

CITY COUNCIL OF ALEXANDRIA, VIRGINIA

Public Hearing Meeting
Saturday, December 13, 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; Mr. Spera, Assistant City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Mr. Mason, Special Assistant to the City Manager; Police Captain Ogden; Ms. Hamer, Director, Planning and Zoning; Mr. Josephson, Deputy Director, Planning and Zoning; Ms. Wright, Planning and Zoning; Mr. Wagner, Planning and Zoning; Mr. Bray, Planning and Zoning; Ms. Mitten, Planning and Zoning; Ms. Ryan, Planning and Zoning; Ms. Rafferty, Planning and Zoning; Ms. Escher, Planning and Zoning; Ms. Oviatt, Planning and Zoning; Ms. Oaks, Planning and Zoning; Ms. Contrares, Planning and Zoning; Mr. Catlett, Director, Code Administration; Mr. Hunt, Code Administration; Mr. Kincannon, Director, Recreation, Parks and Cultural Activities; Mr. Kagawa, Recreation, Parks and Cultural Activities; Ms. Boyd, Director, Citizen Assistance; Mr. Johnson, Director, Office of Management and Budget; and Mr. Lloyd.

Recorded by: Jacqueline 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 Council were present.

2. Public Discussion Period.

(a) Frank Shafroth, 410 Virginia Avenue, professor at George Mason University, noted that City employees Dianne Gittins and Shelly Santos will be receiving their masters in public administration this month. He also spoke about ethics and how it affects a community. He said the newly elected official on the School Board spent 10 years putting together a program on ethics and he would be an enormous resource,

and there is also a person in the City who is the CEO and president of the American Association for Retirement Homes and Services for the Elderly and is one of the foremost non-profit ethics experts in the world, and he would hope the Mayor and Council could appoint a small group so Alexandria could be one of the leading communities on ethics across the United States.

(b) Nancy Jennings, 2115 Marlboro Drive, spoke about concerns with Ft. Ward Park, noting that in the past four years, they have seen activities that are better suited in an industrial area, as well as poorly designed projects being brought into the park and they negatively affect the Arboretum and the quality of life in the neighborhoods. She asked that they cease and desist in the park until a plan is developed that they all can live with.

(c) Thad Pilley, 4014 Ellicott Street, spoke about Ft. Ward Park and noted that since 2005, there is an increasing level of noise coming from the park, where people play loud music to where the windows in his house rattle.

(d) Tom Fulton, 4020 Ellicott Street, spoke about Ft. Ward Park and noted the uses for the park. He noted the history of the park and said their concern is that the story of Ft. Ward is not being told and there is a much bigger story, and the plan should incorporate those things and the uses of the park that impact the neighbors and the history that is not being addressed.

(e) J. Glen Eugster, 4022 Ellicott Street, spoke about Ft. Ward Park and said he has been communicating with more than 55 homeowners near the park. He said City park managers have routinely ignored, resisted and worked against taxpayer's concerns with crime, garbage, flooding, crowds, noise and cultural resource degradation. He said they also complained of the noise levels and large crowds at the park. He said that when asked, they were told that no plan exists for the park, but they did find a plan on the website dated October 2008, but the plan didn't address the concerns they have expressed and has no goal and objectives and does not include all areas of the park. He asked that time be taken to prepare a quality plan and remove the present study and call for a process to develop a plan rather than carry out a preconceived proposal. Mr. Eugster also presented comments for the record from Mr. Dennis Carroll, who could not be available to speak this morning.

Mayor Euille asked that there be a briefing at a January work session in terms of the issues and challenges with regard to the park and the status of the study, so Council will have a better understanding in terms of what the issues are about, and then Council can talk about the process for the protection and enhancement of the park.

Director of Recreation, Parks and Cultural Activities Kincannon addressed what staff has been doing to address the communities issues, and he responded to questions of City Council.

(f) Linda Couture, 505 Duke Street, representing the Old Town Civic Association, spoke about the current waterfront planning process, the consultants and

the waterfront committee, and noted that the Waterfront Committee should be the project manager instead of the primary stakeholder, so all the citizens can be assured that they have had a voice at the appropriate and early stages of the planning rather than feel constrained to voice their thoughts after a plan is designed and brought to City Council.

Mayor Euille said this will be discussed and acted upon after the first of the year.

(g) Amy Slack, 2307 E. Randolph Avenue, extended seasons greetings to City Council and she sent out a special get-well to Judy Lowe as she recuperates after complications from surgery.

(h) H. Steven Dolan, 2906 Commonwealth Avenue, said he is across the street from the Mt. Vernon Commons, which is the old Chinese restaurant and yellow cab buildings which are vacant, and he said when the developer came in to City Council for an extension, he spoke about having the buildings taken down before they became a problem, and it's been six months and the buildings are still there.

Ms. Wright, division chief, Development Division, Planning and Zoning, said the issue is getting their financing.

Mayor Euille said staff has been asked to give an update.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR

Planning Commission

3. SPECIAL USE PERMIT #2008-0074
210 WESMOND DRIVE
FAMILY DAY CARE
Public Hearing and Consideration of a request to operate a home child day care; zoned RB/Residential. Applicant: Darnella and James Shelby Sr.

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 12/13/08, and is incorporated as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Councilman Gaines, seconded by Vice Mayor Pepper and carried unanimously, City Council adopted the consent calendar as follows:

3. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

None.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

4. TEXT AMENDMENT #2008-0008
PUBLIC RECYCLING CENTERS IN INDUSTRIAL ZONES
Public Hearing and Consideration of a request for a text amendment to the Zoning Ordinance to allow public recycling centers in the industrial zone as a permitted use. Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 12/13/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, 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:

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

5. SPECIAL USE PERMIT #2008-0079
320 KING STREET
SANDELLAS FLATBREAD CAFE
Public Hearing and Consideration of a request to operate a restaurant; zoned CD/Commercial Downtown. Applicant: DC Sandella's Franchise, LLC by Duncan Blair, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 12/13/08, and is incorporated as part of this record by reference.)

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

(a) Duncan Blair, 524 King Street, attorney representing the applicant, noted that the applicant agrees to the \$500 contribution for the trash can.

Deputy Director of Planning and Zoning Josephson noted that a condition was left out of the report dealing with the \$500 contribution for the litter fund and he asked Council to include that in the motion.

There was discussion about the tree policy, signs for the building, as well as the hours of operation for the restaurant.

Mayor Euille asked if the restaurant would be smoke-free, to which Mr. McGinniss, with BMK Architects, stated that it would be smoke-free.

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council approved the Planning Commission recommendation, with the amendment presented by staff to add the condition to require the \$500 contribution toward the litter fund. The voting was as follows:

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

6. DEVELOPMENT SPECIAL USE PERMIT #2007-0035

2903 MOUNT VERNON AVENUE

MIXED USE RETAIL/OFFICE BUILDING

Public Hearing and Consideration of a request for a form-based development special use permit, with site plan and modifications, to construct a retail/office mixed use building and a request for a technical parking reduction, under the Mount Vernon Avenue Plan Design Guidelines; zoned CL/Commercial Low. Applicant: Julie Wadler by Howard Maginniss of BMK Architects

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 12/13/08, and is incorporated as part of this record by reference.)

Ms. Contrares, Planning and Zoning, made a presentation of the report and responded to questions of City Council.

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

(a) Maryanne Thacker, 1 Clifford Avenue, spoke of her concerns with the parking, which is at the back gate of her house, and she spoke of the traffic being able to see getting out of the alley, as well as notice of the public meetings.

(b) Amy Slack, 2307 E. Randolph Avenue, speaking on behalf of the Del Ray Citizens Association, said the land use committee recommended support with the condition that does not permit vehicles to leave the site via the alley, and she said large vehicles would have difficulty navigating the turn from the parking lot into the 10 foot wide alley, and they request a "do not enter" sign at the access point from the parking lot into the alley.

(c) David Fromm, 2307 E. Randolph Avenue, president, Del Ray Citizens Association, spoke about the concerns of providing access to the alley, along with cut-through traffic from Hume Avenue through the parking lot, and they foresee that there will be cut-through traffic, and he asked that this go to T&ES for analysis to come up with an appropriate solution.

(d) Skip Maginniss, 209 Commerce Street, with BMK Architects, spoke in favor of the request and noted that they have been working on all the issues brought up.

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation, with the provision that access to the alley be reviewed by staff and the community with the objective of minimizing the uses of the alley as an egress and exit, understanding there are certain uses that may be appropriate for it, thereby giving the Planning Director and the community the ability to work through that.

Councilman Krupicka noted that the intersection stop light will need to be reevaluated, and he encouraged the applicant to sit down with the neighbors to understand the process and how it will impact them.

The voting was as follows:

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

7. DEVELOPMENT SPECIAL USE PERMIT #2008-0016

315, 317 AND 321 FIRST STREET
SAINT ANTHONY'S DAY SCHOOL

Public Hearing and Consideration of a request for a development special use permit, with site plan, for the expansion of a day care center, an increase in floor area ratio and a parking reduction; zoned CDX/Commercial Downtown. Applicant: Patricia Hall Choiniere by Howard Maginniss of BMK Architects

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 12/13/08, and is incorporated as part of this record by reference.)

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

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

ORDINANCES AND RESOLUTIONS

8. Public Hearing, Second Reading and Final Passage of an Ordinance to Amend the City's Purchasing Regulations to Conform To Recent Changes in State Law. (#14, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated November 17, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 8; 12/13/08, 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. 8; 12/13/08, 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. 3 of Item No. 8; 12/13/08, 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 adopted the ordinance to amend the City's purchasing regulations to conform to recent changes in State Law. 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. 4567

AN ORDINANCE to amend and reordain Section 3-3-62 (CONDITIONS FOR USE) and Section 3-3-69 (CONTRACTING FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION, of Division 2 (COMPETITIVE NEGOTIATION), Article D (CONTRACT FORMATION AND METHODS OF SOURCE SELECTION), Chapter 3 (PURCHASES AND CONTRACTUAL SERVICES), Title 3 (FINANCE, TAXATION AND PROCUREMENT), of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-3-62 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. 3-3-62 Conditions for use.

(a) Upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination. Notwithstanding the foregoing, upon a determination made in advance by the purchasing agent that the procurement of insurance by competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed broker or agent selected through competitive negotiation. The basis for this determination shall be documented in writing.

(b) Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances upon a determination made in advance by the purchasing agent and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:

(1) for the construction, alteration, repair, renovation or demolition of buildings or structures when the contract is expected to equal or be less than \$1 million;

(2) on a fixed price design-build basis or construction management basis under

section 2.2-4308 of the Code of Virginia, 1950, as amended, when the contract is not expected to cost more than \$1 million;

(3) the construction of highways, streets and alleys;

(4) the draining, dredging, excavation or grading of, or similar work upon, real property; or

(5) as otherwise provided in section 3-3-70.

Section 2. That Section 3-3-69 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. 3-3-69 Contracting for professional services by competitive negotiation.

(a) Professional services shall be procured by competitive negotiation.

(b) The purchasing agent shall engage in individual discussions with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence to provide the required services. Repetitive informal interviews shall be permissible. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project and to explore alternative concepts of performance of the contract. The request for proposals shall not seek estimates of person hours or costs for services. However, these discussions may encompass nonbinding estimates of total project costs, including where appropriate design, construction and life cycle costs. Methods to be utilized in arriving at the price for services may also be discussed. Proprietary information from competitive offerors shall not be disclosed to the public or to competitors. At the conclusion of the discussions and on the basis of evaluation factors published in the request for proposals and all information developed in the selection process to this point, the purchasing agent shall select in the order of preference two or more offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the city can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations shall be conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Notwithstanding the foregoing, if the terms and conditions for multiple awards are included in the request for proposal, the city may award contracts to more than one offeror. If, at the conclusion of the discussions, the purchasing agent determines in writing and in his sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror. Once formally terminated, negotiations may not be reopened with any offeror.

(c) With respect to the procurement of legal services, the duties and responsibilities imposed upon the purchasing agent in subsection (b) above shall devolve upon the city attorney.

(d) A contract for architectural or professional engineering services relating to construction projects may be negotiated by the purchasing agent, for multiple projects provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the request for proposals, and (iii) the contract term is limited to one year or when the cumulative total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. Such contract may be renewable for two additional term one-year terms at the option of the city, as exercised by the purchasing agent. Under such contract, (a) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each project performed; (b) the sum of all projects performed in one contract term shall not exceed one million dollars; and (c) the project fee of any single project shall not exceed \$500,000. Any unused amounts from one contract term shall not be carried forward to a successive term. Competitive negotiations for such contracts may result in awards to more than one offeror provided (1) the request for proposals so states, and (2) the purchasing agent has established procedures for distributing multiple projects among the selected contractors during the contract term.

(e) Multiphase professional services contracts satisfactory and advantageous to the city may be negotiated and awarded based on a fair and reasonable price for the first phase only, when completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases.

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

9. Public Hearing, Second Reading and Final Passage of an Ordinance to Establish the Open Space Trust Fund Funding Level for Calendar Year 2009. (#15, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 9; 12/13/08, 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. 9; 12/13/08, 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. 3 of Item No. 9;

12/13/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously by roll-call vote, City Council closed the public hearing and adopted the ordinance to establish the open space trust fund funding level for calendar year 2009. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4568

AN ORDINANCE to amend and reordain Section 3-1-2 (OPEN SPACE TRUST FUND ACCOUNT) of Chapter 1 (GENERAL PROVISIONS) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-1-2 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-1-2 Open Space Trust Fund Account.

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

(b) Funding of account. There is hereby assigned and appropriated to such account, from January 1, 2009 until June 30, 2009, and for the fiscal year commencing July 1, 2009 and in each succeeding fiscal year, from the tax on real estate levied pursuant to section 3-2-181 of this Code, in addition to all other appropriations made to such account, if any, the sum of 0.3 percent of the total amount of tax so levied.

