildings in them. Ms. Wasowski stated that if density is built in conjunction with the Metro Station, it will give more control to the traffic in the area. Ms. Wasowski stated that there needed to be more of a balance between residential and commercial in the area, which the plan provides.

(w) Vallerey Vandergrift, 508 North Columbus Street, spoke in support of the Braddock Metro Small Area Plan and congratulated the Planning staff for all their hard work on the plan. Ms. Vandergrift stated that the plan will improve the Braddock Metro Station and surrounding neighborhood, as well as the entire City. Ms. Vandergrift noted that the plan will provide a means to fulfill the potential of Braddock Metro Station and give numerous amenities to the neighborhood.

(x) Steve Stylianoudis, 508 North Columbus Street, spoke in support of the Braddock Metro Small Area Plan.

(y) Mark Freeman, 421 North Patrick Street, stated that the inclusion of a public park in the proposed plan is extremely important to improving the quality of life for the neighborhood. Mr. Freeman used jellybeans to demonstrate how the traffic increase will impact the neighborhood once development begins.

(z) David Fromm, 2307 East Randolph Avenue, spoke in support of the plan and stated that the plan does a good job of addressing wide sidewalks, the setbacks, the stepbacks, the parks, plazas and other detailed public amenities. Mr. Fromm noted that there were some missing elements like business signage guidelines and lighting criteria. Mr. Fromm also pointed out that there was not a timeline or linkage that will ensure that the public amenities will be completed in a timely manner. Mr. Fromm requested that the expectations for the sites be detailed and show its relationship to the

proposed plan. Mr. Fromm recommended that the advisory board be strengthened in order to ensure completion and function as an independent body.

(aa) Nancy Carson, 301 West Masonic View, stated that the plan effects the entire City and pointed out that the effects of the redevelopment on the entire City should be examined. Ms. Carson stated that the density is needed to entice commercial development to the area and relieve some of the dependency on residential taxes in the City.

(bb) Andres Domeyko, 1312 Kingston Avenue, president of the Eisenhower Partnership, commented on the process. Mr. Domeyko stated that every citizen of Alexandria had the opportunity to participate in the process and he commended the Planning and Zoning staff for their efforts. Mr. Domeyko pointed out that the plan and the process was smart and will set the precedent for growth in the City.

(cc) Engin Artemel, 120 Madison Place, spoke in support of the proposed plan and noted that the plan does not propose the same type of density that is present in Ballston and Crystal City.

(dd) Agnes Artemel, 120 Madison Place, spoke in support of the proposed plan and noted that the Braddock Plan provides a prescription for concentrating growth around the Metro Station enabling the preservation of the surrounding neighborhoods.

(ee) Stewart Schwartz, 1415 Oronoco Street, spoke in support of the plan and commended the staff and consultants on all the hard work of the plan. Mr. Schwartz stated that walkability, retail and public spaces were good amenities for the area. Mr. Schwartz stated that density next to public transportation is the best solution to the traffic problem in the area.

(ff) Salena Zellers, 1122 Madison Street, president of the Braddock Lofts Homeowners Association, thanked everyone for the work on the proposed plan. Ms. Zellers stated that Council should consider that there are three different neighborhoods that make up the plan area and the density was appropriately identified in the plan. Ms. Zellers also stated that public safety is still a concern of the residents in the Braddock Lofts and the Braddock Plan will follow many of the recommendations from the Justice Department for community policing through environmental design. Ms. Zellers stated that the plan shows the City's commitment to principles of smart growth.

(gg) Poul Hertel, 1217 Michigan Court, noted that there was a difference between urbanism and suburbanism and he pointed out that the consultants were unable to convey the difference and present the residents with an adequate framework. Mr. Hertel stated that the plan requires connectivity, mix of uses, incomes and transportation modes. Mr. Hertel recommended undergrounding a portion of Route 1 to address traffic concerns. Mr. Hertel also asked that the history of the railroad be examined in relationship to the plan. Mr. Hertel also requested that a doctrine of fairness be applied when the issue of public housing in the area is addressed.

(hh) Robert Wiles, 608 South Saint Asaph Street, spoke in support of the proposed plan and he noted that the Metro stations are mini transportation hubs that should be fully utilized taking into account the community where they are located.

(ii) Noah Teates, 1125 Wythe Street, spoke in support of the proposed plan and expressed concern for the displacement of the people living in the public housing. Mr. Teates stated that there was concern about the traffic and parking problems in the neighborhood. Mr. Teates noted that well lit, open spaces surrounded by retail and residential are inherently safer than what is presently in the area.

