

**CITY COUNCIL OF ALEXANDRIA, VIRGINIA**

**Public Hearing Meeting  
Saturday, September 13, 2008 - - 9:30 a.m.**

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

Absent: None.

Also Present: Mr. Hartmann, City Manager; Mr. Pessoa, City Attorney; Ms. Evans, Deputy City Manager; Mr. Jinks, Deputy City Manager; Ms. Blackford, Communications Officer, City Manager's Office; Mr. Mason, Special Assistant to the City Manager; Police Captain Ogden; Police Lt. Harman, Mr. Kincannon, Director, Recreation, Parks and Cultural Activities; Ms. Colton, Recreation, Parks and Cultural Activities; Ms. Carroll, Recreation, Parks and Cultural Activities; Ms. Hamer, Director, Planning and Zoning; Mr. Josephson, Deputy Director, Planning and Zoning; Mr. Farner, Planning and Zoning; Mr. Milone, Planning and Zoning; Mr. Wagner, Planning and Zoning; Mr. Bray, Planning and Zoning; Fire Chief Thiel; Mr. Catlett, Director, Code Administration; Ms. Lacomba, Deputy Director, Department of Human Services; 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.

Upon vote of City Council, Ms. Clemens was given a total of 10 minutes to speak.

(a) Kara Clemens, 524 North Royal Street, resident of Chatham Square and representing a group of Chatham Square residents, spoke about a very serious and urgent problem in their neighborhood. She said the Council has a duty to correct mismanagement of their tax dollars in the public housing sector/ARHA and the

government needs to take immediate action to ensure ARHA becomes a more transparent and fiscally responsible organization and is able to get control of their tenants. She asked when the Memorandum of Understanding will take effect and why they haven't seen the City acting on it. Hopkins Tancil, which is adjacent to Chatham Square, is a complex and challenged community in many respects and despite a number of good and decent people living there, dysfunctional and criminal behavior abounds. She noted that this week alone they have dealt with gang of youths outside flashing gang signs while having their picture taken in front of Chatham Square, a woman who emerged brandishing a golf club as she chases several women down the street, a gentlemen who came outside screaming profanity at someone a block away, and a resident of Chatham Square who was opening the window inside her home on the second floor was verbally assaulted by a group of women that were trespassing on Chatham Square property. Chatham Square residents along North Royal have been specifically targeted and threatened by large groups of individuals who either live in or are visiting residents in Hopkins Tancil. She asked for Council's help, noting that they have met with the Police and call them daily to report attempted assaults, drug sales, child abuse, public drunkenness, open container violations, trespassing, vandalism, profanity, littering, blocking public access, loitering and prowling, threats and intimidation, torturing of animals and graffiti. She said they hold City Council responsible for ARHA and its tenants actions. She said they need to discontinue touting Chatham Square as an award winning community and jewel in the crown of Alexandria. She said they spoke to the consultants at the Braddock East Advisory Group, and they have testimonials that represent one-third of the residents at Chatham Square. She said it is their belief that the antiquated system of brick and mortar style public housing where poverty is concentrated and the underclass culture is a self perpetuating cycle and is not in line with the progressive nature of the City and Council should consider more contemporary philosophies in tackling the issue of public housing. She noted that they would like to meet with Council individually.

Mayor Euille noted the City has a Quality of Life Committee that meets every other month and there are representatives there from every City agency. He said they look at the challenges and issues throughout the City, and this matter presented was an item for discussion. He said he has concluded that Chatham Square's major concern is that unless the public housing authority becomes much more responsible for their tenants, this is all for naught. Mayor Euille said the MOU has been executed and he can get them copies of it. He suggested that she brief each member of Council and to meet with the City Manager and other staff.

(b) Gary Carr, 216 Aspen Street, spoke about the restoration of the running tracks at Frances Hammond and George Washington Middle Schools. He said among his justifications are community needs, childhood obesity, childhood type 2 diabetes, sedentary lifestyles, reduction of physical education during school hours, developing healthy habits, self esteem and many other justifications. He said that as a citizen and parent, he is comfortable in his knowledge that he did his part to promote the ideal that he believes in. He said the restoration of the running tracks will have a positive impact on every child and promote physical fitness in the community at large. He said he is

aware of the new track facility at T.C. Williams High School, however, the one track does not fully address the needs of the children in the community.

