

DOCKET ITEM #10

EXHIBIT NO. 1123-14-09**Text Amendment #2009-0001****Extension of the Validity Period for Approved Site Plans**

<b>Project Name:</b> Extension of the Validity Period for Approved Site Plans and Development Special Use Permits	Planning Commission Hearing:	March 5, 2009
	City Council Hearing:	March 14, 2009

**Proposal:**

Request for text amendments to sections 10-106, 10-206, 11-418, and 11-506 of the City of Alexandria Zoning Ordinance to extend the validity period of approved site plans and development special use permits, along with associated permits or plans.

**Staff:** City of Alexandria, Planning and Zoning

**PLANNING COMMISSION ACTION, MARCH 5, 2009:** On a motion by Mr. Wagner, seconded by Ms. Fossum, the Planning Commission voted to initiate this text amendment. After the subsequent public hearing, the Planning Commission, on a motion by Mr. Wagner, seconded by Ms. Lyman, voted to recommend approval of the text amendment to extend the validity period of approved site plans and development special use permits, and associated permits and plans. The motion passed on a vote of 6 – 0 with Mr. Dunn absent from the meeting.

**Reason:** The Commission agreed with staff's analysis.

**Speakers:**

Poul Hertel, representing Old Town Civic Association, spoke in opposition stating that Alexandria should not be compared to other jurisdictions and that the public process should not be marginalized.

Collin Lee, representing the Inner City Civic, spoke in opposition stating that extending the validity period will encourage developers to wait for better financial conditions before starting to build. Mr. Lee also commented that the public should not have to suffer with undeveloped land because staff is unable to review projects within 18 months.

Jack Sullivan, representing Seminary Hill Association, spoke in opposition citing an example of a development that was approved despite the public's opposition but was not built because the approval expired. He also expressed concern that extending the validity period will allow developers time to flip properties for profit.

Katy Cannaday, resident, spoke in opposition stating that neighborhood improvement projects are often tied to development approvals and if the developer doesn't move forward the neighborhoods get nothing. The best solution is to let the SUP expire and let the land be encumbered for more practical uses that are more likely to occur.

## Extension of Validity Period for Approved Site Plans

Joanna Frizzell, president of NVBIA, spoke in support and stated that the amendment is necessary due to lengthy final site plan and building permit process. Builders are anxious to get buildings built and that a longer validity period would not encourage them to delay building. Ms. Frizzell also spoke of the difficulty for developers to get financing in the current financial environment, and that extending the validity period will allow developments that are already approved to actually be built.

Stewart Bartley, co-owner of Mt. Vernon Commons and citizen, spoke in support of extending the validity period stating that the final site plan process is a lengthy process, and that financing for development has become more difficult to obtain. Mr. Bartley asked the Commission to consider that final site plan review time frames are different depending on the scale and complexity of project. Small scale and less complex projects are able to move through the final site plan process faster than large, more complex projects.

Duncan Blair, resident, spoke in support stating that the current economy makes it very difficult to finance developments in a timely manner and that the amendment allows time for projects that have gone through a lengthy preliminary and final site plan process to continue to move forward without having to get costly extensions.

## **I. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission initiate and recommend approval of the proposed amendments to Sections 10-106, 10-206, 11-418, and 11-506 of the City of Alexandria Zoning Ordinance so as to extend the validity period of approved site plans and development special use permits, along with associated permits or plans, and send these amendments forward to the City Council for action.

## **II. BACKGROUND**

The validity period for site plans and development special use permits is currently 18 months. Because of the current economic situation and its impact on obtaining financing for projects and because of the length of time it takes to go through the detailed final site plan process, there have been suggestions from the building community to extend this validity period.

Staff has researched the validity periods used in other jurisdictions around the region. The City of Alexandria's current validity period seems to be one of the shortest – see chart that follows on the next page.

In addition to local discussions about extension of validity periods, the Commonwealth of Virginia is working on legislation – House Bill #2077 – to extend the validity periods for a wide range of regulatory approvals to July 1, 2014. It is staff's understanding that this Bill has passed the House and the Senate.

### Washington Metro Area Jurisdictions

### Comparison of Validity Periods for Site Plans, Historic Preservation Certificates, and SUPs/Special Exceptions

Jurisdiction	Validity Period		
	Site Plans	Historic Preservation Certificate of Appropriateness	SUPs/Special Exceptions
Arlington County	3 yrs from date of approval	1 yr from date of approval	3 yrs from date of approval, but at the discretion of the County Board
Fairfax County	5 yrs from date of approval or longer, as determined by the Director; extensions may be approved administratively	2 yrs or for such longer period as may be deemed appropriate by the approving body from the date of approval or from 12/6/1994, whichever occurs later, and shall continue for the life of the Building Permit or sign permit; Architectural Review Board may grant up to 1 yr extension if no Building Permit or sign permit has been issued within the initial approval period	Board of Supervisors established expiration date or 30 months from approval date, unless additional time is approved by the Board
Loudoun County	5 yrs from date of approval; site plan amendments - 1 yr from date of approval	Indefinite	5 yrs from date of approval, but validity period may be extended by Board of Supervisors
Montgomery County	Site plan takes effect when the final record plat is recorded for all of the property covered by the approved preliminary plan; site plan expiration depends on the expiration date of the underlying approved preliminary plan	Indefinite	24 months from date of approval by Board of Appeals, Hearing Examiner, or County Council; extensions may not exceed 12 months
Prince Georges County	Valid for 3 years, unless otherwise specified in the Z.O. or by the authority granting approval	2 yrs from date of approval	none, unless associated with a site plan
Washington, D.C.	As determined by Planning Commission	2 yrs from date of approval by Historic Preservation Review Board; may be extended additional 2 yrs	2 yrs from date of approval by Board of Zoning Adjustment