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

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

Council offered comments on the proposed plan and asked questions about the density, traffic, affordable housing, the postal site as use as the park, the implementation of the plan, smart growth for the City and the region and transportation policies.

WHEREUPON, upon motion by Councilman Gaines, seconded by Councilmember Lovain and carried unanimously, City Council approved the Planning Commission recommendation with amendments to page 79 of the original Braddock Road Metro Small Area Plan bottom left column stating, "The possibility of Montgomery Street as a transit route between the Braddock Metro station and other north-south routes should also be explored. Although this one-way street is currently used as a DASH route, the future redevelopment of the blocks along both sides of Montgomery Street create an opportunity to redesign it as both more pedestrian - and transit-friendly" and with the directive to staff to bring to Council a mechanism of implementation of the plan that strongly includes the community in the process. The voting was as follows:

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

City Council took a recess at 3:00 p.m.

City Council resumed the meeting at 3:30 p.m.

8. REZONING #2007-0005
MASTER PLAN AMENDMENT #2007-0002
CDD DEVELOPMENT CONCEPT PLAN #2007-0002
TEXT AMENDMENT #2008-0002
TRANSPORTATION MANAGEMENT PLAN SUP #2007-0079
1100, 1200, 1200A NORTH FAYETTE STREET AND 1219 FIRST STREET
BRADDOCK GATEWAY
Public Hearing and Consideration of an amendment to the 1992 Master Plan to change the land use designation from medium density commercial and high density mixed use to high density mixed use; consideration of amendments to Section 5-602 of the Zoning Ordinance with respect to a new CDD #15; consideration for CDD concept design plan; and consideration of a special use permit for a transportation management plan. Applicant: Braddock Gateway, LLC by Mary Catherine Gibbs, attorney

PLANNING COMMISSION ACTION: REZ Recommend Approval 7-0
MPA Resolution Adopted and
Recommend Approval 7-0
CDD Recommend Approval
w/amendments 7-0
TA Recommend Approval 7-0
SUP Recommend Approval 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 03/15/08, and is incorporated as part of this record by reference.)

Mr. Farner, Division Chief, Planning and Zoning, gave a brief presentation of the proposed project and answered questions from Council.

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

(a) Harry P. Hart, 307 North Washington Street, attorney for the applicant, asked all persons present in support of the proposal to stand for the record, and he spoke in support of the application. Mr. Hart also submitted letters in support of the application for the record and requested time to speak at the end of the public hearing.

(b) Herb Cooper-Levy, 1527 Oronoco Street, spoke in support of the application.

(c) Lyndl Thorsen Youssef, 211 North Union Street, Suite 100, requested that Council support a memorial for Washington and Braddock as part of the development.

Ms. Youssef requested a specific spot at the Route 1 gateway for the memorial and allocation of funds for the memorial.

(d) Mariella Posey, 915 Second Street, President of the Northeast Citizens' Association, spoke in support of the project and offered some recommendations and requests for the proposed plan. Ms. Posey stated that the contributions for Powhatan Park should be separate from other contributions and should not be used for redesign, but for maintenance and improvements only. Ms. Posey requested that the language in the staff report that referenced a physical connection between Powhatan Park and the proposed park in the development be removed. Ms. Posey requested that the sixty on-street parking spaces that are part of the project have a time limit (2-3 hours) to keep these spaces available for the owners of the retail businesses in the development.

(e) William Cromley, 421 North Alfred Street, spoke in support of the application.

(f) Sylvia Sibrover, 915 Second Street, spoke in support of the application and offered recommendations from the proposed project.

(g) Patricia Shubert, 907 Oronoco Street, spoke in support of the application.

(h) Maria Wasowski, 306 Hume Avenue, spoke in support of the application.

(i) David Fromm, 2307 East Randolph Avenue, expressed concern that the plan might not be implemented as approved. Mr. Fromm stated that he hoped the plan was executed as promised.

(j) Engin Artemel, 120 Madison Place, spoke in support of the application.

(k) Ed Ablard, 18 West Del Ray Avenue, spoke in support of the plan.

(l) Salena Zellers, 1122 Madison Street, spoke in support of the application and requested that the building of development begin on First Street.

(m) Boyd Walker, 220 East Bellefonte Avenue, spoke in support of the project and requested that the railroad history be part of the development, particularly in the proposed park. Mr. Walker also pointed out the possibility of connecting this development with Potomac Yard.