(c) Brian Buzzell, One Wilkes Street, president of the Homeowners Association at Harborside, said that six weeks ago, he sent Council an email about the situation about a very sorry looking Old Town Yacht Basin that was full of garbage, but he has not heard back from anyone at the City as to what type of action was taken. He asked what the status is of the master plan for Windmill Hill Park and that part of the City, because key to it was cleaning up the Old Town Yacht Basin, because they knew that once the former Mayor came in without telling the residents that live around there and took out the pilings that it would alter the ecosystem, and that ecosystem has been damaged and it needs to be fixed, and he asked what is the plan.

In response to a question from Councilman Smedberg, Director of Recreation, Parks and Cultural Activities Kincannon gave an update on the plans for the area.

(d) Charlotte Landis, 433 N. Patrick Street, spoke about the renovation of Hunter-Miller Park, and she thanked Council for its part in creating a refreshed atmosphere in the neighborhood and she also thanked Judy Lo and the Parks and Recreation staff. Ms. Landis addressed the Bland development and asked that 33 more units be off-sited, and she said studies confirm that public housing residents will benefit. She said she attended the Economic Sustainability Implementation Monitoring Committee on September 4 and a project update presentation was given by Planning Director Hamer, and at the meeting, Nigel Morris stated in response to her plan, that if available land parcels around the Metro station were used for affordable housing, the City would be shooting themselves in the foot. The minutes of the ICCA July meeting contain a goal of a two to one ratio of market rate units to ARHA units. The goal has been abandoned and does not extend across the site and now EYA and staff have acknowledged a plan to buy down market rate units and resell them as affordable units.

(e) Sarah Becker, 1200 Princess Street, said she wishes to address an alternative approach to the Bland Development proposal. She said she was struck by a comment that over concentration is not a word that will be used to explain the public housing debacles. The Department of Housing and Urban Development in 2000 stated that over several generations, many public housing authorities have established and perpetuated racially segregated practices, and HUD has been working to undo this legacy by settling lawsuits that have alleged a variety of civil rights violations. The best public housing solutions are unit based, fair share or scattered site programs, yet the resistance remains massive. She said they must off-site more public housing units before any plan can go forward.

(f) Melvin Garbow, 19 Wilkes Street, secretary, Harborside Condominium Association, underscored Mr. Buzzell's remarks. They have a serious problem with the Old Town Yacht Basin, and hundreds of people visit their park everyday and they are entitled to a safe and attractive circumstance, which they don't have. He said the garbage floats in, but it never floats out. He said they will have physical problems with

children and others if they don't attend to it promptly and he urged Council's attention.

(g) Julie Crenshaw Van Fleet, 26 Wolfe Street, spoke about Board of Architectural Review's case this past week on the Lorien Hotel on upper King Street and the discussion was about the signage. She said she had a copy of the staff report that described the size of the signs and there was a little picture and it talked about large signs, so she was concerned that they were going to have the same problem as they did with Starbucks on Union and King when an eleven foot sign that the City was sued over and Starbucks won. Ms. Crenshaw Van Fleet said they did not say that the sign was appropriate, it was just the timing of when all of it was done was after the time allotted to appeal it. She said she was told her facts were wrong about the hotel. On August 8, an 11x17 color sign palate was given to the Planning Commission, and she couldn't figure out why she didn't know about it, but when she brought it up and said she wasn't protesting the signs, but rather the size, Mr. Smealie said he had enough information to make a decision. She asked the Planning staff for the file from the case and was shown an additional piece of paper. She said the BAR gets information that the public doesn't, so the public talks with the information it has, and if there had been a display, they could have seen it in context of the building. She suggested Council look at some of the tapes, as she knew that Old Town Civic Association and the historic organizations have said they don't get the information, and decisions are made and it isn't right.

Mayor Euille said the City Manager and Planning Director will review that issue, as any information that is provided to boards and commissions should be disseminated.

(h) Ingrid Sanden, 5238 Bessley Place, president of the Cameron Station Civic Association, spoke in support of their request for an independent inquiry into the actions and inactions of the City staff regarding the Norfolk Southern ethanol transloading facility. She said she and her neighbors believe the Council will agree that the ramifications of the staff's reaction and inaction on this subject for the past 12 months and even before are very serious and far-reaching. Not only has this situation helped erode their confidence and trust in the City government, they were also left with no way to fight this facility before it was completed, and they were also left alone for more than two months, between April 9 and the end of June before the Alexandria Fire Department was finally equipped with the supplies they feel they needed to handle an event at the facility, and she asked what the City's plan would have been had there been an incident at the facility during that time period. She said there is a problem at City Hall. Whether it is a problem of incompetence, negligence, communications, misunderstanding, bad management, poor judgment, or some of all of these, she didn't know, but the point is that Council doesn't know either, and that is why they need an independent inquiry. The inquiry needs to be kept separate from the current City Manager directed organizational development effort that management consultants are doing at City Hall, and they have no interest in connecting the two because they are separate issues, for different purposes, under different chains of command. She said the reason this inquiry is so critical is because they are left with two goals: to close down or move Norfolk Southern to a more appropriate location and to keep their