### **III. PROPOSED TEXT AMENDMENTS**

Staff, in consultation with the City Attorney's Office, is recommending that the Planning Commission initiate and recommend approval of the proposed text amendments to achieve the following goals:

1. Amending section 11-418 to extend the validity period for site plans and development special use permits (DSUPs) approved on or after April 1, 2009 from 18 months to 36 months.
2. Amending section 11-418 to extend the validity period for site plans and DSUPs that have received final approval prior to April 1, 2009 for an additional three years.
3. Amending section 11-418 to assure that any other permit or plan associated with all extended site plans and DSUPs is also extended to run and expire concurrently.
4. Amending section 11-418 to assure that properties subject to these extensions shall be maintained in good order and repair.
5. Amending section 10-106 and 10-206 to assure that historic certificates of appropriateness that are associated with extended site plans or DSUPs shall be coincident with the extended validity of the site plans or DSUPs.
6. Amending section 11-506 to assure that special use permits used with new construction that are associated with extended site plans or DSUPs shall be coincident with the extended validity of the site plans or DSUPs.

Number 4 above is the result of discussions with civic groups (including the Federation of Civic Associations and the Del Ray Land Use Committee) who wish to assure that extended validity periods do not result in vacant sites that will become eyesores in the neighborhood.

The detailed amendments that are recommended by staff are attached to this report.

### **IV. CONCLUSION**

Extension of validity periods as proposed in the attached recommendations will 1) bring Alexandria's practices into closer alignment with regional trends; 2) assist the development community during these difficult economic times; and 3) allow for sufficient time to get through the final site plan process. For all of these reasons, staff recommend that the Planning Commission initiate and recommend approval of the proposed amendments to sections 10-106, 10-206, 11-418, and 11-506 of the City of Alexandria Zoning Ordinance and send these amendments forward to the City Council for action.

**V. DETAILED TEXT AMENDMENTS RECOMMENDED BY STAFF**

**Underlining indicates proposed new language; strikethrough indicates proposed deleted language.**

*Article XI. DEVELOPMENT APPROVALS AND PROCEDURES**Division B. Development Approvals.**Site Plan**Sec. 11-418 Time of validity.*

- (A) A site plan or development special use permit approved pursuant to the provisions of this section 11-400 shall expire and become null and void as to any uncommenced construction and any uncompleted construction, unless substantial construction of the project approved in such plan is commenced within ~~18~~ 36 months after initial planning commission approval of the plan, or council approval in case of appeal, and such construction is thereafter pursued with due diligence; provided, that upon petition by the ~~site plan~~ applicant, property owner or any successor in interest, filed with the director of ~~transportation and environmental services~~ planning and zoning prior to the expiration of the period herein limited, including expiration occasioned by any interruption in substantial construction activity on a building of more than 12 consecutive months and, in case of a multi-building project, any interruption in substantial construction activity of more than 24 consecutive months between the substantial completion of one building and the commencement of substantial construction of another building, and after notice and public hearing, the planning commission may, for good cause shown, enlarge the period in which construction must be commenced or amend the requirement for due diligence in the pursuit of construction. As used in this ordinance, due diligence means action characterized by the steady, earnest, attentive, energetic and successful or productive marshalling and application of all necessary resources and efforts in order to construct and complete an approved project.
- (B) Notwithstanding any contrary provision of this ordinance, the period of validity of any other permit or plan associated with such site plan or development special use permit and approved pursuant to this ordinance shall be extended to run and expire concurrently with the site plan or development special use permit.
- (C) The amendment extending site plan or development special use permit validity to 36 months in subsection (A) and the provisions of subsection (B), above, shall apply to all site plans and development special use permits approved on and after April 1, 2009.
- (D) In addition and notwithstanding the provisions of subsections (A), (B) and (C) above, any site plan or development special use permit that has received final approval prior to April 1, 2009 and remains in valid force and effect on such date shall expire and become null and void as to uncommenced or uncompleted construction unless substantial construction is commenced on or before March 31, 2012, and thereafter pursued with due diligence. Any other permit or plan approved pursuant to this ordinance and associated with a site plan or development special use permit extended by this subsection shall likewise be extended to run and expire concurrently with such site plan or development special use permit.