Mr. Hart made closing comments about the proposed development and answered questions from Council about the development.

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"	Lovain	"aye"
	Wilson	"aye"	

Council asked questions of staff and the attorney for the applicant about the project.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendations with the following changes: delete the language on page 25, "and a physical," under the Open Space section and reconcile the improvement/maintenance issue regarding Powhatan Park on pages 26 and 27. The voting was as follows:

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

9. MASTER PLAN AMENDMENT #2007-0004
CITY CHARTER SECTION 9.06 CASE #2007-0004
(THE CITY CHARTER SECTION ITEM IS NOT SET FOR PUBLIC HEARING BUT IS FOR CITY COUNCIL'S INFORMATION ONLY - NO APPROVAL IS NECESSARY.)

414, 454, 514, 310 & 350 HOOFS RUN DRIVE & 1500 EISENHOWER AVENUE
WASTE WATER TREATMENT FACILITY

Public Hearing and Consideration of a request: (1) to amend the Eisenhower East Small Area Plan ("EESAP") Chapter of the Master Plan to include waste water treatment facility/public utility as an allowable use for Blocks 29 and 30 of the EESAP, currently owned by Hooff-Fagelson Tract, LLC, and other amendments to allow the Alexandria Sanitation Authority to expand the waste water treatment plant onto Blocks 29 and 30 of the EESAP with a Special Use Permit; (2) to amend the Eisenhower East Design Guidelines with applicable amendments to match the Master Plan Amendment and (3) for the Planning Commission to approve the general location of a public utility on Blocks 29 and 30 of the EESAP pursuant to Section 9.06 of the Charter for the City of Alexandria; zoned CDD-11/Coordinated Development District. Applicant: Alexandria Sanitation Authority by Jonathan P. Rak, Esq.

PLANNING COMMISSION ACTION: MPA Resolution Adopted and
Recommend Approval 7-0
SEC 9.06 Approved 7-0

(A copy of the Planning Commission report dated March 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9;

03/15/08, and is incorporated as part of this record by reference.)

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

(a) Jonathan Rak, 1750 Tysons Blvd, #1800, McLean, Virginia, attorney for the applicant, spoke in support of the amendment and submitted written testimony in support of the amendment from Tramell Crowe. Mr. Rak responded to questions from Council about the legal questions and negotiations related to the property.

(b) Bernard Fagelson, 1733 King Street, property owner, made himself available for questions from Council.

(c) Julie Crenshaw Van Fleet, 26 Wolfe Street, noted that on page seven of the report, there was an error stating that the pump station served the "Jones Point area of Fairfax County" which does not exist and requested that the statement be corrected. Ms. Van Fleet noted that the relocation information showed availability of places not in the City of Alexandria but there is nothing relating to the County of Fairfax. Ms. Van Fleet inquired about the availability of areas to build a facility in Fairfax County that would service Fairfax County, making the current facility available for the City. Ms. Van Fleet suggested investigating alternative sources of power for the expansion of the station.

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

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation with a condition stating that if the Alexandria Sanitation Authority does not take ownership of the property within twelve months, staff must bring the project back to Council for reconsideration of the Zoning changes and City Council received the City Charter Section 9.06 as information. The voting was as follows:

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Board of Architectural Review

10. Public Hearing and Consideration on an Appeal of the Board of Architectural Review's decision approving a request for demolition/encapsulation for BAR Case #2007-0264 at 214A N. Pitt Street, zoned RM Residential. APPLICANT: William Cromley. APPELLANT: Townsend Van Fleet on Behalf of Petitioners.

(A copy of the Planning Department report dated March 15, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 03/15/08, as well as a copy of the appeal, also marked Exhibit No. 1, and both are incorporated as part of this record by reference.)

Mr. Milone, Division Chief, Planning and Zoning, gave a presentation of the property in question and responded to questions from Council about the appeal.

Art Keleher, 208 North Royal Street, member of the Board of Architectural Review (BAR) - Old and Historic District, explained the reasoning for the BAR-Old and Historic District reaching its decision and recommended that Council uphold the BAR decision to approve.

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

(a) Duncan W. Blair, Esq., 524 King Street, attorney for applicant, spoke in support of upholding the Board of Architectural Review's decision approving a request for demolition/encapsulation at 214A North Pitt Street and requested time to speak at the end of the public hearing.