(c) Expenditures from account. Notwithstanding any contrary provision of law, appropriations from the said account shall be authorized and made exclusively to finance permanent open space public improvements included in the capital budget. Unexpended appropriations to such account shall not lapse or expire at the end of the fiscal year in which made, irrespective of whether such appropriations were encumbered within such fiscal year.

(d) Open space public improvements defined. As used in this section, permanent open space public improvements means land acquired by the city in fee or by perpetual easement, and dedicated to outdoor recreational and park uses, whether active, passive or natural resource area, for the use of the general public, together with accessory buildings and structures incidental and subordinate to the outdoor recreational and park uses of such acquired land, and capital expenditures including but not limited to, demolition, clean-up, grading, engineering and design work, and the acquisition and installation of furniture, structures, landscaping, apparatus and facilities, for such use and improvement of the site.

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

10. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Provide Enhanced Enforcement Against Littering and Related Offenses. (#16, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 10; 12/13/08, 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. 10; 12/13/08, 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. 3 of Item No. 10; 12/13/08, and is incorporated as part of this record by reference.)

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

- (a) Ann Plamondon, 5332 Taney Avenue, spoke in favor of the ordinance.

WHEREUPON, upon motion by Councilman Gaines, seconded by Councilman Krupicka and carried unanimously by roll-call vote, City Council closed the public hearing and adopted the ordinance to provide enhanced enforcement against littering and related offenses. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4569

AN ORDINANCE to repeal Section 13-1-21 (THROWING, LEAVING, ETC., GARBAGE, MIXED REFUSE, DEAD ANIMALS, ETC., ON PRIVATE PREMISES) and Section 13-1-22 (THROWING, LEAVING, ETC., GARBAGE, MIXED REFUSE, DEAD ANIMALS, ETC., ON STREETS, ETC., PERMIT FOR DEPOSIT OF BUILDING MATERIALS), of Chapter 1 (GENERAL OFFENSES), Title 13 (MISCELLANEOUS OFFENSES), and to amend the said Chapter 1, Title 13 by adding thereto a new Section 13-1-22.1 (PROHIBITION AGAINST LITTERING AND OTHER IMPROPER DISCARD OR DISPOSAL), all of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 13-1-21 and Section 13-1-22 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby are, repealed, and such section numbers are hereafter reserved.

Section 2. That Chapter 1, Title 1 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 13-1-21.1, to read as follows:

Sec. 13-1-21 – Prohibition against Littering and Other Improper Discard or Disposal

(a) DEFINITIONS

The following words and terms, when used in this section, shall for the purpose of this section have the following meanings ascribed to them in this section:

- (1) "Abatement cost" means the City's cost for labor, equipment, and supplies for, or the contract price of, and any charges to, the City, with respect to the removal and disposal of litter, garbage, rubbish, or refuse from a property.
- (2) "Construction site" means any residential, commercial, industrial or other area, lot or site at which construction or demolition of any type is conducted, including roads, at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.
- (3) "Construction waste" means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, sawdust, shavings, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and

garbage are not construction wastes and are subject to other sections of this Code, including, without limitation City Code Section 11-13-2.

- (4) "Discard" means to abandon, dispose of, burn, incinerate, accumulate, store or treat before or instead of being abandoned, disposed of, burned or incinerated.
- (5) "Discarded material" means a material that is abandoned, disposed of, burned, incinerated, accumulated, stored or treated before or instead of being abandoned, disposed of, burned or incinerated.
- (6) "Dispose" means to discharge, deposit, inject, dump, spill, leak or placement of any solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.
- (7) "Garbage" means readily putrescible discarded materials composed of animal, vegetable, or other organic matter, including, without limitation, food waste, offal or dead animals.
- (8) "Litter" means any man-made material that, if thrown, discarded, or disposed as prohibited by this section, may create a danger to public health, safety, or welfare or degrades the environment of the City. "Litter" shall include, but is not limited to, any garbage, trash, refuse, rubbish, newspaper, magazine, glass, metal, plastic or paper container, construction waste, or any discarded object likely to injure any person, create a traffic hazard, or degrade the environment.
- (9) "Person" means any individual, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative, or group of individuals or entities of any kind.
- (10) "Receptacle" means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.
- (11) "Refuse" means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, ashes, coal, dirt, mud, gravel, sand, residues from clean up of spills or contamination, or other discarded materials.
- (12) "Rubbish" means combustible or slowly putrescible discarded materials, which include but are not limited to trees, wood, leaves, straw, hay, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags, and other combustible or slowly putrescible materials not included under the term "garbage."
- (13) "Solid waste" or "waste" means any garbage, refuse, rubbish, trash, or other discarded material, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.
- (14) "Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term "rubbish".

(b) Administration and enforcement.

The Director of Transportation and Environmental Services, or his designee, shall be responsible for the administration of this section and shall have the authority to enforce compliance through the use of civil remedies as authorized by this section. Further, any law enforcement officer or sworn special police officer is authorized to enforce the provisions of subsections (c)(2) and (d) hereof through the issuance of traffic citations.

(c) Unlawful disposal of litter.

No person shall drop, cast, sweep, deposit, discard, or otherwise dispose of any litter in or upon any exterior public or exterior private property within the City including but not restricted to any street, sidewalk, park, body of water, or vacant or occupied lot, except by placement in a proper receptacle or in an area designated and approved by the City as a permitted disposal site. This subsection shall not apply to leaves deposited in the streets from October 1 to December 31 of any calendar year for collection by the City.

- (2) When a violation of the provisions of this subsection has been observed by any person, and the litter has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such litter, provided however, that such presumption shall be rebuttable by competent evidence. Violation of this subsection (c)(2) shall constitute a traffic infraction punishable by a fine not to exceed two hundred fifty dollars (\$250.00). In lieu of imposition of a fine, the court may order the defendant to perform community service in litter abatement activities.

(d) Securing and covering loads

- (1) All motor vehicles used to transport any material along streets, roads, or highways of the City, shall be constructed, maintained, and loaded in such a manner as to prevent such vehicle's contents from dropping, sifting, leaking, or otherwise escaping. This subsection shall not apply to any:
- (A) Motor vehicle that is used exclusively for agricultural purposes as provided in § 46.2- 698 of the Code of Virginia and is not licensed in any other state;
 - (B) Agricultural vehicle, tractor, or other vehicle exempted from registration and licensing requirements under State law;
 - (C) Motor vehicle transporting forest products, poultry, or livestock; or
 - (D) Public service company vehicle, pickup truck, or emergency snow removal equipment while engaged in snow removal operations.
 - (E) Public service vehicle engaged in the removal of solid waste, leaves, recycling or other materials within the City.
- (2) No person shall transport any litter, rubbish or solid waste in an open or

uncovered vehicle along the streets, roads, or highways of the City, unless the load is covered by a tarpaulin or other suitable cover in such manner as to contain the entire load. If any of the contents of the load shall be blown, spilled, fall, or become scattered in or upon any public way or place, such person shall immediately cause such contents to be gathered up and removed.

- (3) When a violation of the provisions of this subsection has been observed by any person, the owner or operator of the motor vehicle shall be presumed to be the person responsible for the contents dropping, sifting, leaking, or otherwise escaping from the motor vehicle, provided however, that such presumption shall be rebuttable by competent evidence.
- (4) Violation of this subsection shall constitute a traffic infraction punishable by a fine not to exceed two hundred fifty dollars (\$250.00). In lieu of imposition of a fine, the court may order the defendant to perform community service in litter abatement activities.

(e) Duty of owners and occupants

- (1) It shall be the responsibility of each owner, agent, occupant, or lessee of real property to keep his or her property free of litter. The owner, agent, occupant, or lessee of any property shall be responsible for removing litter accumulating on said property.
- (2) No owner, agent, occupant, or lessee of any property shall allow the storage or accumulation of litter on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the litter and waste contained therein, except that this requirement shall not apply to an area designated and approved by the City as a permitted disposal site.
- (3) It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding areas free of litter. These areas include, but are not limited to public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots that are owned or leased by such establishment or institution. Removal of any litter shall be performed in accordance with this subsection.
- (4) Each owner, agent, occupant, or lessee whose property faces on the sidewalks in the City or the strips between the streets and sidewalks shall be responsible for keeping such sidewalks and strips free of litter. Removal of any litter shall be performed in accordance with this subsection.

(f) Construction sites

- (1) It shall be unlawful for any owner or agent of a construction site, or any contractor on a construction site, to cause, permit, or allow the presence of litter on such site outside of a proper receptacle or to cause, permit, or allow litter or waste to be spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. It shall be the responsibility of the owner or agent of the property and each contractor performing work on the site to keep the property free of litter.
- (2) The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain worker's litter and receptacles sufficient to contain all construction waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter and waste from being spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. The number and capacity of receptacles should be determined by the primary contractor, but no less than one (1) receptacle for worker's litter and no less than one (1) receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten (10) gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction waste shall be serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive odors. All receptacles required under this subsection shall remain conveniently available on the site from the time construction activity commences until the construction activity ceases.
- (3) The requirement for receptacles in this subsection shall not apply to any construction site on which only repair or minor renovation of a building is taking place, provided that no litter or construction waste is placed, stored, or otherwise accumulated on the exterior of the property outside of a proper receptacle and any such receptacle is maintained in accordance with this section.

(g) Litter receptacles at places frequented by the public

- (1) Every owner, occupant, tenant, or lessee in control of any property that is held out to the public as a place for assemblage, for the transaction of business or recreation, or as a public way shall provide adequate receptacles of sufficient number and size to contain all litter generated by those persons frequenting that public place. The number and size of the receptacles shall be determined by the owner, occupant, tenant, or lessee in control of any property, except that no less than one (1) receptacle shall be placed at each site. Receptacles shall be no less than ten (10) gallons

in capacity and clearly marked and designed to prevent the escape of litter and waste. Any person owning or in control of any property at which receptacles are required by this chapter shall at his or her own expense be responsible for the procurement, placement, and maintenance of such receptacles as required by this section.

- (2) All litter and solid waste shall be removed from receptacles as necessary, but not less frequently than weekly, and all receptacles shall be maintained in a sanitary and serviceable condition.
- (3) No person shall cause the unauthorized removal, upsetting, mutilation or defacing of, or tamper with any receptacle, or cause the contents thereof to be spilled or to be strewn in or upon any public or private property.
- (4) Any person who fails to place and maintain receptacles in the number and manner required under this subsection shall be subject to a civil fine of twenty-five dollars (\$25.00) for each day of violation, not to exceed a total of \$2,500 for any calendar year.

(h) Enforcement

- (1) The City may commence enforcement of subsections (c)(1), (e), (f) or (g) of this section by notifying in writing the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises, of the existence of an unlawful condition on such property or premises. Such written notice shall be sent to the owner, lessee, occupant, or person in responsible charge or in possession of a property by registered or certified mail, or may be served by the sheriff, to the last known address of the owner as indicated in the City's current real estate tax assessment records. Such notice shall contain a description of the nature of the violation; any corrective action needed to be taken by such person to come into compliance with this section; and the time frame within which such corrective action shall be completed. The amount of time allowed to abate, correct, or eliminate the unlawful condition shall not exceed ten (10) days.
- (2) Every owner, lessee, occupant, or person in responsible charge or in possession of a property or premises shall, upon written notice of an unlawful condition, abate, correct, and eliminate such condition within the timeframe required by such notice. After receipt of a written notice of violation pursuant to subsection (a) hereof, it shall be unlawful for the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises on which the unlawful condition exists to fail to abate, correct, or eliminate such condition within the timeframe as such written notice requires. Ten (10) days after due notice is given to any owner, agent, occupant, operator, contractor in charge, or lessee of any

property, business, industry, institution, or construction site to remove litter from the premises, the City is authorized to clean up such property, by use of City employees or by employing an agent of the City, and bill such owner or agent for the abatement costs thereof. If the bill has not been paid within thirty (30) days, execution may be issued by the City against the property for the abatement cost, and such execution shall constitute a lien on the property, on a parity with liens for unpaid taxes, until the claim has been satisfied. Execution of the notice to remove litter shall be in writing and shall be in the form of a registered or certified letter. Nothing in this section shall be deemed to prevent the City from imposing the other remedies set forth herein for violation of this section.

- (3) In addition to the penalty provided in sub-Section (4) below, the Director may initiate injunctive, abatement, or any other appropriate action to prevent, enjoin, abate, or remove a violation of any of the provisions of this section.
- (4) Except where otherwise noted, a violation of any provision of this section shall constitute a civil violation that shall be enforced through the levying of a civil penalty, pursuant to Section 1-1-11 of this code of two hundred fifty dollars (\$250.00) for a first violation and four hundred dollars (\$400.00) for each subsequent violation of the same section or provision.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage; except that the repeal provided for in Section 1 of this ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any prosecution, suit or proceeding pending, or any judgment or conviction rendered, prior to December 13, 2008.

- 11. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Amend the City's Vehicle Impound Regulations to Conform To Recent Changes in State Law. (#17, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 3, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 11; 12/13/08, 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. 11; 12/13/08, 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. 3 of Item No. 11; 12/13/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance to amend the City's vehicle impound regulations to conform to recent changes in State Law. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4570

AN ORDINANCE to amend and reordain 5-8-24 (NOTICE THAT VEHICLE HAS BEEN IMPOUNDED) of Article C (DISPOSITION OF ABANDONED, UNATTENDED AND IMMOBILE MOTOR VEHICLES), Chapter 8 (PARKING AND TRAFFIC REGULATION), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-8-24 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby amended and reordained to read as follows:

Sec. 5-8-24 Notice that vehicle has been impounded.