## Extension of Validity Period for Approved Site Plans

- (E) During the period of validity established by this section, the property subject to the site plan or development special use permit, including all buildings existing or under construction, on which substantial construction work is not actually proceeding, shall be maintained in good order and repair, in compliance with all applicable provisions of this ordinance and the city code, and in addition shall be maintained so as to prevent blight or other substantial detrimental impacts on surrounding property.
- ~~(B)~~ (F) Evidence that substantial construction activity is proceeding on a building without any interruption of 12 or more consecutive months and, in the case of a multi-building project, is proceeding without interruption of 24 or more consecutive months between the substantial completion of one building and the commencement of substantial construction of another building shall constitute prima facie evidence of due diligence. Such evidence of due diligence may be rebutted by evidence that the work is not in fact steady, earnest, attentive, energetic and successful or productive. Evidence that substantial construction activity on a building has been interrupted for more than 12 consecutive months or, in the case of a multi-building project, has been interrupted for more than 24 consecutive months between the substantial completion of one building and the commencement of substantial construction of another building shall constitute prima facie evidence of a failure to maintain due diligence. Evidence of such failure may be rebutted by evidence that the interruption in substantial construction activity is proximately caused by a change in circumstances or mistake. Such change in circumstances shall be limited to a change which substantially affects the ability of the applicant, owner or any successor in interest to maintain due diligence and which could not reasonably have been anticipated at the time of site plan approval, and shall without limitation encompass change in the economic factors which affect the development of land (e.g., availability of financing, interest rates, market absorption). Such mistake shall be limited to an error or omission in the material facts or assumptions regarding the land or its physical conditions relied upon by the applicant at the time of site plan approval, which mistake substantially affects the ability of the applicant, owner or any successor in interest to maintain due diligence. Mistake shall not encompass errors in judgment, and the applicant and any successor in interest are charged with all knowledge reasonably attainable at the time of site plan approval.
- ~~(C)~~ (G) When the director of ~~transportation and environmental services~~ planning and zoning makes a finding that a site plan has become null and void by operation of the provisions of sections 11-418 (A) ~~and (B)~~ through (E), he shall notify the applicant by mail at his last known address, and likewise notify any known successor in interest and the owner of the property as determined from the real estate assessment records of the city. The applicant, owner or any successor in interest who is aggrieved by, and desires to contest, such finding shall file a petition with the director of ~~transportation and environmental services~~ planning and zoning specifying the grounds of such contest within 30 days after the mailing of such notice. Thereafter, the planning commission shall proceed to decide, after notice and public hearing, whether the site plan has become null and void under the provisions of sections 11-418(A) ~~and (B)~~ through (E). In any such proceeding, the petitioner shall have the burden of proving the continuing validity of the site plan approval. In the event no such petition is timely filed, the director of ~~transportation and environmental services~~ planning and zoning's finding shall become final and shall not be subject to further review.

## Extension of Validity Period for Approved Site Plans

- (D)(H) Any person aggrieved by a decision of the planning commission made under section 11-418 (A) or section 11-418 (C) (G) may appeal the decision to the city council, provided that the appeal is filed in writing, stating the reasons therefor, with the city clerk, within 15 days after the planning commission decision is announced. The appeal shall be accompanied by the fee established pursuant to section 11-104. In the event an appeal is filed, the city council shall schedule at least one public hearing on the matter. The council may affirm, reverse or modify the decision of the commission, or return the matter to the commission for further consideration.
- (E) (I) Fees and contributions paid by the applicant to the city in connection with a project, except application and on site inspection fees, shall be proportionately refunded if a site plan or development special use permit expires under the provisions of this section.

*Special Use Permits**Sec. 11-506 Duration of valid permit.*

- (C) (2) (a) *Construction to begin ~~with 18~~ within 36 months.* A special use permit approved pursuant to the provisions of this section 11-500 that involves new construction shall expire and become null and void as to any uncommenced construction and any uncompleted construction, unless substantial construction of the project approved in such permit is commenced ~~within the period herein provided after initial city council approval of the permit and such construction is thereafter pursued with due diligence. Such commencement as is required by this paragraph shall occur within 18 months within the period established pursuant to section 11-418 of the ordinance~~ unless the permit is one that involves more than seven acres and the applicant requests and council approves a different time period.
- (b) *Extension of time allowed under certain conditions.* An extension of time may be permitted by city council under the same conditions and procedures as those provided for in section 11-418(A).
- (c) *Evidentiary standards for "substantial construction" and "due diligence."* As used in this section 11-506, the terms "substantial construction" and "due diligence" shall have that meaning provided in section 11-418(BE).
- (d) *Finding that permit has expired.* The procedures by which the director may make a finding that a special use permit has expired and by which that finding may be challenged shall be those provided in section 11-418(EG).
- (e) *Application to site plans approved as part of special use permit.* The provisions of this subsection shall control the validity of all site plans, preliminary, final or combined, approved as part of a special use permit, and no such site plan shall continue in force and effect beyond the expiration of the special use permit by which such site plan was approved.
- (f) *Refund of fees.* Fees and contributions paid by the applicant to the city in connection with a project, except application and on-site inspection fees, shall be proportionately refunded if a special use permit expires under the provisions of this section.



## Extension of Validity Period for Approved Site Plans

*Article X. HISTORIC DISTRICTS AND BUILDINGS**Old and Historic Alexandria District**Sec. 10-106 Issuance and expiration of certificates of appropriateness or permits.*

(B) *Expiration.* Any certificate of appropriateness issued pursuant to section 10-106(A) and any permit to move, remove, capsule or demolish in whole or in part in the Old and Historic Alexandria District issued pursuant to section 10-106(B) shall expire of its own limitation 12 months from the date of issuance if the work authorized thereby is not commenced and diligently and substantially pursued by the end of such 12 month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced and diligently and substantially pursued. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article X shall be excluded from the computation of the 12 months. In the case of a certificate or permit for a project that requires a development special use permit or site plan under section 11-400 of this ordinance, ~~the 12-month period of time shall be stayed until final approval thereof by the planning commission or city council, as the case may be.~~ the period of validity shall be coincident with the validity of the development special use permit or site plan as determined pursuant to section 11-418 of this ordinance.