(b) John Hynan, 405 South Fairfax Street, representing the Historic Alexandria Foundation, requested that Council remand the case to the BAR to revise the height and save the north wall of the structure.

(c) Van Van Fleet, 26 Wolfe Street, representing Old Town Civic Association Board of Directors, requested that Council remand the case back to the BAR with specific instructions to: (1) restore 214A North Pitt Street as close to its original state as possible; (2) not to encapsulate the north wall; and (3) remove the third story of the neighboring building so it does not overwhelm the property in question.

(d) John Johansen, 221 South Pitt Street, gave a presentation of similar properties throughout the City that have maintained their original character without additions. Mr. Johansen stated that the Old Town Civic Association is encouraging the developer to build only if it can be done in a way that is sensitive to the building's original character. Mr. Johansen stated that it was possible to renovate the building without jeopardizing the character of the structure as evidenced by the photographs in his presentation.

(e) Patricia Schubert, 907 Oronoco Street, spoke in support of upholding

the BAR decision.

(f) Linda Wolf, 513 North Alfred Street, submitted a letter from Gwendolyn Jo M. Carlberg in support of upholding the BAR decision and she spoke in support of upholding the BAR decision.

(g) Karen Thuermer, 212 North Pitt Street, stated that the current structure is an eyesore and she spoke in support of upholding the BAR decision.

(h) Richard Klingenmaier, 505 Cameron Street, spoke in support of turning the building into a private dwelling and requested it be remanded back to the BAR for review of the size of the addition and to find a way to maintain the building's integrity as a carriage house.

(i) Jeff Franko, 519 North Alfred Street, spoke in support of upholding the BAR decision.

(j) Boyd Walker, 220 East Bellefonte Avenue, spoke in support of upholding the BAR decision.

Mr. Blair, speaking in rebuttal, stated that the project was a preservationist project and gave an overview of the proposed project. Mr. Blair answered questions from Council.

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

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

WHEREUPON, upon motion by Councilman Krupicka, seconded by Councilman Wilson and carried unanimously, City Council upheld the decision of the Board of Architectural Review to approve the request for demolition/encapsulation at 214A North Pitt Street. The voting was as follows:

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

ORDINANCES AND RESOLUTIONS

11. Public Hearing, Second Reading and Final Passage of an Ordinance Amending

the Zoning Ordinance to Adopt the Final King Street Outdoor Dining Regulations.
(#13, 03/11/08)

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 03/15/08, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 11; 03/15/08, and is incorporated as part of this record by reference.)

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

(a) Fred Parker, 408 Jackson Place, stated that at least 17 restaurants along King Street agree there should be some type of appeal process for outdoor dining regulations. Mr. Parker submitted a petition supporting the institution of an appeal process.

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

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

A motion was made by Councilman Smedberg to accept the ordinance to adopt the final King Street Outdoor Dining Regulations. The motion failed for lack of a second.

WHEREUPON, a motion was made by Councilman Krupicka and seconded by Councilman Gaines, to approve the ordinance with a BAR appeals process to the outdoor dining regulations as Paragraph 7: Notwithstanding paragraph 6 above, the Old and Historic Alexandria District Board of Architectural Review may approve a certificate of appropriateness for tall tables and tall seating which the Board finds to be compatible with an outdoor dining venue in the Old and Historic Alexandria District as contrasted with a drinking or snacking venue by virtue of the size, material, color and construction of such furnishing.

WHEREUPON, upon a substitute motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried 6-1 by roll-call vote, City Council passed the ordinance amending the Zoning Ordinance to adopt the final King Street Outdoor Dining Regulations. The voting was as follows:

Smedberg	"aye"	Gaines	"aye"
Pepper	"aye"	Krupicka	"no"
Euille	"aye"	Lovain	"aye"
	Wilson	"aye"	

The ordinance reads as follows:

ORDINANCE NO. 4521

AN ORDINANCE to amend and reordain Section 6-800 (KING STREET OUTDOOR DINING OVERLAY ZONE), of Article VI (SPECIAL AND OVERLAY ZONES), of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2007-0006.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 6-800 of the City of Alexandria Zoning ordinance, be, and the same hereby is, amended to read as follows:

Sec. 6-800 King Street Outdoor Dining Overlay Zone

- 6-801 *Purpose.* The King Street Outdoor Dining Overlay Zone is intended to facilitate outdoor dining in Old Town in order to create an active street scape, enhance the economic and social vitality of King Street, and promote pedestrian and retail friendly activity; to allow for the use of the public right of way for such outdoor dining; and to expedite the approval of such facilities while ensuring that the public's use of the sidewalks will not be significantly impaired by such dining, and that adjacent commercial and residential uses will be protected from any adverse impacts from such dining.
- 6-802 *Application of overlay zone .* The King Street Outdoor Dining Overlay Zone includes the King Street corridor, 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, as shown on the map entitled, "King Street Outdoor Dining Overlay Zone," dated June 21, 2005.
- 6-803 *Administrative permit availability .* The requirements of obtaining approval of a special use permit under section 11-500 of this ordinance and of obtaining approval of an individual encroachment ordinance under section 5-2-29 of the city code otherwise applicable, shall not apply to outdoor dining facilities that meet the requirements of this section 6-800 and for which an administrative permit is approved pursuant to this section.

6-804 *Administrative permit process* .

- A. An applicant for an outdoor dining permit shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose.
- B. The application shall include a plan with dimensions showing the layout for the outdoor dining area which accurately depicts the existing sidewalk conditions, including sidewalk width from building face to curb; location and dimensions of tree wells; locations of lamp posts, traffic and parking signs, signal poles, trash receptacles, benches, and other sidewalk features or obstructions, as well as design, location, size and space of the dining area, chairs, tables, barriers, umbrellas and other facilities to be located within the outdoor dining area, and such additional information as the director may reasonably require.
- C. The director shall review the application to determine if the proposed dining establishment, and any encroachment into the public right of way, will be reasonable, attractive, and promote pedestrian and retail friendly vitality in the King Street corridor, and that there is adequate space remaining within the public right of way to facilitate safe circulation of pedestrian traffic.
- D. The director may approve with conditions, or deny the application. The approved plan and permit shall be posted at the restaurant premises, and visible to customers and the public.
- E. No material change to the approved plan shall be made without prior written approval by the director.
- F. The outdoor dining permit shall be valid only between April 1 and March 31 of the following calendar year, subject to Section 6-805(O)(5), and shall be renewed on an annual basis. A permit fee, established pursuant to section 11-104 of this ordinance, and based on the gross square feet of outdoor dining area, plus a minimum processing fee, shall be assessed annually.

6-805 *Standards for outdoor dining* .

- A. The outside dining area is to be attractive, and promote pedestrian and retail friendly vitality in the King Street corridor.
- B. The outside dining area shall be located adjacent to the property of an existing and lawfully operating restaurant and shall be under the responsible direction and control of the restaurant. It may be

located adjacent to the building or near the curb but shall be contained within the location delineated by the permit.

- C. If the outdoor dining area is in a location on the property that is not in the sidewalk area in front or on the side of the restaurant, it shall be reviewed to determine whether its location supports the purpose of the zone to create an active street scape and to protect residential areas from adverse impacts.
- D. The total number of seats (both indoor and outdoors) shall not exceed the restaurant's previously approved maximum number of seats by more than 20 seats, and the number of seats permitted is dependent on the amount of space available and on building and fire code requirements. Any increase in number of seats for outdoor dining in the public sidewalk approved under this section shall not be deemed by the director to constitute an intensification of use.
- E. The outdoor dining area may be open to patrons from 6:00 a.m. to 11:00 p.m. daily.
- F. In order to allow adequate pedestrian traffic areas and emergency access around outdoor dining areas, the following dimensional requirements must be observed:
 - (1) At least five feet, or such additional space as the director deems necessary, of unobstructed corridor space must be maintained past the outside dining area for sidewalk pedestrian traffic in order to ensure a clear pedestrian passageway along the sidewalk. In locations where the sidewalk provides additional width or where there are fewer obstructions, the director may require more than five feet. In order to achieve a continuous pedestrian walk way, the pedestrian passageway shall be a straight line, parallel to the building face and curb line, for the entire length of the dining area. The director may require additional measures that contribute to maintaining a straight and unobstructed pedestrian passageway along the entire block face.
 - (2) A space at least 44 inches wide for unobstructed ingress/egress must be maintained between any restaurant doorway and the pedestrian traffic corridor.
 - (3) Outdoor dining areas located near the sidewalk curb must leave at least two feet of unobstructed sidewalk depth between the curb and the outer dimension of the outdoor

dining area.