(a) The authorized city official directing the removal of any vehicle under this article, a designee of the official or another city employee designated by the city manager, shall, within 15 days of the impoundment of the motor vehicle, by registered or certified mail, return receipt requested, provide notice to the owner of record of the impounded vehicle and to any person holding a security interest of record against the vehicle, as shown in records maintained by the department of motor vehicles; provided, that the vehicle has not already been released from the impoundment facility. The notice shall state the following: (i) the year, make, model and registration number of the motor vehicle; (ii) the address where the vehicle is being held; (iii) that the owner and any person having a security interest in the vehicle may reclaim the vehicle within 15 days from the date of the notice, after payment of all towing and storage charges resulting from the removal and storage of the vehicle; and (iv) that the failure of the owner and the persons having a security interest in the vehicle to reclaim the vehicle within the provided time period shall constitute both a waiver by the owner and such persons of all right, title and interest in the vehicle, and the consent by each of them to the sale of the vehicle at a public auction.

(b) If the records of the department of motor vehicles contain no address for

the owner of an impounded vehicle or no address for any person shown by the department's records to have a security interest in the vehicle, and if such addresses cannot otherwise be determined with reasonable certainty, it shall be the responsibility of the authorized city official who directed the removal of the vehicle, a designee of the official or another city employee designated by the city manager to cause a notice to be published once in a newspaper of general circulation in the city. Such notice shall be published within the time limit set out in, and shall have the same contents required under, subsection (a) for a notice by mail. The failure of the owner and the person having a security interest in an impounded vehicle to reclaim the vehicle following notice by publication shall have the same consequences as those following a failure to reclaim after notice by mail. Any notice by publication may contain multiple listings of impounded motor vehicles.

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

12. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Amend the Master Plan to Incorporate Approved Changes Within the Potomac Yard Plan Area. (#18, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 12/13/08, 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; 12/13/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Wilson, seconded by Vice Mayor Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance to amend the master plan to incorporate approved changes within the Potomac Yard Plan Area. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4571

AN ORDINANCE to amend and reordain the 1992 Master Plan (2008 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. 20008-0003 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. 2008-0003, the Planning Commission approved an application to amend the Potomac Yard/Potomac Greens Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, to increase allowable heights in certain areas and eliminate specific proportional requirements for townhouse, stacked townhouse and multifamily dwellings.

2. The said amendment has heretofore been approved by the planning commission, and city council with an amendment, 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 Potomac Yard/Potomac Greens Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, be, and the same hereby is, amended (1) by changing the Predominate Height Limits Map to increase the allowable building heights to 82 feet between Route 1 and Main Street, and to increase the allowable building heights to 110 feet between Main Street and Potomac Avenue; (2) to eliminate the CDD Guideline requirement that "At least one-third of the residential units be townhomes; no more than one-third shall be multifamily units; no more than one-third shall be stacked townhomes," and (3) add a new CDD Guideline requirement that "The residential buildings within Potomac Yard and each Landbay shall consist of a variety of building types and heights which should include townhouses, stacked-townhouses, and multi-family units."

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing master plan amendment, as part of the Potomac Yard/Potomac Greens Small Area Plan Chapter of the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

Section 3. That all provisions of the 1992 Master Plan (2008 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 (2008 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia.

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

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

13. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Amend the Zoning Ordinance to Incorporate Approved Changes Within the Potomac Yard CDD. (#19, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 12/13/08, 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; 12/13/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Krupicka, seconded by Vice Mayor Pepper and carried 6-0 by roll-call vote, City Council closed the public hearing and adopted the ordinance to amend the Zoning Ordinance to incorporate approved changes within the Potomac Yard CDD. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4572

AN ORDINANCE to amend and reordain Table 1 (COORDINATED DEVELOPMENT DISTRICTS) of Section 5-602(A), under Section 5-600 (CDD/COORDINATED DEVELOPMENT DISTRICTS), by amending CDD No. 10 (POTOMAC YARD/GREENS), all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2008-0003.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2008-0003, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, approved an application to amend CDD No. 10, to provide for the

conversion of office use to retail use with approval of a special use permit;

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

3. 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 Table 1 of Section 5-602(A) be, and the same hereby is, amended by inserting new language for CDD No. 10, Potomac Yard/Greens, as shown:

CDD No. 10	CDD Name Potomac Yards/Greens	Without a CDD Special Use Permit	Maximum F.A.R. and/or Development Levels	With a CDD Special Use Permit Maximum Heights	Uses
		The RB zone regulations shall apply to the area south of the Monroe Avenue Bridge and east of the Metro Tracks, the CSL zone regulations shall apply on the first 250 feet east of Rte 1, and the I zone regulations shall apply on the remainder of the site; except that the U/T regulations shall apply to an area approximately 120 feet wide located just west of the Metrorail right-of-way (area shown on the plat for Case REZ #95-0005) for the purpose of accommodating the relocated rail mainline on the yard, and	Up to 1,900,000 square feet of office space, <u>except that office square footage may be converted to retail square footage through the special use permit process.</u> Up to 625 hotel rooms. Up to 735,000 square feet of retail space. Up to 2,200 residential units.	Heights shall be as shown on the map entitled "Predominate Height Limits for CDD" (Map No. 24, Potomac Yard/Potomac Greens Small Area Plan Chapter of 1992 Master Plan (1998 <u>2008</u> ed.)).	Predominantly residential with a mix of land uses to include office, retail and service, hotels, parks and open space and community facilities.

		<p>except also that the area known as the "Piggyback Yard" and Slaters Lane portion of Potomac Yard (as shown on the plat for Case REZ #95-0004) may be developed pursuant to the CRMU-L zone provided that the Piggyback Yard:</p> <ul style="list-style-type: none"> - shall contain no more than 275 dwelling units; - shall contain no more than 60,000 square feet of commercial space, of which no more than 30,000 square feet shall be office; - shall be planned and developed pursuant to a special use permit; - shall have a maximum height of 50 feet; and - shall generally be consistent with the goals and guidelines of the small area plan. 		
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Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 5-602(A), as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

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.

14. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Amend the Zoning Ordinance to Simplify Small Business Approval Procedures and Standards. (#20, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated December 5, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 14; 12/13/08, and is incorporated as part of this record by reference.

A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 14; 12/13/08, 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. 3 of Item No. 14; 12/13/08, and is incorporated as part of this record by reference.)

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

(a) Amy Slack, 2307 E. Randolph Avenue, addressed item #3 relating to special use permit applications being made available on-line, and she pointed out that the SUP viewer can only be viewed with Internet Explorer, and she doesn't use Internet Explorer.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Krupicka and carried unanimously by roll-call vote, City Council closed the public hearing and adopted the ordinance to amend the Zoning Ordinance to simplify small business approval procedures and standards. The voting was as follows:

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

The ordinance reads as follows:

ORDINANCE NO. 4573

AN ORDINANCE to amend and reordain Article 2 (DEFINITIONS), Article 3 (RESIDENTIAL ZONE REGULATIONS), Article 4 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONES), Article 5 (MIXED USE ZONES), Article 6 (SPECIAL AND OVERLAY ZONES) and Article 11 (DEVELOPMENT APPROVALS AND PROCEDURES), all of the City of Alexandria Zoning Ordinance, to simplify small

business approval procedures and standards (Text Amendment No. 2008-0004).

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2008-0004 the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, initiated and approved amendments to the Zoning Ordinance to simplify small business approval procedures and standards;

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

3. 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 Article 2, Article 3, Article 4, Article 5 Article 6 and Article 11 of the City of Alexandria Zoning Ordinance, be, and the same hereby are, amended and reordained by incorporating therein the amendments hereinafter set forth, which shall be known as "The Small Business Zoning Improvement Ordinance of 2008."

ARTICLE II: DEFINITIONS

2-133 Day care center. A facility other than a private family dwelling which receives children or adults for care, protection and supervision during part of a 24 hour day unattended by a parent or guardian. The term includes a child care center, preschool, nursery school and day nursery, and includes half day and full day programs.

2-153.1 Health and Athletic Club. An establishment which as its primary purpose provides facilities for exercise in both individual and class formats, and typically includes equipment for class exercises, ball court games, running and jogging, weight and strength training, swimming, and saunas, as well as showers and locker rooms. Accessory massage and similar services may be provided. Such establishments may be open only to members and their guests on a membership basis.

2-193.1 Shopping Center. A building or complex of buildings under common ownership and control which includes at least five independent retail businesses, provides shared parking, and is at least 35,000 square feet of floor area in size.

2-161.1 Industrial or flex space center. A building or complex of buildings under common ownership and control, which is no more than two stories in height, includes at least three independent businesses within it, and consists of at least 45,000 sf of floor area.

2-179.1 Office complex. A building or group of buildings under common ownership

and control which is four or more stories in height and primarily office use , but may include other uses, and which is a minimum of 50,000 sq. ft. in size.

2--183 Personal service establishment. A store or shop providing personal, financial, technical or repair services, assistance or advice to individual consumers, including but not limited to:

- Arts and crafts studios or stores;
- Appliance repair and rental;
- Banks, savings and loans, and credit unions;
- Bicycle repair;
- Barbershops and beauty shops;
- Contractors' offices, without accessory storage;
- Dressmakers and tailors;
- Dry-cleaning and laundry pickup stations;
- Laundromat;
- Locksmiths;
- Musical instrument repair;
- Optical center;
- Pawnshops;
- Private school, academic or commercial, with a maximum of twenty students on the premises at any one time;
- Professional photographer's studios;
- Shoe repair;
- Furniture upholstering shops;
- Watch repair;
- Printing and photocopy service;

Personal service establishments do not include, as either a primary or accessory use, automobile oriented uses; the sale, rental, storage, service or repair of any motor vehicles, including automobiles, trucks, buses, trailers, recreational vehicles and motorcycles; or any use separately listed in a zone.

ARTICLE III. RESIDENTIAL ZONE REGULATIONS

Sec. 3-100 R-20/Single-family zone.

3-102 Permitted uses. The following uses are permitted in the R-20 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home, as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

3-102.1 Administrative special uses. The following uses may be allowed in the R-20

zone with administrative approval pursuant to section 11-513 of this ordinance.

- (A) Day care center within a church or school building.

3-103 Special uses. The following uses may be allowed in the R-20 zone pursuant to a special use permit:

- (A) Cemetery;
- (B) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (C) Reserved;
- (D) Private school;
- (E) Seminary, convent and monastery;
- (F) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-200 R-12/Single-family zone.

3-202 Permitted uses. The following uses are permitted in the R-12 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home, as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

3-202.1 Administrative special uses. The following uses may be allowed in the R-12 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

3-203 Special uses. The following uses may be allowed in the R-12 zone pursuant to a special use permit:

- (A) Cemetery;
- (B) Reserved;
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-300 R-8/Single-family zone.

3-302 Permitted uses. The following uses are permitted in the R-8 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home, as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

3-302.1 Administrative special uses. The following uses may be allowed in the R-8 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

3-303 Special uses. The following uses may be allowed in the R-8 zone pursuant to a special use permit:

- (A) Cemetery;
- (B) Reserved;
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-400 R-5/Single-family zone.

3-402 Permitted uses. The following uses are permitted in the R-5 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home; as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

3-402.1 Administrative special uses. The following uses may be allowed in the R-5 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

3-403 Special uses. The following uses may be allowed in the R-5 zone pursuant to a

special use permit:

- (A) Cemetery;
- (B) Reserved;
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-500 R-2-5/Single and two-family zone.

3-502 Permitted uses. The following uses are permitted in the R-2-5 Zone:

- (A) Single-family dwelling;
- (B) Two-family dwelling;
- (C) Accessory uses, as permitted by section 7-100;
- (D) Child or elder care home, as permitted by section 7-500;
- (E) Church;
- (F) Home occupation, as permitted by section 7-300;
- (G) Public park;
- (H) Public school;
- (I) Utilities, as permitted by section 7-1200.

3-502.1 Administrative special uses. The following uses may be allowed in the R-2-5 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

3-503 Special uses. The following uses may be allowed in the R-2-5 zone pursuant to a special use permit:

- (A) Cemetery;
- (B) Reserved;
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-600 RA/Multifamily zone.

3-602 Permitted uses. The following uses are permitted in the RA zone:

- (A) Single-family dwelling;

- (B) Two-family dwelling;
- (C) Townhouse dwelling;
- (D) Multifamily dwelling;
- (E) Accessory uses, as permitted by section 7-100;
- (F) Child or elder care home, as permitted by section 7-500;
- (G) Church;
- (H) Home occupation, as permitted by section 7-300;
- (I) Public park;
- (J) Public school;
- (K) Utilities, as permitted by section 7-1200.

3-602.1 Administrative special uses. The following uses may be allowed in the RA zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

3-603 Special uses. The following uses may be allowed in the RA zone pursuant to a special use permit:

- (A) Cemetery;
- (A.1) Day care center,
- (B) Reserved;
- (C) Home for the elderly;
- (D) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (E) Reserved;
- (F) Nursing or convalescent home or hospice;
- (G) Private school;
- (H) Rooming house;
- (I) Seminary, convent and monastery;
- (J) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-700 RB/Townhouse zone.

3-702 Permitted uses. The following uses are permitted in the RB zone:

- (A) Single-family dwelling;
- (B) Two-family dwelling;
- (C) Townhouse dwelling;
- (D) Accessory uses, as permitted by section 7-100;
- (E) Child or elder care home as permitted by section 7-500;
- (F) Church;
- (G) Home occupation, as permitted by section 7-300;
- (H) Public park;
- (I) Public school;

(J) Utilities, as permitted by section 7-1200.

3-702.1 Administrative special uses. The following uses may be allowed in the RB zone with administrative approval pursuant to section 5-513 of this ordinance.

(A) Day care center within a church or school building.

3-703 Special uses. The following uses may be allowed in the RB zone pursuant to a special use permit:

- (A) Cemetery;
- (B) Day care center;
- (C) Home for the elderly;
- (D) Reserved;
- (E) Nursing or convalescent home or hospice;
- (F) Private school;
- (G) Rooming house;
- (H) Seminary, convent and monastery;
- (I) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-800 RCX/Medium density apartment zone.