*Parker-Gray District**10-206 Issuance and expiration of certificates of appropriateness or permits.*

(B) *Expiration.* Any certificate of appropriateness issued pursuant to section 10-206(A) and any permit to move, remove, capsule or demolish in whole or in part issued pursuant to section 10-206(A) shall expire of its own limitation 12 months from the date of issuance if the work authorized thereby is not commenced and diligently and substantially pursued by the end of such 12-month period; and further, any such certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of 12 months after being commenced and diligently and substantially pursued. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article x shall be excluded from the computation of the 12 months. In the case of a certificate or permit for a project that requires a development special use permit or site plan under section 11-400 of this ordinance, ~~the 12-month period of time shall be stayed until final approval thereof by the planning commission or city council, as the case may be.~~ the period of validity shall be coincident with the validity of the development special use permit or site plan as determined pursuant to section 11-418 of this ordinance.



March 5, 2009

Chairman and Members of the Planning Commission  
c/o Department of Planning and Zoning  
301 King Street, Suite 2100  
Alexandria, VA 22314

RE: Docket Item #10: Text Amendment 2009-0001

Dear Chairman and Members of the Planning Commission:

I write to you today on behalf of the Northern Virginia Building Industry Association ("NVBIA") in support of the Zoning Ordinance text amendment to extend the period of validity for Site Plans and Development Special Use Permits in the City of Alexandria. The NVBIA supports the extension of the period of validity on an on going basis as well as the extended period of time for projects struggling in this current economic environment.

As the Planning Commission is aware, there are multiple administrative approvals that are necessary after a Preliminary Development Site Plan or Development Special Use Permit is approved by the Planning Commission and City Council. The applicant must first get a detailed Final Site Plan and a detailed Building Permit approved by the city staff, and only then can the applicant start the site work needed to prepare the site for the level of construction necessary to prevent the expiration of the plan. This work routinely takes the 18 months currently allowed under the code if everything runs smoothly and there is no delay. The current economic environment puts added pressure on the schedule that makes it extremely difficult to meet the 18 months.

Likewise, there are currently a number of projects that have been approved by the Planning Commission (and if applicable the City Council) that are struggling due to the economic conditions. The applicants are diligently pursuing the necessary approvals, however, the financial process is taking so much longer that they are coming up against the expiration of the plans. If the development plans that have been approved to date are allowed to expire, new development proposals for these sites are not likely in the near future because of the difficult financial times. The inability to meet the current validity period is caused by the pressure in the financial markets, not the lack of due diligence of the applicant. Therefore, the shorter validity period, which may initially have been thought to encourage development more quickly, may instead result in expired plans and no development.

Chairman and Members of the Planning Commission  
March 5, 2009  
Page 2

Other local jurisdictions have acknowledged the time it takes to get the detailed plans through the process and have validity periods of 3 or more years. Likewise, the state has acknowledged the pressure on development plans in this economic environment and has adopted a provision in the state code to extend plans that are valid as of January 1, 2009 for an addition 5 years to relieve some of the pressure on applicants who are still willing to build during these difficult times.

While we are in full support of the proposed text amendment, we ask that you consider one minor change to the proposed language. The first sentence of the new Section 11-418(D) reads: "In addition and notwithstanding the provisions of subsections (A), (B), and (C) above, any site plan or development special use permit that has received *final* approval prior to April 1, 2009..." (emphasis added). The term final approval implies approval of a Final Site Plan, which we do not believe was the intent of the language. We believe the intent of the language was for this section to address any site plan or development special use permit that has received approval by the governing body. Therefore, we request that you remove the word "final" so that the sentence uses the word approval as it is used in the remainder of the code section.

We urge the Planning Commission to follow the lead of the state and other local jurisdictions and recommend approval of this text amendment to the City Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Rhodes".

Patrick J. Rhodes  
President

cc: Faroll Hamer, Director, Planning and Zoning  
Gwen Wright, Division Chief for Deveopment, Planning and Zoning

# NAIOP

COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
NORTHERN VIRGINIA CHAPTER

March 5, 2009

Mr. Eric Wagner  
Chairman  
Alexandria Planning Commission  
301 King Street, Suite 2100  
Alexandria, Virginia 22314

RE: Docket Item #10: Text Amendment 2009-0001

Dear Chairman Wagner:

NAIOP Northern Virginia is a regional association which represents the commercial development industry. Our membership includes many of the major property owners and developers in the City of Alexandria.

On behalf of the association's membership, I am writing in support of the text amendment to extend the validity periods for site plans and special use permits in the City of Alexandria.

The extension of the validity periods from 18 months to 36 months will provide property owners with the time needed to secure financing and tenants in the current economic environment. The proposed time period is compatible with land development policies and procedures in other jurisdictions in Northern Virginia.

I appreciate your consideration of this matter and encourage the Planning Commission to recommend approval of this text amendment to City Council.