- (4) An unobstructed clearance of five feet must be maintained between a fire hydrant and any furniture or fixtures related to outdoor dining.
- G. The outside dining area must be kept sanitary, neat and clean at all times. It shall be free from accumulation of food, litter, snow, ice, and other potentially dangerous or unsanitary matter. The restaurant must participate in an approved rodent control program.
- H. No food preparation is permitted in the outside dining area.
- I. Tents or awnings are not permitted without obtaining a separate building permit. Table umbrellas are permitted if they do not have signs or advertisements on them, if the umbrellas are completely contained within the outdoor dining area, even when fully extended, and if the lowest dimension of the umbrella maintains a minimum vertical clearance of six feet, eight inches above the sidewalk to allow for patron and server circulation.
- J. No signs are permitted in the outside dining area except those signs that have a valid City permit.
- K. Loudspeakers outside are prohibited, and amplified sounds from inside the restaurant must not be audible in any outside dining area on the public right of way.
- L. Any door leading into a restaurant may not be positioned to remain open or otherwise supported in an open position.
- M. The restaurant must comply with all applicable city, state and federal laws and regulations.
- N. In order to serve alcoholic beverages, an application must be approved by the Virginia Department of Alcoholic Beverage Control (ABC), and it will require the following:
 - (1) The dining area must have a sturdy enclosure.
 - (2) There must be only one well defined entrance to the outdoor dining area and it must be located directly in front of the egress doors.
 - (3) Customers are not permitted to carry their own alcohol to the outdoor dining area.

- (4) The dining area must have adequate illumination during evening hours.
- O. The design of the outdoor dining facilities which are visible from the public street or way, shall comply with the following:
 - (1) All improvements (furniture and fixtures) used in an outdoor dining area on the public right of way must be readily removable without damage to the surface of the right of way.
 - (2) An outdoor dining area within the public right of way shall be contained by sturdy barriers in conformity with city standards.
 - (3) There shall be no penetration of the public sidewalk surfaces, except that the city will, following issuance of the permit, mark the corners of the approved outdoor dining area with conspicuous markers.
 - (4) The design of the area shall comply with any Board of Architectural Review approved design guidelines. The Board's guidelines shall provide reasonably objective guidance as to acceptable colors.
 - (5) Furniture and enclosures may not be stored on the public right of way for extended periods, and must be removed from the right-of-way daily when the restaurant is closed to the public, in accordance with Section 6-805(E), between the Monday before Thanksgiving and March 31 of the following calendar year.
 - (6) Tall tables and tall seating for tables shall not be permitted in the public right-of-way. As used in this Section 6-805, a "tall table" is defined as any table with a table-top surface higher than 32 inches above the ground, and "tall seating" is defined as chairs, seats, stools or benches designed or intended for use with tall tables
- P. The director shall, on a case-by-case basis, require adjustments to the layout, dimensions, or distance from the property line of any outdoor dining area in order to ensure pedestrian visibility of the ground floor of buildings that adjoin those with outdoor dining areas.

- Q. The applicant shall comply with such additional reasonable terms as the director may include in the permit.
- R. The restaurant operator shall not permit smoking in outdoor dining areas located in the public right-of-way.

6-806 *Additional encroachment requirements* . An outdoor dining area located within the public right of way shall also comply with the following specific requirements for encroachments:

- A. Any such encroachment shall be subject to and conditioned upon the restaurant maintaining liability insurance, with commercially reasonable limits and coverages, including for its operation within the encroachment area, and permission to establish and maintain the encroachment shall not be construed to relieve the restaurant of liability for any negligence on the restaurant's part on account of or in connection with the encroachment.
- B. By accepting the authorization granted by a permit authorized by this ordinance to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, the restaurant 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.
- C. The authorization granted by a permit approved under this 6-800 to establish and maintain the encroachment is not intended to constitute, and shall not 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.
- D. Neither the City of Alexandria nor any public utility company shall be responsible for damage to 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.
- E. The authorization granted by a permit approved under this section 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 the restaurant the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by the restaurant without cost to the

City. If the restaurant 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 the restaurant, and shall not be liable to the restaurant for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

- F. No fees or charges imposed pursuant to sections 3-2-81 through 3-2-85 of the city code shall be applicable to encroachments authorized by this section 6-800, but the fee established pursuant to section 6-804(F) shall be applicable.

6-807 *Section controlling* . In order to establish a uniform set of regulations for outdoor dining in the public right-of-way, the provisions of this section 6-800 shall supersede and preempt conflicting provisions applicable in the public right-of-way, which are included in any encroachment ordinance, special use permit or administrative permit approved prior to June 26, 2007; provided, however, that nothing in this section 6-807 shall be deemed to reduce the approved number of seats, or to require the removal of any approved barrier permanently fixed or attached to the right-of-way, authorized by any such ordinance or permit.