3-802 Permitted uses. The following uses are permitted in the RCX zone:

- (A) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Accessory uses, as permitted by section 7-100;
- (D) Child or elder care home, as permitted by section 7-500;
- (E) Church;
- (F) Home occupation, as permitted by section 7-300;
- (G) Public park;
- (H) Public school;
- (I) Utilities, as permitted by section 7-1200.

3-802.1 Administrative special uses. The following uses may be allowed in the RCX zone with administrative approval pursuant to section 5-513 of this ordinance.

(A) Day care center within a church or school building.

3-803 Special uses. The following uses may be allowed in the RCX zone pursuant to a special use permit:

- (A) Apartment hotel;
- (B) Cemetery;
- (C) Day care center;
- (D) Home for the elderly;
- (E) Nursery school;
- (F) Nursing or convalescent home or hospice;

- (G) Private school;
- (H) Rooming house;
- (I) Seminary, convent and monastery;
- (J) The following commercial uses in a multifamily building of four or more stories in height if limited to an area the size of the first floor or a floor below it, whichever is less, and located on the first floor or any floor below the first floor of the building:
 - (1) Bank, saving and loan bank or association, and similar financial institution;
 - (2) Barber shop or beauty shop;
 - (3) Cleaning, laundry or pressing agency with no actual operations on premises;
 - (4) Convenience store;
 - (4.1) Day care center.
 - (5) Drugstore;
 - (6) Gift shop;
 - (7) Grocery store, where products are not prepared or consumed on premises;
 - (8) Health and athletic club;
 - (9) Professional and business office, provided that no inventory, stock-in-trade, materials or supplies other than general office supplies are stored on site and that no trucks, vans or similar vehicles are parked on site outside of business hours;
 - (10) Restaurant.
- (K) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-900 RC/High density apartment zone.

3-902 Permitted uses. The following uses are permitted in the RC zone:

- (A) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Accessory uses, as permitted by section 7-100;
- (D) Child or elder care home, as permitted by section 7-500;
- (E) Church;
- (F) Home occupation, as permitted by section 7-300;
- (G) Public park;
- (H) Public school;
- (I) The following commercial uses in a residential development of at least 2,000 dwelling units if limited to an area the size of the first floor or any floor below it, whichever is less, and located on the first floor or any floor below the first floor of the building:
 - (1) Bank, saving and loan bank or association, and similar financial institution;

- (2) Barbershop or beauty parlor;
- (3) Cleaning, laundry or pressing agency with no actual operations on premises;
- (4) Drugstore;
- (5) Grocery store, where products are not prepared or consumed on the premises;
- (6) Gift or florist shop;
- (6.1) Health and athletic club;
- (7) Professional, business and medical office provided that no inventory, stock-in-trade, materials or supplies other than general office supplies are stored on site and that no trucks, vans or similar vehicles are parked on site outside of business hours; and
- (J) Utilities, as permitted by section 7-1200.

3-902.1 Administrative special uses. The following uses may be allowed in the RC zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

3-903 Special uses. The following uses may be allowed in the RC zone pursuant to a special use permit:

- (A) Apartment hotel;
- (B) Cemetery;
- (C) Day care center;
- (D) Freestanding commercial buildings for office or retail use where clearly designed as part of and to serve a residential development of at least 2,000 dwelling units and where no such building exceeds 10,000 square feet;
- (E) Home for the elderly;
- (F) Reserved;
- (G) Nursing or convalescent home or hospice;
- (H) Private school;
- (I) Rooming house;
- (J) Seminary, convent and monastery;
- (K) The following commercial uses in a multifamily building of four or more stories in height if limited to an area the size of the first floor or a floor below it, whichever is less, and located on the first floor or any floor below the first floor of the building:
 - (1) Bank, saving and loan bank or association, and similar financial institution;
 - (2) Barber shop or beauty shop;
 - (3) Cleaning, laundry or pressing agency with no actual operations on premises;
 - (4) Convenience store;
 - (4.1) Day care center.
 - (5) Drugstore;
 - (6) Gift shop;
 - (7) Grocery store, where products are not prepared or consumed on

- premises;
 - (8) Health and athletic club;
 - (9) Professional and business office, provided that no inventory, stock-in-trade, materials or supplies other than general office supplies are stored on site and that no trucks, vans or similar vehicles are parked on site outside of business hours; and
 - (10) Restaurants and, in the case of a building which is seven or more stories, the restaurant may be located on the top floor or the roof of the building.
- (L) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

Sec. 3-1100 RM/Townhouse zone.

3-1102 Permitted uses. The following uses are permitted in the RM zone:

- (A) Single-family dwelling;
- (B) Two-family dwelling;
- (C) Townhouse dwelling;
- (D) Accessory uses, as permitted by section 7-100;
- (E) Child or elder care home, as permitted by section 7-500;
- (F) Church;
- (G) Home occupation, as permitted by section 7-300;
- (H) Public park;
- (I) Public school;
- (J) Utilities, as permitted by section 7-1200.

3-1102.1 Administrative special uses. The following uses may be allowed in the RM zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

3-1103 Special uses. The following uses may be allowed in the RM zone pursuant to a special use permit:

- (A) Bed and breakfast accommodation, as permitted by section 7-400;
- (B) Cemetery;
- (C) Day care center;
- (D) Motor vehicle parking or storage, as permitted by section 8-600;
- (E) Reserved;
- (F) Nursing or convalescent home or hospice;
- (G) Private school;
- (H) Rooming house;
- (I) Seminary, convent and monastery;
- (J) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially

burden any religious practice or belief.

ARTICLE IV: COMMERCIAL, OFFICE AND INDUSTRIAL ZONES

Sec. 4-100 CL/Commercial low zone.

4-102 Permitted uses. The following uses are permitted in the CL zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Day care center
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming and training, with no overnight accommodation;
- (J) Public school;
- (J.1) Restaurant located within a shopping center;
- (K) Retail shopping establishment;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

4-102.1 Administrative special uses. The following uses may be allowed in the CL zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market;
- (D) Overnight pet boarding if located in a shopping center.

4-103 Special uses. The following uses may be allowed in the CL zone pursuant to a special use permit:

- (A) Bus shelter on private property;
- (B) Congregate housing facility;
- (C.1) Day labor agency.
- (D) Reserved
- (E) Fraternal or private club;
- (F) Funeral home;
- (G) Home for the elderly;
- (G.1) Massage establishment;
- (H) Motor vehicle parking or storage for more than 20 vehicles;
- (I) Reserved

- (J) Nursing or convalescent home or hospice;
- (J.1) Outdoor food and crafts market, other than pursuant to section 4-102.1;
- (J.2) Outdoor garden center, other than pursuant to section 4-102.1;
- (J.3) Overnight pet boarding, other than pursuant to section 4-102.1;
- (K) Private school, academic or commercial, with more than 20 students on the premises at any one time;
- (L) Public building;
- (M) Restaurant, other than pursuant to 4-102 (J.1) or 4-102.1;
- (N) Rooming house;
- (O) Social service use.

4-107 Use limitations.

- (G) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (H) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

Sec. 4-200 CC/Commercial community zone.

4-202 Permitted uses. The following uses are permitted in the CC zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Day care center
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (H.1) Pet supplies, grooming and training business with no overnight accommodation;
- (I) Public school;
- (I.1) Restaurant located within a shopping center or hotel;
- (J) Retail shopping establishment;
- (K) Seminary, convent or monastery;
- (L) Utilities, as permitted by section 7-1200;
- (M) Accessory uses, as permitted by section 7-100.

4-202.1 Administrative special uses. The following uses may be allowed in the CC zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;

- (B) Outdoor garden center;
- (C) Outdoor food and crafts market;
- (D) Overnight pet boarding located in a shopping center

4-203 Special uses. The following uses may be allowed in the CC zone pursuant to a special use permit:

- (A) Automobile service station;
- (B) Bus shelter on private property;
- (C) Congregate housing facility;
- (D) Convenience store;
- (E) Reserved
- (F) Reserved
- (G) Drive through facility;
- (H) Fraternal or private club;
- (I) Funeral home;
- (J) Home for the elderly;
- (K) Light automobile repair;
- (K.1) Massage establishment;
- (L) Motor vehicle parking or storage for more than 20 vehicles;
- (M) Reserved
- (N) Nursing or convalescent home or hospice;
- (N.1) Outdoor food and crafts market, other than pursuant to section 4-202.1;
- (N.2) Outdoor garden center, other than pursuant to section 4-202.1;
- (O) Overnight pet boarding, other than pursuant to section 4-202.1;
- (P) Private school, academic or commercial, with more than 20 students at any one time;
- (Q) Public building;
- (R) Restaurant, other than pursuant to sections 4-202(l.1) or 4-202.1;
- (S) Rooming house;
- (T) Social service use.

4-207 Use limitations.

- (F) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (G) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

Sec. 4-300 CSL/Commercial service low zone.

4-302 Permitted uses. The following uses are permitted in the CSL zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;

- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Day care center;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (H.1) Pet supplies, grooming and training business with no overnight accommodation;
- (I) Public school;
- (J) Retail shopping establishment;
- (J.1) Restaurant located within a shopping center or hotel;
- (K) Seminary, convent or monastery;
- (L) Utilities, as permitted by section 7-1200;
- (M) Accessory uses, as permitted by section 7-100.

4-302.1 Administrative special uses. The following uses may be allowed in the CSL zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

4-303 Special uses. The following uses may be allowed in the CSL zone pursuant to a special use permit:

- (A) Automobile service station;
- (B) Automobile and trailer rental or sales area;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Building materials storage and sales;
- (D) Bus shelter on private property;
- (E) Catering operation;
- (F) Congregate housing facility;
- (G) Convenience store;
- (H) Reserved
- (H.1) Day labor agency.
- (I) Reserved
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Glass shop;
- (N) Home for the elderly;
- (O) Laundry, dry cleaning operation;
- (O.1) Light assembly, service and crafts;
- (P) Light automobile repair;
- (P.1) Massage establishment;

- (Q) Motor vehicle parking or storage for more than 20 vehicles;
- (R) Reserved
- (S) Nursing or convalescent home or hospice;
- (S.1) Outdoor food and crafts market, other than pursuant to section 4-302.1;
- (S.2) Outdoor garden center, other than pursuant to section 4-302.1;
- (S.3) Overnight pet boarding, other than pursuant to section 4-302.1;
- (T) Parcel delivery;
- (U) Reserved
- (V) Private school, academic or commercial, with more than 20 students on the premises at any one time;
- (W) Public building;
- (X) Research and testing laboratory;
- (Y) Restaurant, other than pursuant to sections 4-302 (J.1) or 4-302.1;
- (Z) Rooming house;
- (AA) Social service use;
- (BB) Storage buildings and warehouses, not to include freight distribution centers;
- (CC) Wholesale business.

4-307 Use limitations.

- (F) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.
- (G) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

Sec. 4-400 CG/Commercial general zone.

4-402 Permitted uses. The following uses are permitted in the CG zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center;
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (H.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming, training and medical treatment with no overnight

accommodation;

- (J) Public school;
- (J.1) Restaurant located within a shopping center or hotel;
- (K) Retail shopping establishment;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

4-402.1 *Administrative special uses.* The following uses may be allowed in the CG zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

4-403 *Special uses.* The following uses may be allowed in the CG zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (C) Automobile service station;
- (D) Automobile and trailer rental or sales area;
- (D.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (E) Bus shelter on private property;
- (F) Congregate housing facility;
- (G) Convenience store, other than pursuant to section 4-402 (E.1);
- (H) Reserved
- (H.1) Day labor agency.
- (I) Reserved
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-402 (E.3);
- (N) Home for the elderly;
- (O) Hospital;
- (P) Hotel;
- (Q) Laundry, dry cleaning operation;
- (R) Light automobile repair;
- (R.1) Massage establishment;
- (S) Medical care facility;
- (T) Motor vehicle parking or storage for more than 20 vehicles;
- (U) Reserved
- (V) Nursing or convalescent home or hospice;
- (V.1) Outdoor food and crafts market, other than pursuant to section 4-402.1;
- (V.2) Outdoor garden center, other than pursuant to section 4-402.1;
- (V.3) Overnight pet boarding, other than pursuant to section 4-402.1;
- (W) Private school, academic or commercial, with more than 20 students on

- the premises at any one time;
- (X) Public building;
- (Y) Restaurant, other than pursuant to sections 4-402 (J.1) or 4-402.1;
- (Z) Rooming house;
- (AA) Social service use.

4-407 Use limitations.

- (D) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.
- (E) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (F) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 4-500 CD/Commercial downtown zone.

4-502 Permitted uses. The following uses are permitted in the CD zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (F) City sponsored farmers' market;
- (F.1) Day care center;
- (G) Medical laboratory;
- (H) Medical office;
- (H.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (I) Personal service establishment;
- (J) Pet supplies, grooming and training business, with no overnight accommodation;
- (K) Public school;
- (L) Radio or TV broadcasting office and studio;
- (L.1) Reserved
- (M) Retail shopping establishment;
- (N) Seminary, convent or monastery;
- (O) Utilities, as permitted by section 7-1200;
- (P) Accessory uses, as permitted by section 7-100.

4-502.1 Administrative special uses. The following uses may be allowed in the CD

zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Outdoor garden center
- (B) Outdoor food and crafts market
- (C) Overnight pet boarding located in a shopping center

4-503 Special uses. The following uses may be allowed in the CD zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bed and breakfast accommodation, as permitted by section 7-400;
- (D) Bus shelter on private property;
- (E) Catering operation;
- (F) Congregate housing facility;
- (G.1) Day labor agency.
- (H) Reserved
- (H.1) Drive through facility, limited to banks, savings and loan institutions and credit unions on Washington Street; provided, that access to the drive through facility is solely provided on the exclusive property of the bank, savings and loan institution or credit union offering the drive through facility.
- (I) Fraternal or private club;
- (J) Funeral home;
- (K) Health and athletic club;
- (L) Home for the elderly;
- (M) Homeless shelter;
- (N) Hospital;
- (O) Hotel;
- (O.1) Massage establishment;
- (P) Medical care facility;
- (Q) Motor vehicle parking or storage for more than 20 vehicles;
- (R) Newspaper office, including printing and publishing facilities;
- (S) Reserved
- (T) Nursing or convalescent home or hospice;
- (T.1) Outdoor food and crafts market, other than pursuant to section 4-502.1;
- (T.2) Outdoor garden center, other than pursuant to section 4-502.1;
- (T.3) Overnight pet boarding, other than pursuant to section 4-502.1;
- (U) Private school, commercial or academic, with more than 20 students on the premises at any one time;
- (V) Public building;
- (W) Restaurant;
- (X) Rooming house;
- (Y) Social service use;
- (Z) Tourist home;
- (AA) Wholesale business.