Sincerely,



Martha D. Marks  
President

cc: Gwen Wright - Division Chief, Development Division



Mark Jinks/Alex  
03/13/2009 08:03 PM

To "Jackie Henderson" <Jackie.Henderson@alexandriava.gov>  
cc  
bcc

Subject Fw: Letter of Support- Extension of the Validity Period for  
Approved Site Plans & Development Special Use Permits

**From:** "Stephanie Landrum" [landrum@alexecon.org]

**Sent:** 03/13/2009 07:19 PM AST

**To:** William Euille; <delpopper@aol.com>; "Paul Smedberg" <paulcsmedberg@aol.com>; "Timothy Lovain" <timothylovain@aol.com>; "Ludwig P Gaines" <councilmangaines@aol.com>; <rob@krupicka.com>; Justin Wilson

**Cc:** Jim Hartmann; Faroll Hamer; Mark Jinks; "Allison Cryor DiNardo" <allison@varsitypartners.com>

**Subject:** Letter of Support- Extension of the Validity Period for Approved Site Plans & Development Special Use Permits

Mayor Euille and Members of City Council,

Please find attached a letter of support from the Alexandria Economic Development Partnership for the text amendment before you Saturday morning to allow for the extension of the validity period for approved site plans and development special use permits.

We appreciate your consideration.

***Stephanie Landrum, CEcD***

Senior Vice President

Alexandria Economic Development Partnership, Inc.

1729 King Street, Suite 410

Alexandria, VA 22314

703-739-3820, ext. 102

[www.alexecon.org](http://www.alexecon.org)



AEDP Letter of Support- Extension of Validity Period.pdf



March 13, 2009

Alexandria City Council  
Mayor William Euille  
City Hall, Room 2300  
Alexandria, Virginia 22314

RE: Text Amendments #2009-0001, Validity Periods for Site Plans

Dear Mayor Euille and Members of City Council,

On behalf of the Alexandria Economic Development Partnership Board of Directors I am writing to express our support for the text amendment under consideration that will allow for the extension of the validity period for approved site plans and development special use permits. The proposed extension, from 18 to 36 months, is consistent with timelines imposed by neighboring jurisdictions and will send a positive signal to the development community that Alexandria welcomes and encourages development during these challenging economic times. The extension is also consistent with the Economic Sustainability Work Group recommendations that encourage the City to review and make changes to policies that limit the City's competitiveness or promote a less than desirable perception of the business climate.

Sincerely,

Allison Cryor DiNardo  
Chair

cc: AEDP Board of Directors  
Jim Hartmann, City Manager  
Mark Jinks, Deputy City Manager  
Faroll Hamer, Director, Planning & Zoning



12  
3-14-09



Kendra Jacobs/Alex  
03/13/2009 01:15 PM

To Jackie Henderson/Alex@Alex, Gloria Sitton/Alex@Alex  
cc  
bcc  
Subject Fw: Letter in support of Text Amendment #2009-0001

Did you receive the letter below for Council for tomorrow's hearing? Could you make sure Council has it? Thanks.

----- Forwarded by Kendra Jacobs/Alex on 03/13/2009 01:14 PM -----



Gwen Wright/Alex  
03/13/2009 01:05 PM

To Kendra Jacobs/Alex@Alex  
cc  
Subject Fw: Letter in support of Text Amendment #2009-0001

Please check and see if the City Clerk received this...

Gwen Wright  
Chief, Development Division  
Department of Planning and Zoning  
City of Alexandria  
301 King Street, Room 2100  
Alexandria, Virginia 22314  
(703) 838-3866 ext. 437  
gwen.wright@alexandriava.gov

----- Forwarded by Gwen Wright/Alex on 03/13/2009 01:05 PM -----



"Duncan"  
<Dblair@landclark.com>  
03/13/2009 11:13 AM

To <Gwen.Wright@alexandriava.gov>  
cc  
Subject FW: Letter in support of Text Amendment #2009-0001

**From:** Smith, Campbell @ Washington DC [mailto:CSmith6@trammellcrow.com]  
**Sent:** Friday, March 13, 2009 11:03 AM  
**To:** alexvamayor@aol.com; delpepper@aol.com; council@krupicka.com; timothylovain@aol.com; councilmangaines@aol.com; paulcsmedberg@aol.com; justin.wilson@alexandriava.gov  
**Cc:** Duncan; Roth, Chris @ Washington  
**Subject:** Letter in support of Text Amendment #2009-0001

Dear Mayor Euille and members of City Council:

As the owner of the Madison apartment project, located at 800 North Henry Street, Trammell Crow Company would like to make you aware of our strong support for Text Amendment #2009-001, which would extend the validity of site plans and DSUPs in the City of Alexandria. Please see the attached letter, which outlines our argument. This text amendment is crucial to the success of the many exciting projects that Alexandria has already approved and that will provide much needed economic growth as we move out of the depths of the current economic crisis. Please feel free to call me or write me at the numbers listed below if you have any questions about our view on the text amendment.