Section 2. That Section 6-800 as amended by this ordinance be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 3. That Ordinance No. 4494 be, and the same hereby is, repealed.

Section 4. 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.

12. Public Hearing, Second Reading and Final Passage of an Ordinance Amending the Zoning Ordinance to Permit Floor Area Transfers For Private Schools. (#14, 03/11/08)

(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; 03/15/08, 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; 03/15/08, 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 amending the Zoning Ordinance to permit floor area transfers for private schools. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4522

AN ORDINANCE to amend Article VII (SUPPLEMENTAL ZONE REGULATIONS), of the City of Alexandria Zoning Ordinance, by adding thereto a new Section 7-2300 (INCREASED DENSITY FOR PRIVATE SCHOOLS, ACADEMIC), in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2008-0001.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article VII of the City of Alexandria Zoning ordinance, be, and the same hereby is, amended by adding thereto a new Section 7-2300 to read as follows:

Sec. 7-2300 Increased density for private schools, academic.

Notwithstanding any contrary provision in this ordinance, a private school, academic, located in a residential zone, whose campus consists of two or more lots or parcels of land, at least one of which is vacant and is separated from the balance of the campus by a public right-of-way, may be constructed, expanded or reconstructed to a size which exceeds the density permitted by the applicable zone regulations; provided, that such construction, expansion or reconstruction is approved by special use permit; and, provided further, that no increase in height above the height permitted in the zone shall be approved. Any density increase attributable to the transfer of density from the vacant lot or parcel and utilized for the construction, expansion or reconstruction of the use shall reduce the density available for any development of the vacant lot or parcel. A notice of such reduction in density on the vacant lot or parcel shall be approved by the City and recorded among the land records. Such reduction shall run with the and, and bind successors in interest.

Section 2. That Article VII, as amended by this ordinance be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 3. 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.

13. Public Hearing, Second Reading and Final Passage of an Ordinance to Vacate Public Right-of-way at 100 Uhler Terrace. (#15, 03/11/08)

(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; 03/15/08, 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; 03/15/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Wilson, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council closed the public hearing and passed the ordinance to vacate the public right-of-way at 100 Uhler Terrace. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4523

AN ORDINANCE to vacate a portion of the public right-of-way at the terminus of Uhler Terrace (VAC No. 2006-0001).

WHEREAS, the Cynthia Caples Trust (Owner) has applied for the vacation of a portion of the public right-of-way at the terminus of Uhler Terrace, adjacent to the property at 100 Uhler Terrace, in the City of Alexandria, Virginia; and

WHEREAS, the Planning Commission of the City of Alexandria at one of its

regular meetings recommended approval of the vacation of such public right-of-way at this location; and

WHEREAS, the Council of the City of Alexandria has approved the recommendation of the Planning Commission; and

WHEREAS, viewers, Kellie Meehan, chair, Judy Lowe, and Tom Welsh have been, and again by this ordinance are, duly appointed by the Council of the City of Alexandria, to make their report in conjunction with this vacation; and

WHEREAS, the procedures required by law, including the publication of notice in a newspaper of general circulation in the City of Alexandria, have been followed in conjunction with this vacation; and

WHEREAS, in consideration of the report of the viewers, of other evidence relative to this vacation and of compliance with the conditions set forth in this ordinance, the Council of the City of Alexandria, has determined that the portion of the public right-of-way to be vacated is no longer desirable for public use and that the public interest will not be harmed by this vacation; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the vacation of the public right-of-way to Owner, as shown on the plat of vacation attached hereto and incorporated herein by reference, be, and the same hereby is, approved.

Section 2. That the vacation made and provided by the preceding section of this ordinance be, and the same hereby is, subject the conditions set forth below:

1. The Owner shall prepare a plat of consolidation, showing the property vacated and all easements therein, and consolidating such property with their abutting property, and the plat of consolidation shall be filed with the Director of Planning and Zoning, the Director of Transportation and Environmental Services, and among the land records of the City.
2. Easements shall be reserved for all existing public and private utilities within the area vacated. The Owner shall show all easements on the plat of consolidation.
3. The Owner may not construct any buildings, or improvements, including driveways and parking spaces, on the vacated area and may not use the vacated land area to derive any increased development rights for the lands adjacent to the vacated area, including increased floor area, subdivision rights or additional dwelling units. This restriction shall appear as part of the deed of vacation and shall also appear as a note on the consolidated plat, both of which shall be approved by the Director of Planning and Zoning prior

to recordation.