4-507 Use limitations.

- (D) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.
- (E) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

Sec. 4-600 CD-X/Commercial downtown zone (Old Town North).

4-602 Permitted uses.

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Church;
- (D.1) Day care center;
- (E) Medical laboratory;
- (F) Medical office;
- (F.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (G) Personal service establishment;
- (H) Pet supplies, grooming and training business, with no overnight accommodation;
- (I) Public school;
- (J) Radio or TV broadcasting facility;
- (K) Retail shopping establishment;
- (K.1) Restaurant located within a shopping center or hotel;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

4-602.1 Administrative special uses. The following uses may be allowed in the CD-X zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding.

4-603 Special uses.

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Catering operation;
- (E) Congregate housing facility;

- (F) Reserved
- (F.1) Day labor agency.
- (G) Reserved
- (H) Fraternal or private club;
- (I) Funeral home;
- (J) Health and athletic club, other than pursuant to section 4-602 (D.2);
- (K) Home for the elderly;
- (L) Homeless shelter;
- (M) Hospital;
- (N) Hotel;
- (N.1) Massage establishment;
- (O) Medical care facility;
- (O.1) Motor vehicle parking or storage for more than 20 vehicles;
- (P) Newspaper office, including printing and publishing facilities;
- (Q) Reserved
- (R) Nursing or convalescent home or hospice;
- (R.1) Outdoor food and crafts market, other than pursuant to section 4-602.1;
- (R.2) Outdoor garden center, other than pursuant to section 4-602.1;
- (R.3.) Overnight pet boarding, other than pursuant to section 4-602.1;
- (S) Private school, commercial or academic, with more than 20 students on the premises at any one time;
- (T) Public building;
- (U) Restaurant, other than pursuant to sections 4-602(K-1) or 4-602.1;
- (V) Rooming house;
- (W) Social service use;
- (X) Tourist home;
- (Y) Wholesale business.

4-607 Use limitations.

- (D) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.
- (E) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

Sec. 4-700 CR/Commercial regional zone.

4-702 Permitted uses. The following uses are permitted in the CR zone:

- Amusement enterprise;
- (A.1) Day care center;
- (B) Health and athletic club;
- (C) Light auto repair or drive through facility located in a freestanding building not part of an integrated and connected complex of structures;
- (D) Motor vehicle parking or storage;
- (E) Personal service establishment;
- (E.1) Pets supplies, grooming and training business with no overnight

accommodation;

- (E.2) Private school, commercial;
- (F) Restaurant;
- (G) Retail shopping establishment;
- (H) Utilities, as permitted by section 7-1200;
- (I) Accessory uses, as permitted by section 7-100.

4-702.1 Administrative special uses. The following uses may be allowed in the CR zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Outdoor garden center
- (B) Outdoor food and crafts market
- (C) Overnight pet boarding located in a shopping center

4-703 Special uses. The following uses may be allowed in the CR zone pursuant to a special use permit:

- (A) Automobile service station;
- (A.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (B) Bus shelter on private property;
- (C) Reserved
- (D) Reserved
- (E) Drive through facility;
- (F) Hotel;
- (G) Interstate bus station;
- (H) Light automobile repair;
- (I) Massage establishment.
- (J) Overnight pet boarding, other than pursuant to section 4-702.1

4-707 *Use Limitations.*

Sec. 4-800 OC/Office commercial zone.

4-802 Permitted uses. The following uses are permitted in the OC zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center;
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;

- (H) Personal service establishment;
- (I) Pet supplies, grooming and training business with no overnight accommodation;
- (J) Radio or TV broadcasting office and studio;
- (K) Retail shopping establishment;
- (K.1) Restaurant located within a shopping center or hotel;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

4-802.1 Administrative special uses. The following uses may be allowed in the OC zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

4-803 Special uses. The following uses may be allowed in the OC zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Catering operation;
- (F) Congregate housing facility;
- (G) Convenience store other than pursuant to section 4-802 (E.1);
- (H) Reserved
- (H.1) Day labor agency.
- (I) Reserved
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-802 (E.3)
- (N) Home for the elderly;
- (O) Homeless shelter;
- (P) Hospital;
- (Q) Hotel;
- (R) Interstate bus station;
- (S) Light automobile repair;
- (S.1) Massage establishment;
- (T) Medical care facility;
- (U) Motor vehicle parking or storage for more than 20 vehicles;
- (V) Reserved
- (W) Nursing or convalescent home or hospice;
- (W.1) Outdoor food and crafts market other than pursuant to section 4-802.1;

- (W.2) Outdoor garden center other than pursuant to section 4-802.1;
- (W.3) Overnight pet boarding, other than pursuant to section 4-802.1;
- (X) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (Y) Public building;
- (Z) Research and testing laboratory;
- (AA) Restaurant, other than pursuant to sections 4-802(K.1) and 4-802.1;
- (BB) Rooming house;
- (CC) Social service use;
- (DD) Wholesale business.

4-807 Use limitations.

- (E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening its place of business.
- (F) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 4-900 OCM(50)/Office commercial medium (50) zone.

4-902 Permitted uses. The following uses are permitted in the OCM(50) zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming and training, with no overnight accommodation;
- (J) Radio or TV broadcasting office and studio;
- (K) Retail shopping establishment;
- (K.1) Restaurant located within a shopping center or hotel;
- (L) Seminary, convent or monastery;

- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

4-902.1 Administrative special uses. The following uses may be allowed in the OCM (50) zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

4-903 Special uses. The following uses may be allowed in the OCM(50) zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Catering operation;
- (F) Congregate housing facility;
- (G) Convenience store, other than pursuant to section 4-902(E.1);
- (H) Reserved
- (H.1) Day labor agency.
- (I) Reserved
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-902(E.3);
- (N) Home for the elderly;
- (O) Homeless shelter;
- (P) Hospital;
- (Q) Hotel;
- (R) Interstate bus station;
- (S) Light automobile repair;
- (S.1) Massage establishment;
- (T) Medical care facility;
- (U) Motor vehicle parking or storage for more than 20 vehicles;
- (V) Reserved
- (W) Nursing or convalescent home or hospice;
- (W.1) Outdoor food and crafts market, other than pursuant to section 4-902.1;
- (W.2) Outdoor garden center, other than pursuant to section 4-902.1;
- (W.3) Overnight pet boarding, other than pursuant to section 4-902.1;
- (X) Private school, academic or commercial, with more than 20 students on the premises at any one time;
- (Y) Public building;
- (Z) Research and testing laboratory;
- (AA) Restaurant, other than pursuant to sections 4-902(K.1) and 4-902.1;

- (BB) Rooming house;
- (CC) Social service use;
- (DD) Wholesale business.

4-906 Use limitations.

- (E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening its place of business.
- (F) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 4-1000 OCM(100)/Office commercial medium (100) zone.

4-1002 Permitted uses. The following uses are permitted in the OCM(100) zone:

- (A) Single-family dwelling, except as limited by section 4-1003(A.1);
- (A.1) Two-family dwelling, except as limited by section 4-1003(A.1);
- (A.2) Townhouse dwelling, except as limited by section 4-1003(A.1);
- (B) Multi-family dwelling, except as limited by section 4-1003 (A.1);
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center
- (E.3) Health and athletic club located within a shopping center, hotel, industrial or flex space center or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming and training business with no overnight accommodation;
- (J) Radio or TV broadcasting office and studio;
- (K) Retail shopping establishment;
- (K.1) Restaurant, located within a shopping center, hotel or industrial or flex space center;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

4-1002.1 Administrative special uses. The following uses may be allowed in the OCM (100) zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market ;
- (D) Catering operation within an industrial or flex space center;
- (E) Light auto repair within an industrial or flex space center;
- (F) Overnight pet boarding located in a shopping center.

4-1003 Special uses. The following uses may be allowed in the OCM(100) zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (A.1) Single-family, two-family, townhouse and multi-family dwellings on lots located within 1,000 feet of the centerline of Eisenhower Avenue;
- (B) Apartment hotel;
- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Catering operation, other than pursuant to section 4-1002.1;
- (F) Congregate housing facility;
- (G) Convenience store, other than pursuant to section 4-1002(E.1);
- (H) Reserved
- (H.1) Day labor agency.
- (I) Reserved
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-1002(E.3);
- (N) Home for the elderly;
- (O) Homeless shelter;
- (P) Hospital;
- (Q) Hotel;
- (R) Interstate bus station;
- (S) Light automobile repair, other than pursuant to section 4-1002.1;
- (S.1) Massage establishment;
- (T) Medical care facility;
- (U) Motor vehicle parking or storage for more than 20 vehicles;
- (V) Reserved
- (W) Nursing or convalescent home or hospice;
- (W.1) Outdoor food and crafts market, other than pursuant to section 4-1002.1;
- (W.2) Outdoor garden center, other than pursuant to section 4-1002.1;
- (W.3) Overnight pet boarding, other than pursuant to section 4-1002.1;
- (X) Private school, academic or commercial;—with more than 20 students on the premises at any one time;
- (Y) Public building;
- (Z) Research and testing;
- (AA) Restaurant, other than pursuant to sections 4-1002(K.1) and 4-1002.1;
- (BB) Rooming house;

- (CC) Social service use;
- (DD) Wholesale business.

4-1006 Use limitations.

- (E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening its place of business.
- (F) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 4-1100 OCH/Office commercial high zone.

4-1102 Permitted uses. The following uses are permitted in the OCH zone:

- (A) Single-family dwelling, except as limited by section 4-1103(A.1);
- (A.1) Two-family dwelling, except as limited by section 4-1103(A.1);
- (A.2) Townhouse dwelling, except as limited by section 4-1103(A.1);
- (B) Multi-family dwelling, except as limited by section 4-1103 (A.1);
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center;
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Hospital;
- (G) Medical care facility;
- (H) Medical laboratory;
- (I) Medical office;
- (I.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (J) Personal service establishment, on the same lot as office use;
- (K) Pet supplies, grooming and training business with no overnight accommodation;
- (L) Radio or television broadcasting office and studio;
- (L.1) Restaurant located within a shopping center or hotel;
- (M) Retail shopping establishment, on the same lot as office use;
- (N) Seminary, convent or monastery;
- (O) Utilities, as permitted by section 7-1200;
- (P) Accessory uses, as permitted by section 7-100.

4-1102.1 Administrative special uses. The following uses may be allowed in the OCH zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

4-1103 Special uses. The following uses may be allowed in the OCH zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (A.1) Single-family, two-family, townhouse and multi-family dwellings on lots located within 1,000 feet of the centerline of Eisenhower Avenue;
- (B) Apartment hotel;
- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Congregate housing facility;
- (F) Convenience store, other than pursuant to section 4-1102(E.1);
- (G) Reserved
- (H) Reserved
- (H.1) Day labor agency.
- (I) Drive through facility;
- (J) Fraternal or private club;
- (K) Funeral home;
- (L) Health and athletic club, other than pursuant to section 4-1102(E.3);
- (M) Home for the elderly;
- (N) Homeless shelter;
- (O) Hotel;
- (P) Interstate bus station;
- (Q) Light automobile repair;
- (Q.1) Massage establishment;
- (R) Motor vehicle parking or storage for more than 20 vehicles;
- (S) Reserved
- (T) Nursing or convalescent home or hospice;
- (T.1) Outdoor food and crafts market, other than pursuant to section 4-1102.1;
- (T.2) Outdoor garden center, other than pursuant to section 4-1102.1;
- (T.3) Overnight pet boarding, other than pursuant to section 4-1102.1;
- (U) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (V) Public building;
- (W) Restaurant, other than pursuant to sections 4-1102 (L.1) and 4-1102.1;
- (X) Retail shopping or personal service establishments on a lot which does not include office buildings, provided such use supports and serves office uses in the immediate zoned area;
- (Y) Rooming house;
- (Z) Social service use;
- (AA) Wholesale business.

4-1106 Use limitations.

- (E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening its place of business.
- (F) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 4-1200 I/Industrial zone.

4-1202 Permitted uses. The following uses are permitted in the I zone:

- (A) Ambulance service;
- (B) Animal shelter or kennel;
- (C) Automobile service station;
- (D) Bottling plant;
- (E) Building materials storage and sales;
- (F) Business office accessory to and on the same site as an industrial use;
- (G) Catering operations;
- (H) Drive through facility;
- (I) [*Reserved*];
- (J) Funeral home;
- (K) Glass shop;
- (L) Ice and cold storage facility;
- (M) Laundry, dry cleaning operations;
- (N) Light automobile repair;
- (O) Machine shop;
- (P) Manufacturing;
- (Q) Medical laboratory;
- (Q.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (R) Parcel delivery;
- (S) Pet supplies, grooming and training, with no overnight accommodation;
- (T) Printing and publishing facilities;
- (U) Radio or television broadcasting office and studio;
- (V) Research and testing laboratory;
- (V.1) Restaurant located within a shopping center or hotel;
- (V.2) Retail;
- (W) Sheet metal shop;
- (X) Stone monument works;
- (Y) Storage buildings and warehouses;
- (Z) Utilities, as permitted by section 7-1200;
- (AA) Wholesale businesses;
- (BB) Accessory uses, as permitted by section 7-100.