Regards,  
Campbell Smith  
Trammell Crow Company

**Campbell Smith**  
**Vice President, Development Management**

**Trammell Crow Company**  
**1055 Thomas Jefferson Street NW**  
**Suite 600**  
**Washington, DC 20007**  
**202.295.3367 Direct**  
**202.384.4517 Cell**  
**202.337.7364 Fax**  
**[csmith6@trammellcrow.com](mailto:csmith6@trammellcrow.com)**  
**[www.trammellcrow.com](http://www.trammellcrow.com)**



Letter\_Site Plan Extension\_031209.pdf



# Trammell Crow Company

March 12, 2009

The Honorable William D. Euille, Mayor  
City of Alexandria  
City Hall  
Alexandria, VA 22314

Dear Mayor Euille:

As the owner of 800 North Henry Street, which recently received site plan approval for a new 334 unit apartment building known as the Madison, we are writing to express our strong support for Text Amendment #2009-0001. This text amendment extends the validity period of DSUPs and site plans by up to three years for development projects that have successfully obtained DSUP or site plan approval but have not yet started construction. The additional time afforded by this text amendment is crucial to our ability to finance and move forward with the construction of a project that will serve as a catalyst to the revitalization and economic growth of the neighborhood around the Braddock Metro station.

As you may know, City Council approved our DSUP in January 2008 after a protracted four year review process. Following the approval of our DSUP, we diligently pursued site plan approval. Even with our full focus and diligent pursuit, it took an additional twelve months to obtain approval of our site plan. Currently, site plans in Alexandria are valid for only 18 months after the date of DSUP approval. Therefore, in order for us to avoid another lengthy site plan review process, we would have to begin construction of the Madison by July 2009. To meet this date, we would need to complete our construction drawings, select a contractor, and bid the project. This work could easily take four to six months. Our point is that even in good economic times, the 18 month validity period for site plans in Alexandria is simply too short. It does not allow enough time to fully design a building and navigate the thorough but lengthy site plan review process that the City currently has in place.

However, as you are undoubtedly aware, these are not good economic times. The current economic crisis has led to an unprecedented freezing up of the capital markets. Very few banks or investors are willing or able to make loans on new development projects. Those who are willing to make construction loans are doing so at much lower loan to value ratios, with much higher levels of recourse. It is our strong belief that none of the approved projects in the Braddock Metro area that have yet to start construction will get financed in this environment. As a result, none of these projects will start construction within the narrow 18 month window of site plan validity currently allowed by Alexandria.

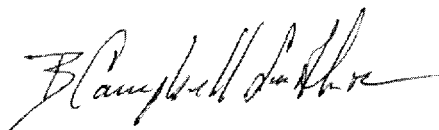
The unprecedented devastation in the financial markets and the broader economy makes it all the more important that Alexandria extend the validity period of site plans and DSUPs by three years. If City Council does not extend the validity period, then the site plans for the projects that Alexandria is depending on for its economic growth will expire. If the site plans are allowed to expire, then these important projects will likely lose their existing financing, as banks will be reluctant to make loans on unentitled land. Without financing,

projects will either be delayed indefinitely or scrapped altogether, neither of which would be a good outcome for Alexandria. If the owners of the sites are fortunate enough to maintain their existing financing, then the expiration of their site plans will still hamper their ability to quickly move ahead with their projects when the capital markets recover. Since no lender will provide a construction loan on a project without site plan approval, owners will have to resubmit their site plans and wait another 12 months for approvals before they can obtain financing and begin construction.

Finally, it is critically important that the extension of the validity period be long enough to bridge the economic downturn. Since this recession appears to be unprecedented in its depth and breadth, we strongly believe that the extension needs to be three years at an absolute minimum.

In closing, we would like to reiterate that we remain committed to building the Madison. We have patiently and diligently pursued approval of the project, which has been vetted numerous times by planning staff, the community, the Planning Board, and City Council over the course of a very long four year approval process. Our project will serve as a catalyst for the redevelopment of the Braddock Metro and Parker Gray neighborhoods, and it will make a significant contribution to Alexandria's tax base. The Madison features great architecture and provides the community with many benefits, including attractive and useable open space, much needed street level retail, and significant contributions to the City's streetscape fund and open space fund. Without an extension of our site plan, the chances are much greater that our project will never get built. That outcome would truly be a shame for the developers, the City, and the surrounding community alike, especially after all of the hard work that everyone has put into designing and approving the project over the last four years.

Sincerely,

A handwritten signature in black ink, appearing to read "Campbell Smith", written in a cursive style.

Campbell Smith  
Trammell Crow Company



"Frizzell, Joanna C."  
<jfrizzell@mcguirewoods.com>

03/12/2009 02:20 PM

To <Jackie.Henderson@alexandriava.gov>  
cc <Faroll.Hamer@alexandriava.gov>,  
<Gwen.Wright@alexandriava.gov>, "Kathy Renaud"  
<krenaud@nvbia.com>, "Patrick Rhodes"  
bcc

Subject Letter to Mayor and City Council

History: This message has been forwarded.

Hello Jackie - attached please find a letter for the Mayor and City Council in support of docket item #12 for Saturday's hearing. Thank you for your assistance in forwarding this letter to the Council.