4. Owners shall pay the sum of \$5,100.00 to the City for the vacated land.

5. If during construction on the Owner's home, the existing Norway Pine tree located on Owner's property is damaged and/or does not survive, Owner shall purchase and plant a native tree at least 15 feet in height, and as deemed acceptable by the Alexandria City arborist.

Section 3. The term "Owner" shall be deemed to include the Cynthia Caples Trust, Cynthia Caples, and their respective successors in interest.

Section 4. That the city manager be, and hereby is, authorized to do on behalf of the City of Alexandria all things necessary or desirable to carry into effect this vacation, including the execution of documents.

Section 5. That the city clerk be, and hereby is, authorized to attest the execution by the city manager of all documents necessary or desirable to carry into effect this vacation, and to affix thereon the official seal of the City of Alexandria, Virginia.

Section 6. That this ordinance shall be effective upon the date and at the time of its final passage; provided, however, that no recordation of this ordinance shall have any force or effect unless and to the extent annexed to a deed, executed by the city manager and attested by the city clerk, conveying the property vacated to Owner. The execution of such deed shall constitute conclusive evidence of compliance with the provisions of this ordinance. Such deed shall be recorded and indexed in the name of the City of Alexandria, as grantor, and Owner as grantee, and such recordation shall be done by the grantee at his or her own expense. In the event no such deed is recorded within 18 months of the effective date, this ordinance shall be void and of no effect.

5.1. Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Establish the General Real Estate and Personal Property Tax Rates for Calendar Year 2008. (#28.1, 3/11/08)

(The City Manager's memorandum dated March 14, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5.1 and 5.2; 03/15/08, and is incorporated as part of this record by reference.)

Deputy City Manager Jinks, Office of Management and Budget Director Johnson, and Finance Director Triggs gave a brief presentation of the proposed rate and responded to questions from City Council.

WHEREUPON, upon motion by Councilmember Lovain, seconded by Vice Mayor Pepper and carried unanimously, City Council: (1) passed the proposed ordinances on first reading; and (2) advertised them for public hearing on Tuesday,

April 22, and second reading and final passage on Monday, May 5. The ordinance reflects:

1. A base real estate tax rate on residential property for calendar year 2008 from 83 cents up to 86 cents;

2. A personal property tax rate on vehicles and business tangible property for calendar year 2008 of \$4.75 per one hundred dollars of valuation.

The voting was as follows:

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

5.2 Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Establish the Additional Real Estate Tax Rate for Commercial and Industrial Property for Calendar Year 2008. (#28.2, 3/11/08)

(The City Manager's memorandum dated March 14, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5.1 and 5.2; 03/15/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilmember Lovain, seconded by Vice Mayor Pepper and carried unanimously, City Council: (1) passed the proposed ordinance on first reading; and (2) advertised them for public hearing on Tuesday, April 22, and second reading and final passage on Monday, May 5. The ordinance reflects:

1. An add-on real estate tax rate on non-residential commercial and industrial property for calendar year 2008 to be dedicated for transportation purposes up to two cents per one hundred dollars of valuation.

The voting was as follows:

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR (14-15)

Planning Commission (continued)

14. SPECIAL USE PERMIT #2007-0029
625 BURNSIDE PLACE (Parcel Address: 619 Burnside Place)
POTOMAC RECYCLING
Public Hearing and Consideration of a request to amend a special use permit to increase the allowed daily tonnage at a waste recycling facility; zoned I/Industrial
Applicant: Sandra Crippen (Deferred from June, October and November dockets)

PLANNING COMMISSION ACTION: Deferred (applicant's request)

15. SPECIAL USE PERMIT #2008-0001
3401 MOUNT VERNON AVENUE
PUERTO CORTEZ RESTAURANT & CARRY OUT
Public Hearing and Consideration of a request to operate a restaurant; zoned CSL/Commercial Service Low. Applicant: Rebecca's Inc. by Oswaldo Salinas

PLANNING COMMISSION ACTION: Deferred (staff's request)

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferrals.

THERE BEING NO FURTHER BUSINESS TO DISCUSS, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council adjourned the public hearing meeting of March 15, 2008 at 5:53 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Gloria A. Sitton, CMC Deputy City Clerk