4-1202.1 Administrative special uses. The following uses may be allowed in the I zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

4-1203 Special uses. The following uses may be allowed in the I zone pursuant to a special use permit:

- (A) Asphalt plant;
- (A.1) Amusement enterprise;
- (B) Automobile and trailer rental or sales area;
- (C) Business offices other than those listed in section 4-1202(F);
- (D) Bus shelter on private property;
- (E) Concrete mixing and batching plant;
- (F) Convenience store;
- (F.1) Day labor agency.
- (G) Freight distribution center;
- (G.1) Fuel yard;
- (H) General automobile repair;
- (I) Helistop;
- (J) Homeless shelter;
- (K) Hospital;
- (L) Interstate bus station;
- (M) Junkyard;
- (N) Medical care facility;
- (O) Motor vehicle parking or storage for more than 20 vehicles;
- (P) Motor vehicle storage yard;
- (P.1) Outdoor food and crafts market, other than pursuant to section 4-1202.2;
- (P.2) Outdoor garden center, other than pursuant to section 4-1202.1;
- (P.3) Overnight pet boarding, other than pursuant to section 4-1202.1;
- (Q) Public building;
- (R) Recycling and materials recovery facility;
- (R.1) Restaurant, other than pursuant to section 4-1202 (V.1) or 4-1202.1;
- (S) Stone crushing operation;
- (T) Vehicle towing service and associated impound lot;
- (U) Waste to energy plant;
- (V) Any other use not listed elsewhere in this ordinance.

Sec. 4-1400 NR/Neighborhood retail zone (Arlandria).

4-1403 Permitted uses. In order to provide an active pedestrian-oriented retail environment along Mount Vernon Avenue, especially along the sidewalk and pedestrian way, permitted uses in the NR zone are limited as follows.

(A) Permitted ground floor uses. The following uses are permitted on the ground

floor of buildings facing the sidewalk:

1. Retail establishment;
 2. Personal service, except banks;
 3. Banks, business and professional offices, medical laboratory or offices and laundromats, provided:
 - (a) The business facade shall be no wider than 30 feet along the street;
 - (b) No more than two such uses or entrances shall adjoin each other.
 4. Restaurants, when located within a shopping center or hotel, or with administrative approval pursuant to section 4-1403.1.
- (B) Permitted uses above the ground floor:
1. Uses listed under section 4-1403;
 2. Dwelling unit;
 3. Office;
 4. Church.

4-1103.1 Administrative special uses. The following uses may be allowed in the NR zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant
- (B) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

4-1404 Special uses. The following uses may be allowed with a special use permit:

- (A) Amusement enterprise;
- (B) Banks, business and professional offices, medical laboratories/offices and laundromats on the ground floor, other than pursuant section 4-1403 (A);
- (C) Convenience store;
- (D) Day care center;
- (E) Day nursery;
- (F) Fraternal or private club;
- (G) Live theater, other than pursuant to section 4-1403.1;
- (H) Massage establishment;
- (I) Nursing or convalescent home or hospice;
- (J) Outdoor food and crafts market, other than pursuant to Section 4-1403.1;
- (K) Private school, academic or commercial;
- (L) Public building;
- (M) Restaurant, other than pursuant to sections 4-1403 (A) (4) and 4-1403.1;
- (O) Townhouse dwellings, subject to the RB regulations for density, lot requirements, bulk and open space, and height and; allowed only in locations where the development of residential units will not interfere with the existing or the creation of the desired streetscape pattern of contiguous and active retail uses.

[The procedure and standards for NR administrative SUPs are moved and incorporated into section 11-513]

ARTICLE V. MIXED USE ZONES

Sec. 5-100 CRMU-L/Commercial residential mixed use (low).

5-102 Permitted uses. The following uses are permitted in the CRMU-L zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (C.1) Convenience store within an office complex;
- (C.2) Day care center;
- (C.3) Health and athletic club located within a shopping center, hotel or office complex;
- (D) Medical laboratory;
- (E) Medical office;
- (E.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (F) Personal service establishment;
- (G) Radio or television broadcasting office and studio;
- (G.1) Restaurant located within a shopping center or hotel;
- (H) Retail shopping establishment;
- (I) Utilities, as permitted by section 7-1200;
- (J) Accessory uses, as permitted by section 7-100;

5-102.1 Administrative special uses. The following uses may be allowed in the CRMU-L zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market.

5-103 Special uses. The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-109 below:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-102 (C.1);
- (F) Reserved
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-102(C.3);
- (I) Home for the elderly;
- (J) Hotel;
- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;
- (K.1) Outdoor food and crafts market, other than pursuant to section 5-102.1;

- (K.2) Outdoor garden center, other than pursuant to section 5-102.1;
- (L) Nursing or convalescent home or hospice;
- (M) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (N) Restaurant, other than pursuant to section 5-102 (G.1) or 5-102.1.

5-110 Use limitations.

- (A) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (B) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (C) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 5-200 CRMU-M/Commercial residential mixed use (medium).

5-202 Permitted uses. The following uses are permitted in the CRMU-M zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (C.1) Convenience store within an office complex;
- (C.2) Day care center;
- (C.3) Health and athletic club located within a shopping center, hotel or office complex;
- (D) Medical laboratory;
- (E) Medical office;
- (E.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (F) Personal service establishment;
- (G) Radio or television broadcasting office and studio;
- (G.1) Restaurant located within a shopping center or hotel;
- (H) Retail shopping establishment;
- (I) Utilities, as permitted by section 7-1200;
- (J) Accessory uses, as permitted by section 7-100.

5-202.1 Administrative special uses. The following uses may be allowed in the CRMU-M zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market.

5-203 Special uses. The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-209 below:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-202 (C.1);
- (F) Reserved
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-202(C.3);
- (I) Home for the elderly;
- (J) Hotel;
- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;
- (L) Nursing or convalescent home or hospice;
- (L.1) Outdoor food and crafts market, other than pursuant to section 5-202.1;
- (L.2) Outdoor garden center, other than pursuant to section 5-202.1
- (M) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (N) Restaurant, not covered in section 5-202(G.1).

5-210 Use limitations.

- (A) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (B) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (C) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 5-300 CRMU-H/Commercial residential mixed use (high).

5-302 Permitted uses. The following uses are permitted in the CRMU-H zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (C.1) Convenience store within an office complex;
- (C.2) Day care center;
- (C.3) Health and athletic club located within a shopping center, hotel or office

complex;

- (D) Medical laboratory;
- (E) Medical office;
- (E.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (F) Personal service establishment;
- (G) Radio or television broadcasting office and studio;
- (G.1) Restaurant located within a shopping center or hotel;
- (H) Retail shopping establishment;
- (I) Utilities, as permitted by section 7-1200;
- (J) Accessory uses, as permitted by section 7-100;
- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market.
- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-302 (C.1);
- (F) Reserved
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-302(C.3);
- (I) Home for the elderly;
- (J) Hotel;
- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;
- (L) Nursing or convalescent home or hospice;
- (L.1) Outdoor food and crafts market, other than pursuant to section 5-302.1;
- (L.2) Outdoor garden center, other than pursuant to section 5-302.1;
- (M) Private school, academic or commercial, with more than twenty students on the premises at one time;
- (N) Restaurant, other than pursuant to section 5-302 (G.1) or 5-302.1.

5-302.1 Administrative special uses. The following uses may be allowed in the CRMU-H zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market.

5-303 Special uses. The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-309 below:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;

- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-202 (C.1);
- (F) Reserved
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-202(C.3);
- (I) Home for the elderly;
- (J) Hotel;
- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;
- (L) Nursing or convalescent home or hospice;
- (L.1) Outdoor food and crafts market, other than pursuant to section 5-202.1;
- (L.2) Outdoor garden center, other than pursuant to section 5-202.1
- (M) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (N) Restaurant, not covered in section 5-202(G.1).

5-310 Use limitations.

- (A) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (B) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (C) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

Sec. 5-400 CRMU-X/Commercial residential mixed use (Old Town North) zone.

5-402 Permitted uses. The following uses are permitted in the CRMU-X zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (A.3) Motor vehicle parking or storage for 20 vehicles or fewer;
- (B) Utilities, subject to section 7-1200;
- (C) Accessory uses, as permitted by section 7-100.

5-402.1 Administrative special uses. The following uses may be allowed in the CRMU-X zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market.

5-403 Special uses. The following uses may be approved, subject to the procedures

and regulations for special use permits and subject to the limitations of section 5-609 below:

- (A) Multifamily dwelling;
- (B) Amusement enterprise;
- (C) Apartment hotel;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Business and professional office;
- (E) Bus shelter on private property;
- (F) Congregate housing facility;
- (G) Convenience store;
- (H) Day care center;
- (I) Fraternal or private club;
- (J) Health and athletic club;
- (K) Home for the elderly;
- (L) Hotel;
- (M) Medical care facility;
- (N) Medical laboratory;
- (O) Medical office;
- (O.1) Motor vehicle parking or storage for more than 20 vehicles;
- (P) Nursing or convalescent home or hospice;
- (P.1) Outdoor food and crafts market, other than pursuant to section 5-402.1;
- (P.2) Outdoor garden center, other than pursuant to section 5-402.1;
- (Q) Personal service establishment;
- (R) Pet supplies, grooming and training, with no overnight accommodations;
- (S) Private school, academic or commercial;
- (T) Public building;
- (U) Radio or television broadcasting office and studio;
- (V) Restaurant, other than pursuant to section 5-402.1;
- (W) Retail shopping establishment;
- (X) Social service use.

5-410 Use limitations.

5-600 CDD/Coordinated development district.

5-602 Coordinated development districts created, consistency with master plan, required approvals.

....

(E) Within each CDD, the following uses are permitted unless in specific conflict with the approved CDD concept plan or DSUP:

- (1) convenience store in an office complex;
- (2) health and athletic club in an office complex.

ARTICLE VI: SPECIAL AND OVERLAY ZONES

Sec. 6-600 Mount Vernon Avenue Urban Overlay Zone

6-603 Uses.

(D) *Administrative special uses.* Notwithstanding any contrary provisions of the zoning ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513.

- (1) Restaurants, up to a maximum of 60 seats
- (2) Outdoor dining, up to a maximum of 16 seats
- (3) Amusement enterprise, limited to live theater
- (4) Outdoor food and crafts markets
- (5) Neighborhood outdoor garden center, limited to a maximum size of 10,000 square feet
- (6) Outdoor display of retail goods

[Procedures and standards for the Mount Vernon Overlay administrative SUPs are moved and incorporated into section 11-513]

Sec. 6-700 KR/King Street Urban Retail Zone

6-702 Uses. Uses in the King Street urban retail zone are divided into two categories, depending on their location, in order to protect and enhance opportunities for existing and future retail uses. The two use categories, which are each further divided into permitted and special uses, are defined as followed:

Ground floor uses : Retail and other active uses are emphasized in the ground floor uses category. The ground floor uses category applies to uses to be located in the space within the first 50 feet of a building, measured from the front building wall, and in a building that is set back no further than 30 feet from a front property and with a first floor of the building within four feet above the sidewalk grade.

Upper floor uses : The second category of uses is all space that is not located within the ground floor of a building, as that is defined above. Upper floor uses may be located on floors above the ground floor, in the space on the ground floor beyond the 50 feet threshold for ground floor uses, and in buildings not considered retail appropriate because they are elevated above grade or set back an excessive distance from the street as expressed above.

(A) *Ground floor uses*

(1) *Permitted uses.*

- (a) Building lobby, with a frontage of less than 30 feet along King Street;
- (b) City sponsored farmers' market;
- (c) Personal service establishment, with a frontage of less than 30 feet along King Street;
- (d) Pet supplies, grooming/training with no overnight accommodations;
- (e) Retail shopping establishment, less than 10,000 square feet in size;

- (f) Utilities, as permitted by section 7-1200;
- (g) Accessory uses.

(2) *Special uses:*

- (a) Amusement enterprise;
- (b) Bakery, exceeding 3500 square feet, which includes a retail component;
- (c) Church;
- (d) Convenience store;
- (e) Health and athletic club;
- (f) Hotel;
- (g) Outdoor food and craft market;
- (h) Motor vehicle parking and storage, including as an accessory use to accommodate required parking, in a structure that is visually screened with active uses for at least 25 feet, measured from the property line on King Street.
- (i) Personal service establishment or building or hotel lobby, extending for more than 30 feet along King Street;
- (j) Public building;
- (k) Restaurant;
- (l) Retail shopping establishment, over 10,000 square feet in size;

(B) *Upper floor uses.*

(1) *Permitted uses:*

- (a) Any use permitted as a ground floor use under section 6-702(A)(1);
- (b) Multifamily dwelling units or accessory apartments;
- (c) Business and professional office;
- (d) Medical office;
- (e) Medical laboratory;
- (f) Personal service establishment;
- (g) Radio or television broadcasting office and studio.

(2) *Special uses:*

- (a) Any use allowed as a ground floor special use under section 6-702(A)(2);
- (b) Apartment hotel;
- (c) Catering operation;
- (d) Congregate housing;
- (e) Day care center, day nursery or nursery school;
- (f) Home for the elderly;
- (g) Fraternal or private club;
- (g.1) Massage establishment;
- (h) Medical care facility;
- (i) Motor vehicle parking or storage;
- (j) Newspaper office, including printing and publishing facilities;
- (k) Private school, commercial or academic;

- (l) Rooming house;
- (m) Social service use;
- (n) Wholesale business.

(C) *Administrative special uses.* Notwithstanding any contrary provisions of this ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513 of this ordinance:

- (1) Valet parking;

[Standards and procedures for King Street administrative SUPs are moved and incorporated into section 11-513]

6-707 Use limitations.

(A) All operations, except those administrative uses enumerated in section 6-702(C) (1) shall take place within a completely enclosed building except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use.

(B) Appliance sales, repair and rental shall be limited to small appliances only, such as televisions, radios, lawnmowers, kitchen counter and small electronic appliances and like items which do not exceed one horsepower in size.