Joanna

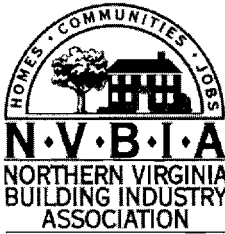
Joanna C. Frizzell

McGuireWoods LLP  
1750 Tysons Boulevard  
Suite 1800  
McLean, VA 22102-4215  
703.712.5349 (Direct Line)  
703.712.5217 (Direct FAX)  
jfrizzell@mcguirewoods.com

*This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading or forwarding to others.*



signature.gif Letter to City Council.pdf Letter to Planning Commission.pdf



March 11, 2009

The Honorable William D. Euille, Mayor, and  
Members of the City Council  
301 King Street  
Alexandria, Virginia 22314

RE: Docket Item # 12, Text Amendment 2009-0001: Validity of Site Plans

Dear Mayor Euille and Members of the City Council:

Attached please find a letter that was submitted to the Alexandria Planning Commission on behalf of the Northern Virginia Building Industry Association (NVBIA), expressing our support and appreciation for the above referenced text amendment.

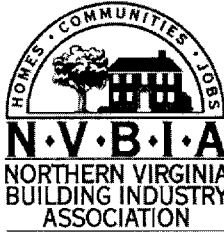
The NVBIA urges the City Council to pass this text amendment which addresses the long term need to update the validity period for site plans and development special use permits in Alexandria as well as helps to addresses the unprecedented economic conditions we find ourselves in today.

Thank you for your consideration of this important matter and we would be happy to answer any questions you may have.

Sincerely,

Patrick J. Rhodes  
President

cc: Faroll Hamer, Director, Planning and Zoning  
Gwen Wright, Division Chief for Deveopment, Planning and Zoning



March 5, 2009

Chairman and Members of the Planning Commission  
c/o Department of Planning and Zoning  
301 King Street, Suite 2100  
Alexandria, VA 22314

RE: Docket Item #10: Text Amendment 2009-0001

Dear Chairman and Members of the Planning Commission:

I write to you today on behalf of the Northern Virginia Building Industry Association ("NVBIA") in support of the Zoning Ordinance text amendment to extend the period of validity for Site Plans and Development Special Use Permits in the City of Alexandria. The NVBIA supports the extension of the period of validity on an on going basis as well as the extended period of time for projects struggling in this current economic environment.

As the Planning Commission is aware, there are multiple administrative approvals that are necessary after a Preliminary Development Site Plan or Development Special Use Permit is approved by the Planning Commission and City Council. The applicant must first get a detailed Final Site Plan and a detailed Building Permit approved by the city staff, and only then can the applicant start the site work needed to prepare the site for the level of construction necessary to prevent the expiration of the plan. This work routinely takes the 18 months currently allowed under the code if everything runs smoothly and there is no delay. The current economic environment puts added pressure on the schedule that makes it extremely difficult to meet the 18 months.

Likewise, there are currently a number of projects that have been approved by the Planning Commission (and if applicable the City Council) that are struggling due to the economic conditions. The applicants are diligently pursuing the necessary approvals, however, the financial process is taking so much longer that they are coming up against the expiration of the plans. If the development plans that have been approved to date are allowed to expire, new development proposals for these sites are not likely in the near future because of the difficult financial times. The inability to meet the current validity period is caused by the pressure in the financial markets, not the lack of due diligence of the applicant. Therefore, the shorter validity period, which may initially have been thought to encourage development more quickly, may instead result in expired plans and no development.

Other local jurisdictions have acknowledged the time it takes to get the detailed plans through the process and have validity periods of 3 or more years. Likewise, the state has acknowledged the pressure on development plans in this economic environment and has adopted a provision in the state code to extend plans that are valid as of January 1, 2009 for an addition 5 years to relieve some of the pressure on applicants who are still willing to build during these difficult times.

While we are in full support of the proposed text amendment, we ask that you consider one minor change to the proposed language. The first sentence of the new Section 11-418(D) reads: "In addition and notwithstanding the provisions of subsections (A), (B), and (C) above, any site plan or development special use permit that has received *final* approval prior to April 1, 2009..." (emphasis added). The term final approval implies approval of a Final Site Plan, which we do not believe was the intent of the language. We believe the intent of the language was for this section to address any site plan or development special use permit that has received approval by the governing body. Therefore, we request that you remove the word "final" so that the sentence uses the word approval as it is used in the remainder of the code section.

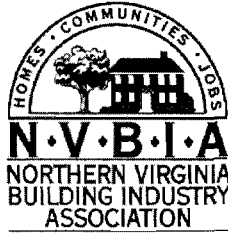
We urge the Planning Commission to follow the lead of the state and other local jurisdictions and recommend approval of this text amendment to the City Council.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Rhodes", written in a cursive style.

Patrick J. Rhodes  
President

cc: Faroll Hamer, Director, Planning and Zoning  
Gwen Wright, Division Chief for Deveopment, Planning and Zoning



March 11, 2009

The Honorable William D. Euille, Mayor, and  
Members of the City Council  
301 King Street  
Alexandria, Virginia 22314

RE: Docket Item # 12, Text Amendment 2009-0001: Validity of Site Plans

Dear Mayor Euille and Members of the City Council:

Attached please find a letter that was submitted to the Alexandria Planning Commission on behalf of the Northern Virginia Building Industry Association (NVBIA), expressing our support and appreciation for the above referenced text amendment.

The NVBIA urges the City Council to pass this text amendment which addresses the long term need to update the validity period for site plans and development special use permits in Alexandria as well as helps to addresses the unprecedented economic conditions we find ourselves in today.

Thank you for your consideration of this important matter and we would be happy to answer any questions you may have.

Sincerely,

Patrick J. Rhodes  
President

cc: Faroll Hamer, Director, Planning and Zoning  
Gwen Wright, Division Chief for Deveopment, Planning and Zoning



**Eric Dobson**  
<edobson@naiopva.org>

03/12/2009 04:59 PM

Please respond to  
Eric Dobson  
<edobson@naiopva.org>

To william.euille@alexandriava.gov, timothylovain@aol.com,  
councilmangaines@aol.com, council@krupicka.com,  
delpepper@aol.com, paulcsmedberg@aol.com,

cc

bcc

Subject COA Contact Us: Docket Item #12: Text Amendment 2009-0001

12  
3-14-09

**Time:** [Thu Mar 12, 2009 16:59:18] **IP Address:** [75.148.10.193]

**Issue Type:** Mayor, Vice Mayor, and Council Members

**First Name:** Eric

**Last Name:** Dobson

4900 Seminary Road

**Street Address:** #104

**City:** Alexandria

**State:** Virginia

**Zip:** 22311

**Phone:** 703-845-7080

**Email Address:** edobson@naiopva.org

**Subject:** Docket Item #12: Text Amendment 2009-0001

Dear Mayor Euille:

Please see the attached letter in support of Docket

Item #12.

**Comments:** If you have any questions or are unable to open the attachment,

please let me know.

**Attachment:** f141a320d30463c20bb879b5a0d80566.pdf



f141a320d30463c20bb879b5a0d80566.pdf





# NAIOP

COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION  
NORTHERN VIRGINIA CHAPTER

March 12, 2009

William D. Euille  
Mayor  
City of Alexandria  
301 King Street  
Alexandria, Virginia 22314

RE: Docket Item #12: Text Amendment 2009-0001

Dear Mayor Euille:

NAIOP Northern Virginia is a regional association which represents the commercial development industry. Our membership includes many of the major property owners and developers in the City of Alexandria.

On behalf of the association's membership, I am writing to reaffirm our position in support of the text amendment to extend the validity periods for site plans and special use permits in the City of Alexandria.

The extension of the validity periods from 18 months to 36 months will provide property owners with the time needed to secure financing and tenants in the current economic environment. The proposed time period is compatible with land development policies and procedures in other jurisdictions in Northern Virginia.

We are also in support NVBIA's request for the removal of the word "final" as outlined in their letter.

I appreciate your consideration of this matter and encourage the Planning Commission to recommend approval of this text amendment to City Council.

Sincerely,

Martha D. Marks  
President

cc: Members, Alexandria City Council  
Gwen Wright - Division Chief, Development Division

2009-0001

**TEXT AMENDMENT # ~~2009-00001~~**

**ISSUE DESCRIPTION:** Consideration of a request for an amendment to the Zoning Ordinance to extend the validity period of approve site plans

**ZONING ORDINANCE SECTION:** 10-106, 10-206, 11-418, and 11-506

**CITY DEPARTMENT:** Planning and Zoning

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**PLANNING COMMISSION ACTION** RECOMMENDED APPROVAL 6-0 3/5/09

**CITY COUNCIL ACTION** 3/14/09 - CC approved PC recommendation 7-0

see attached

---

of Planning and Zoning

**PLANNING COMMISSION ACTION:** Recommend Approval 6-0

City Council approved the Planning Commission recommendation, noting the removal of the word "final" in paragraph (D) on the recommendations from the Planning Commission, with an amendment that it require a written status report to the City Council after 18 months from the applicant and staff, updating on the status of the effort.

**Council Action:**\_\_\_\_\_

**13. SMALL BUSINESS ZONING CHECKLISTS**

Public Hearing and Consideration of a request to adopt administrative special use permit checklists. Staff: Department of Planning and Zoning

**PLANNING COMMISSION ACTION:** Recommend Adoption 6-0

City Council held open the public hearing and deferred this item until it works with staff to discuss the issues heard raised today.

**Council Action:**\_\_\_\_\_

**14. SPECIAL USE PERMIT #2009-0004**

4007 MOUNT VERNON AVENUE

24 EXPRESS STORE

Public Hearing and Consideration of a special use permit for a convenience store; zoned NR/Neighborhood Retail. Applicant: UAC Land and Building trading as 24 Express by William Thomas, Jr., agent

**PLANNING COMMISSION ACTION:** Recommend Approval 6-0

City Council approved the Planning Commission recommendation.

**Council Action:**\_\_\_\_\_

**ORDINANCES AND RESOLUTIONS**

- 15. Public Hearing, Second Reading and Final Passage of an Ordinance to Authorize City Council to Reduce the Size of the Board of Commissioners of the Alexandria Redevelopment and Housing Authority From 9 to 7 Members. (#12, 2/10/09) [ROLL-CALL VOTE]**

This item was tabled.

**Council Action:**\_\_\_\_\_

- 16. Public Hearing, Second Reading and Final Passage of an Ordinance to Adopt Permit Surface Vehicle Parking as an Ancillary Use for an Existing Car Dealership Within CDD No. 7. (#8, 3/10/09) [ROLL-CALL VOTE]**