(C) No use shall be conducted in any manner which would render it noxious or offensive by reason of dust, refuse matter, odor, smoke, gas fumes, noise, vibration or glare.

(D) The property owner and occupant shall maintain all building and property appurtenances located within or over the public right-of-way in a safe, clean and attractive fashion, as reasonably determined by the director.

(E) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to the opening of its place of business.

ARTICLE XI: DEVELOPMENT APPROVALS AND PROCEDURES

Sec. 11-500 Special use permits.

11-503 Procedure.

Section 11-511 *Administrative Amendment to SUP.* The director is authorized to approve the following amendments to special use permits under the following circumstances and procedures.

(A) *Amendments Authorized.*

Change in ownership. Where an application is necessitated solely by a change

in ownership of the use, the director may administratively approve such application and transfer the special use permit to the new applicant after determining that there have been no substantiated violations of the special use permit conditions which were not corrected immediately, constitute material or repeat violations or which created a material and direct adverse impact on the surrounding community.

Minor Amendment. Where an application proposes a change to a City Council approved special use permit which constitutes no more than a minimal enlargement or extension, the director may administratively approve the change after determining that:

- (a) the changes are so insignificant, when the overall use is considered, that they will have little or no zoning impact on the adjacent properties or the neighborhood;
- (b) the proposal will not change the character of the use or increase its overall intensity, including, without limitation, no more than the following increases:
 - (i) two additional hours of operation, but not to exceed hours consistent with an established neighborhood standard;
 - (ii) 10% additional restaurant seats;
 - (iii) 10% additional classroom seats;
 - (iv) 10% additional equipment;
 - (v) 10% additional floor area;
 - (vi) similar increases for other aspects of the use;
- (c) there have been no substantiated violations of the special use permit conditions within the last five years;
- (d) the proposed change when considered in conjunction with all amendments since City Council approval, constitutes no more than a single minor amendment as defined by Section 11-511 and when compared to the original approval.

Special Events. Notwithstanding any provision of this ordinance to the contrary, the director may approve a temporary extension in the hours of operation of a business subject to an approved special use permit, to coincide with the hours of operation of an event, promotional program or city-sponsored festival in which the business is participating. The procedures required under this section 11-511 shall not apply in such cases.

- (B) *New Conditions.* New conditions or amendments to existing conditions may be added if they are either:
- (a) standard conditions promulgated by the director, approved by City Council and agreed to by the applicant in writing; or
 - (b) such additional conditions as the director finds necessary for the public benefit, in keeping with the use and the special use permit approved therefor, and agreed to by the applicant in writing.

- (C) *Procedure.*

(1) The Director shall placard the property, cause email notice to the affected

civic associations and prominently post a list of pending administrative applications on the department web page for review by the public. Such notice shall be given at least 14 days prior to the approval of an amendment under this section.

- (2) An application for an administrative approval under this section 11-511 which is not approved by the director shall be subject to the same procedural requirements of any other application for a special use permit.
- (3) The director is authorized to issue regulations governing administrative approvals issued under this section 11-511.
- (4) The director's decision may be appealed to the planning commission by a person affected by the decision by filing a notice of appeal with the department of planning and zoning within 14 days from the date of the decision appealed; provided, however, that in the case of a restaurant use, the notice of appeal may be filed within 30 days from the date of the decision appealed. The notice shall be a written statement specifying the grounds on which the appellant is affected and the basis of the appeal. The Planning Commission shall hold a public hearing on the appeal, with notice pursuant to section 11-300 provided, and may affirm, reverse or modify the director's decision, or vacate the decision and remand the matter to the director for further consideration.

11-513 Administrative Special Use Permit. An applicant may seek the director's approval of a use identified in this ordinance as one for which administrative special use permit approval is available pursuant to the standards and procedures outlined in this section.

(A) Jurisdiction and procedures for administrative approval.

- (1) An applicant for an administrative SUP under this section shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose. The application shall include a statement identifying the applicant as required by section 11-503 of this ordinance.
- (2) Notice of a pending administrative permit application shall be made in a newspaper of general circulation in the city, posted on the subject property, given to nearby civic and business associations by email, and prominently posted on the department web page in a list of pending administrative applications for review by the public. The public may submit comments to the director regarding the application. No application may be approved sooner than 21 days from the time notice is given to the public.
- (3) The application shall be reviewed for compliance with this section 11-513 as well as with applicable provisions of section 11-500.
- (4) As an alternative to an administrative approval, an applicant may choose to seek special use permit approval pursuant to section 11-500 of the zoning ordinance.
- (5) After review the director may approve, approve with conditions, or deny

the application. An approval by the director shall be deemed to have the force and effect of a special use permit, under section 11-500, except that provisions of 11-507 shall not apply.

- (6) The director may determine that administrative approval is not appropriate and that special use permit approval shall be required if the proposal will not be compatible with the adjacent and surrounding properties, if the applicant fails to meet the standards for the permit, if the applicant fails to consent to the conditions of the administrative permit or if after consultation with the police department it is determined that there are criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator.
- (7) In the event any person, whether owner, lessee, principal, agent, employee or otherwise, materially fails to comply with any standard of this section, the director may suspend or revoke the administrative approval in whole or in part and on such terms and conditions as deemed necessary to effect the cure of such failure. The applicant or his successor in interest may appeal this suspension or revocation pursuant to section 11-205(B) et. seq. of this ordinance, except that such appeal shall be heard by the planning commission.

(B) Appeals.

- (1) Any person affected by a decision of the director issued pursuant to section 11-513 (A)(5) may appeal the decision to the planning commission, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the director within 14 days of the issuance of the decision; provided, however, that in the case of a restaurant use, the notice of appeal may be filed within 30 days of the issuance of the decision.
- (2) The planning commission shall conduct a public hearing on any appeal filed pursuant to section 11-513(B)(1), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the planning commission may affirm, reverse or modify the decision of the director, or vacate the decision and remand the matter to the director for further consideration.
- (3) Any person affected by a decision of the planning commission issued pursuant to section 11-513(B)(2) may appeal the decision to the city council, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the city clerk within 5 days of the issuance of the decision.
- (4) The city council shall conduct a public hearing on any appeal filed pursuant to section 11-513(B)(3), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the council may affirm, reverse or modify the decision of the commission, or vacate the decision

and remand the matter to the planning commission or the director for further consideration.

(C) *General standards for all administrative uses:*

- (1) The administrative permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. Any change in the ownership of the use that is the subject of the administrative permit may be transferred administratively with the approval of the director pursuant to the requirements of section 11-511 of this ordinance.
- (2) The applicant shall provide information about alternative forms of transportation to access the location of the use, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods.
- (3) The applicant shall encourage its employees and customers to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities.
- (4) At such time as an organized parking program is adopted by city council to assist with employee or customer parking for the area in which the subject property is located, such as a shared parking program or the Park Alexandria program, the applicant shall participate in the program.
- (5) The applicant shall require its employees who drive to work to use off-street parking.
- (6) The applicant shall install signs inside the building indicating the location of off-street parking in the area and shall inform customers about the parking.
- (7) Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape or invasion by animals. No trash and debris shall be allowed to accumulate outside of those containers. Outdoor trash receptacles shall be screened to the satisfaction of the director.
- (8) The applicant shall contact the crime prevention unit of the Alexandria Police Department for a security survey and robbery awareness program for employees prior to the operation of the business.
- (9) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation.
- (10) The use must comply with the City's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line.
- (11) The administrative permit approved by the director pursuant to this section 11-513 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list

of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.

- (12) Improvements may be required to the facade or the front of the business establishment, including landscaping and site improvements, consistent with design guidelines and principles enumerated in the adopted small area plan for the neighborhood, and as determined by the director to be necessary and appropriate to achieve the design and streetscape objectives of that plan.
 - (13) The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and methods to prevent underage sales of alcohol.
 - (14) The director may require conditions additional to those listed in the standards of this section if the director finds it to be reasonable to support the use and its compatibility with surrounding uses and the neighborhood.
 - (15) The request will not significantly and negatively impact nearby residential neighborhoods.
- (D) *Specific standards for day care in a church or school building.*
- (1) The facility shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
 - (2) The facility shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
 - (3) The facility shall be located on a site so that adequate distance or buffering is provided to protect nearby residential uses from impacts from the use.
- (E) *Specific standards for live theater:*
- (1) The applicant may offer limited wine and beer sales in conjunction with performances at the intermission or one hour before the performances commence, with the appropriate licenses as required by law.
 - (2) The applicant may offer wine and beer in conjunction with a show opening or other wine and cheese event, with the appropriate licenses as required by law. A maximum of one event each month is permitted.
 - (3) The hours of performances shall be limited to 11:00 a.m. to 11:00 p.m. daily.
- (F) *Specific standards for outdoor food and crafts markets:*
- (1) No alcohol sales shall be permitted;
 - (2) No on-site storage of trailers is permitted;
 - (3) No on-site food preparation shall be permitted;
 - (4) The hours of operation shall be limited to 7:00 a.m. to sundown and the market shall be open on those days specified in the approved permit, not to exceed a maximum of two days a week.
 - (5) Market operations shall include:
 - (a) The applicant shall designate one person to serve as the market

- master, and another person to serve as alternate, and shall provide the names of those persons and their home and work telephone numbers to the director prior to the opening of the market;
- (b) The market master or his/her designee shall be present prior to the opening of the market and at the closing of the market and shall oversee the cleanup of the lot and adjacent sidewalk areas at the end of the market;
 - (c) The market master shall prepare a plan for the layout of the market for approval by the director prior to beginning operations, and shall obtain approval of the director for any changes to those plans.
 - (d) The market master shall prepare a set of rules for operation of the market for approval by the director who shall review any changes to those rules. Copies of those rules shall be given to each vendor, to nearby residents and businesses, and to the civic associations in the vicinity;
 - (e) The rules shall state who is eligible to sell goods in the market and under what conditions. It is expected that the market shall include the sale of produce, and baked and prepared goods, and that the produce will be predominantly grown by the vendors, except during the spring and late fall when resale produce may predominate;
 - (f) The market master shall maintain a list of vendors with addresses and telephone numbers.
- (6) All vendors shall adhere to, and the market master shall enforce, appropriate food safety guidelines developed by the Alexandria Health Department.

(G) *Specific standards for outdoor garden center:*

- (1) The site for the outdoor garden center may be no larger than 10,000 square feet.
- (2) The hours of operation shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Saturday, and from 8:00 a.m. to 8:00 p.m. on Sunday.
- (3) A plan showing the layout of the garden center, including areas for storage, on site deliveries, and vehicles; appropriate screening; the design of any building or structure; and the view from Mount Vernon Avenue and neighboring properties shall be submitted for review and approval by the director.
- (4) Deliveries shall be limited to during normal business hours and shall occur in the location shown in the approved plan.
- (5) The use shall be located a suitable distance or otherwise protected from nearby residential uses in order to avoid undue impacts.

(H) *Specific standards for outdoor display* Notwithstanding any contrary provisions of this ordinance, the display of goods from a retail sales establishment is permitted, subject to the following:

- (1) The requirements of section 4-107(A) shall apply.
- (2) Only goods from the adjacent store are permitted to be displayed.
- (3) Signage for the outdoor display is allowed in addition to signage otherwise permitted for the business, but shall be limited to a maximum aggregate size of one square foot.
- (4) No sales may occur in the outdoor display area.
- (5) The outdoor display area may include no structures or other permanent changes to the exterior.
- (6) There shall be no music, speakers, or amplified sounds associated with the outdoor display.
- (7) The approved duration of the outdoor display shall be specified in the permit which may but is not required to be limited to four times a year.
- (8) The outdoor sales may not encroach into the public right-of-way.

(I) *Specific standards for catering operation .*

- (1) The applicant shall post the hours of operation at the entrance of the business.
- (2) No alcohol service is permitted.
- (3) No food, beverages, or other material shall be stored outside.
- (4) The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by Transportation & Environmental Services.
- (5) Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m.
- (6) The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "Solid Waste and Recyclable Materials Storage Space Guidelines", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: www.alexandriava.gov or contact the City's Solid Waste Division at 703-519-3486 ext.132.
- (7) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.

(J) *Specific standards for light automobile repair.*

- (1) Repair work done on the premises shall be limited to light automobile repair.
- (2) No repair work shall be done outside.
- (3) No junked, abandoned, or stripped vehicles shall be parked or stored outside.

- (4) No vehicles shall be loaded or unloaded on the public right-of-way.
- (5) No debris or vehicle parts shall be discarded on the public right-of-way.
- (6) No vehicles shall be displayed, parked, or stored on a public right-of-way.
- (7) No vehicle parts, tires, or other materials shall be permitted to accumulate outside except in a dumpster or other suitable trash receptacle or enclosure.
- (8) The area around the building shall be kept free of debris and maintained in an orderly and clean condition.
- (9) All waste products including but not limited to organic compounds (solvents), motor oils, and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and shall not be discharged to the sanitary or storm sewers.
- (10) The applicant shall comply with the City of Alexandria Best Management Practices manual for automotive related industries. Contact the T&ES Engineering division (703)383-4327 to obtain a copy of the manual.
- (11) The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- (12) Car wash discharges resulting from a commercial operation shall not be discharged into a storm sewer. It is recommended that the car washes be done at a commercial car wash facility.

(K) *Specific standards for overnight pet boarding.*

- (1) The applicant shall comply with the Virginia Department of Agriculture and Consumer Services Division of Animal Industry Services laws and Animal Care, Control, Property and Protection Laws of Virginia regarding Boarding Establishments.
- (2) The applicant shall submit a plan for review and approval to the Health Department that includes proposed methods of ventilation, storage and operations in order to address issues including, without limitation, noise, and waste and odor control.

(L) *Specific standards for restaurants.*

- (1) The number of seats at the restaurant may not exceed 60.
- (2) The restaurant shall offer full service, including printed menus and wait service provided at tables and preset tables with nondisposable tableware.
- (3) The hours of operation shall be no greater than the prevailing hours

of similar uses in the area, but in no event shall the restaurant stay open later than 12:00 midnight or open earlier than 5:00 a.m. Within the Mount Vernon Avenue Overlay zone and the NR zone areas, hours are limited to from 6:00 a.m. to 11:00 p.m., Sunday through Thursday, and from 6:00 a.m. to midnight, Saturday and Sunday, although the closing hour for indoor seating may be extended until midnight four times a year for special events.

- (4) The applicant shall post the hours of operation as well as the location of off street parking at the entrance to the restaurant.
- (5) Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour.
- (6) Limited, live entertainment may be offered at the restaurant. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment.
- (7) Full service restaurants with a minimum of 40 seats may offer delivery service which shall be limited to one delivery vehicle, with a dedicated off-street parking space, and shall not be parked on the public right-of-way. No delivery of alcoholic beverages is permitted.
- (8) Full alcohol service, consistent with a valid ABC license is permitted. No off-premise alcohol sales are permitted. Within the Mount Vernon Avenue Overlay zone and the NR zone areas, alcohol service is limited to table service.
- (9) No food, beverages, or other material shall be stored outside.
- (10) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- (11) The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the department of transportation and environmental services.
- (12) Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m.
- (13) The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "Solid Waste and Recyclable Materials Storage Space Guidelines", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: www.alexandriava.gov or contact the City's Solid Waste Division at 703-519-3486 ext.132.

(M) *Specific standards for outdoor dining.*

- (1) Outdoor dining shall be accessory to an approved indoor restaurant.
- (2) Outdoor dining, including all its components such as planters, wait stations and barriers, shall not encroach onto the public right of way unless authorized by an encroachment ordinance.
- (3) A maximum of 20 seats may be located at outdoor tables in front of the restaurant. The outdoor seats permitted are in addition to the indoor seats.
- (4) The hours of operation for the outdoor dining shall be the same as permitted for the indoor restaurant.
- (5) No live entertainment shall be permitted in the outdoor seating area.
- (6) Outdoor seating areas shall not include advertising signage, including on umbrellas.
- (7) On site alcohol service, to the extent allowed for indoor dining, is permitted; no off-premise alcohol sales are permitted.
- (8) A plan shall be submitted with dimensions showing the layout for the outdoor dining area and depicting the design, location, size and space of the dining area, chairs, tables, barriers, umbrellas planters, wait stations, and other components to be located within the area, and such additional information as the Director may reasonably require.
- (9) The outdoor dining area shall be cleared and washed at the close of each business day that it is in use.
- (10) Within the NR zone area, parking is not required for the first 16 outdoor seats.
- (11) The provisions of the King Street outdoor dining overlay zone in section 6-800 apply to regulate outdoor dining within the Central Business District.

(N) *Specific standards for valet parking. -*

- (1) The applicant shall submit a detailed plan for approval by the director and the director of transportation and environmental services. The plan shall include the following at a minimum:
 - (a) The location of the drop off area as well as the location for the parked vehicles to be stored;
 - (b) The proposed days and hours of operation of the valet parking plan;
 - (c) The number of spaces available at the vehicle storage site, which shall be of sufficient capacity for the use or uses from which vehicles will be valeted;
 - (d) Adequate assurance that the owner and operator of the vehicle storage site is agreeable to the proposed valet plan;
 - (e) The size and design of the drop off site and identification

of any on street parking spaces that will be lost during the period that the valet parking plan is in effect, such spaces to be kept to a minimum;

(f) Demonstration that the location of the drop off site will not interfere with traffic, remaining parking, bus stops, or transit passengers or pedestrians;

(g) The proposed graphics for the drop off site, including signage and uniformed staff, with sufficient visibility but designed to be compatible with the streetscape as determined by the director;

(h) The proposed number of attendants, which shall be sufficient to adequately staff the operation; and

(i) If the proposed valet plan includes more than one business, the identity of the party or entity responsible for compliance with the approved valet parking plan.

- (2) No vehicle shall be parked or temporarily stored by an attendant on streets, sidewalks.
- (3) No structures are permitted in conjunction with a valet parking program, unless associated with a shared parking program among several businesses, and only after the design is reviewed for comment by the Old and Historic Alexandria district board of architectural review.
- (4) An approved permit for a valet parking operation shall be valid for an initial six month period, after which it shall be reviewed for compliance with these standards and for its effectiveness in handling the drop off, ferrying, parking and retrieving of vehicles efficiently and effectively, and without undue interference with non-valet parking and traffic. If, on review, the directors determine that the valet parking program has operated successfully and in compliance with its permit, then the permit shall be extended indefinitely, with a similar review to occur at the end of each one year period from that point forward. As part of the initial or annual review under this paragraph, the directors may require the operator to adjust the features of the program or, alternatively, to apply for a special use permit if there are concerns about the effectiveness, success or impacts of the valet parking program.
- (5) The provisions of section 8-300 of this ordinance, requiring an SUP for valet parking, shall not apply for valet parking approved under this section 11-513(M). In addition, a permit approved under this section may authorize valet parking to displace otherwise required parking spaces, notwithstanding the requirements of section 8-200, if it is determined that those spaces are not in demand during the times that the valet parking program will be in effect and that the use of the spaces for the valet parking program will reduce potential parking congestion on the public streets.

Section 2. That the city attorney be, and hereby is, directed to codify the foregoing amendments in 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 may be filed after such date; provided, however, that (1) for any use which prior to adoption of this ordinance operated under a special use permit, and which becomes a permitted use, for which no special use permit of any category is required, the existing special use permit shall cease to have any force and effect; (2) for any use which prior to the adoption of this ordinance operated under a special use permit, and which becomes a use for which an administrative special use permit may be obtained, the prior special use permit shall remain in force and effect, until such time, if ever, as a new administrative special use permit for the use is applied for and approved pursuant to this ordinance; (3) this ordinance shall have no application to any CO Planned Residential/Commercial Development, and (4) the provisions of this ordinance shall not preempt any conditions in any Development Special Use Permit or CDD Concept Plan approved prior to adoption of this ordinance, which conditions pertain to the establishment of restaurants and other uses which may be classified as permitted uses or administrative special use permit uses under this ordinance, and the conditions of such Concept Plan or Development Special Use Permit shall continue in force and effect.

15. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Amend the Master Plan to Incorporate Approved Changes Within the Braddock East Plan Area. (#21, 12/9/08) **[ROLL-CALL VOTE]**

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 12/13/08, 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. 15; 12/13/08, 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 adopted the ordinance to amend the master plan to incorporate approved changes within the Braddock East Plan Area. 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. 4574

AN ORDINANCE to amend and reordain the 1992 Master Plan (2008 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. 2008-0005 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. 2008-005, an application has been made to amend the Braddock Metro Neighborhood Plan and the North East Small Area Plan Chapters of the 1992 Master Plan (2008 ed.) of the City of Alexandria, to include amendments for the Braddock East Master Plan, 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 Braddock Metro Neighborhood Plan and the North East Small Area Plan Chapters of the 1992 Master Plan (2008 ed.) of the City of Alexandria, be, and the same hereby are, amended to include amendments for the Braddock East Master Plan, as attached hereto and incorporated fully herein by reference, with the amendments to said Master Plan adopted by City Council on October 18, 2008.

Section 2. That the director of planning and zoning be, and hereby is, directed to record all of the foregoing amendments of the Braddock Metro Neighborhood Plan and the North East Small Area Plan Chapters of the 1992 Master Plan (2008 ed.) of the City of Alexandria, Virginia, to include amendments for the Braddock East Master Plan as amended by City Council.

Section 3. That all provisions of the of the 1992 Master Plan (2008 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 (2008 ed.) of the City of Alexandria, as amended by this ordinance, be, and the same hereby is, reordained as the 1992 Master Plan (2008 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.

16. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Amend the Zoning Ordinance to Incorporate a New CDD Within the Braddock East Plan Area. (#22, 12/9/08) **[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; 12/13/08, 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. 16; 12/13/08, 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 adopted the ordinance to amend the Zoning Ordinance to incorporate a new CDD within the Braddock East Plan Area. 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. 4575

AN ORDINANCE to amend and reordain Table 1 (COORDINATED DEVELOPMENT DISTRICTS) of Section 5-602(A), under Section 5-600 (CDD/COORDINATED DEVELOPMENT DISTRICTS), by adding thereto a new CDD No. 16 (JAMES BLAND), and to amend and reordain Sheets 054.02-09-01, 054.02-10-01, 054.02-11-01, 054.04-01-01 and 054.04-07-01 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 (OFFICIAL ZONING MAP AND DISTRICT BOUNDARIES), to designate land zoned CDD No. 16, all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment and rezoning heretofore approved by city council as Text Amendment No. 2008-0007 and Rezoning No. 2008-0001.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2008-0007 and Rezoning No. 2008-0001, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, approved an application to establish a new CDD No. 16, for approximately 348,595 square feet known as 918 North Columbus Street, 898 & 998 North Alfred Street and 801 & 808 Madison Street; Zoning and Tax Map Parcel Nos. 054.02-09-01, 054.02-10-01, 054.02-11-01, 054.04-01-01 and 054.04-07-01;

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

3. 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 Table 1 of Section 5-602(A) be, and the same hereby is, amended to by adding thereto the following new language for CDD No. 16, James Bland:

CDD #	CDD Name	Without a CDD Special Use Permit	With a CCD Special Use Permit
			Maximum FAR and/or Development LevelsMaximum HeightUses
16	James Bland	RB/Residential Townhouse Zone regulations shall apply	The development controls, including FAR and number of units for land within this CDD, as shown in the approved CDD-16 Concept Plan, in addition to the Braddock East Master Plan provisions in the Braddock Metro Neighborhood Plan. Any proposed development shall conform to the Braddock Metro Neighborhood Plan Design GuidelinesThe maximum heights shall conform to the CDD-16 Concept Plan.Mix of residential uses (townhouse & multifamily) & open space

Section 2. That Sheets 054.02-09-01, 054.02-10-01, 054.02-11-01, 054.04-01-01 and 054.04-07-01 of the "Official Zoning Map, Alexandria, Virginia," adopted by Section 1-300 of the City of Alexandria Zoning Ordinance, be, and the same hereby are, amended by changing the zoning of the property described above and as shown on the sketch plan entitled DSUP #2008-0013 dated October 7, 2008, attached hereto and incorporated fully by reference as Exhibit 1,

From: RB / Residential Townhouse Zone
To: CDD No. 16

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

Section 4. That Section 5-602(A), as amended pursuant to Section 1 of this ordinance, and Sheets 054.02-09-01, 054.02-10-01, 054.02-11-01, 054.04-01-01 and 054.04-07-01 of the "Official Zoning Map, Alexandria, Virginia," as amended pursuant to Section 2 of this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

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

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Planning Commission (continued)

17. SPECIAL USE PERMIT #2008-0044
251 WEST GLEBE ROAD (Parcel Address: 221 West Glebe Road)
CERRO VERDE RESTAURANT
Public Hearing and Consideration of a request for the expansion of an existing restaurant and a request for an amusement enterprise; zoned CDD-12/Coordinated Development District. Applicant: Latin Del Ray, LLC by Wayne Neale

PLANNING COMMISSION ACTION: DEFERRED (applicant's request)

END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR

City Council noted the deferral.

OTHER

18. Consideration of City Council Schedule.

(A copy of the City Manager's memorandum dated December 10, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 18; 12/13/08, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council adopted the City Council schedule of budget meetings for the coming months, with the notation that the regular budget work sessions should begin at 6:30 instead of 7:00. The voting was as follows:

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

19. City Council Receipt of the Independent Reviewers Report Related to the Norfolk Southern Ethanol Transloading Facility.

Mr. Steven Jansen and Mr. David LaBahn presented the independent reviewers report and responded to questions of City Council.

City Council noted that it would need to meet in Executive Session in the near future, inviting Mr. Jansen and Mr. LaBahn to be present with City Council, Council also asked that the Report be put on the City's website immediately and copies be made available for the public, with a footnote on page 36 highlighting Mr. Jansen's comments that they are observations so more is not to be read into it, and also that there be a public work session so questions can be asked about the process issues.

WHEREUPON, upon motion by Vice Mayor Pepper, seconded by Councilman Gaines and carried unanimously, City Council received the Independent Reviewers Report related to the Norfolk Southern Ethanol Transloading facility. The voting was as follows:

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

20. Report on Designation of the Acting City Attorney.

City Attorney Pessoa announced that he has named Assistant City Attorney Chris Spera as the Acting City Attorney upon his retirement at the end of December.

EXECUTIVE SESSION

21. Consideration of Convening An Executive Session Closed to the Public to Interview Candidates For Appointment to Boards and Commissions.

WHEREUPON, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried unanimously, at 12:36 p.m., City Council convened

in Executive Session, pursuant to Section 2.2-3711(A)(1) for the purpose of interviewing candidates and discussing the appointment of members of the ARHA Board. The voting was as follows:

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

WHEREUPON, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried 6-0, at 3:11 p.m., City Council reconvened the meeting. The voting was as follows:

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

WHEREUPON, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried 6-0 by roll-call vote, City Council adopted the resolution pertaining to the Executive Session. The voting was as follows:

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

The resolution reads as follows:

RESOLUTION NO. 2312

WHEREAS, the Alexandria City Council has this 13th day of December 2008, recessed into executive session pursuant to a motion made and adopted in accordance with the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the city council that such executive session was conducted in accordance with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the city council does hereby certify that, to the best of each member's knowledge, only public business matters that were identified in the motion by which the executive session was convened, and that are lawfully exempted by the Freedom of Information Act from the Act's open meeting requirements, were heard, discussed or considered by council during the executive session.

* * * * *

THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried unanimously, the City Council public hearing meeting of December 13, 2008, was adjourned at 3:12 p.m. The voting was as follows:

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

APPROVED BY:

WILLIAM D. EUILLE MAYOR

ATTEST:

Jacqueline M. Henderson, CMC, City Clerk