families, property and neighborhoods safe. She said they must have a City government that responds to citizen questions and concerns, one that should have been able to develop a realistic and aggressive strategy to deal with Norfolk Southern on many fronts, and one that is equipped to develop and carry out a realistic plan should the unthinkable happen. Ms. Sanden said residents understand that if this type of massive screw up could happen in Cameron Station, it could happen anywhere, anytime. She said their goal is not, as some have suggested, to have heads roll at City Hall - as those are conclusions Council would have to make. Their goal is to prevent this type of egregious lapse in judgment from ever happening again in Alexandria and get back to being able to trust and respect the City government.

Mayor Euille noted that Council at its last meeting agreed to put this item on a docket for discussion among Council in a public meeting.

(i) Annabelle Fisher, 5001 Seminary Road, said she supports Cameron Station's request for an outside inquiry. She said she understood that sometimes the discussions need to be in executive session, however, drop the talking point about closing Norfolk Southern, as it's not going to happen. She said the information on the website about the Norfolk Southern site in Baltimore is incorrect. She said she believed it was important, since Council has decided to docket the item as a public item, that if they care about accountability about the residents and citizens, and have the facts come out without fingerpointing and blame, that the citizens should be allowed to speak so they don't have a circus and grandstanding going on with the Mayor and Council. She said she hoped they would allow citizens to engage in some civic discussion. She said there is no need for a charrette in this situation. She said if they want to gain the trust back of the citizens, that they stop the PR and let the public give input. She said they need accountability and trust.

(j) Salena Zellers, 1122 Madison Street, president, Braddock Lofts Homeowners Association, expressed the concern of their residents regarding the future plans for mixed income housing in their neighborhood. She said there are a lot of really good people who live in public housing and they want to make sure they have a safe place to live as well. She said they support redevelopment of public housing into true mixed income housing communities that include public housing, affordable housing, workforce housing and market rate housing. The increased density projected for the Braddock Road metro neighborhood does not provide a rationale for retaining the majority of public housing units that they currently have. If the neighborhood is redeveloped as is being discussed, Samuel Madden, Andrew Atkins, Ramsey Homes and Chatham Square will all be mixed income housing with a high number of public housing units remaining and this will still result in a high density of public housing in the neighborhood, which is in direct contrast to the Braddock Road Metro neighborhood plan directive. The approved plan reinforced deconcentration of public housing in the neighborhood by scattering it throughout the City. As it evaluates designs for the Bland project, the mix of housing types should carefully be assessed. However, the success of the project is dependent on the sale of the market rate units, and their concerns lay with the negative effects of the currently suggested income mix within Bland on the

ability of the market rate units to be sold. If the neighborhood is redeveloped with the income mix that is currently suggested for Bland, the high density public housing will affect the saleability of those market rate units in each of the mixed income developments they have planned. Ms. Zellers said they request that at least 30 additional ARHA units be relocated off Bland so that an appropriate mix of all income levels, including affordable and workforce, can be integrated while ensuring the success of the property by the sale of those market rate units. In order to protect the current ARHA residents, the City should proactively identify replacement sites for 50 percent of the public housing units in their neighborhood that are up for development in the next 10 years. She said they also request that the affordable housing fund contributions from the new developments in their neighborhood be allocated for replacement public housing sites across the City.

(k) Michelle Saylor, 1113 Wythe Street, a board member of Braddock Lofts, said she expects the City to honor the guidelines agreed upon in the Braddock Road Metro Area Plan, which fosters a dedicated effort to move enough public housing out of the neighborhood to ensure it develops as a safe, livable and sought after community, and that the ARHA residents thrive in areas throughout the City in lesser concentration. She noted that the feasibility of mixed income housing is shaped by local housing market conditions, and by the physical and demographic characteristics of the individual developments, and Planning and Zoning, their consultants and the community have scrutinized this and promoted dispersing public housing throughout Alexandria. She encouraged the City to proactively identify replacement sites for at least 50 percent of the public housing units that are up for redevelopment. She said that to fund deconcentration of public housing as directed by the Braddock Road Metro Area Plan, it is compulsory for the affordable housing fund contributions from the new development in their neighborhood to be allocated for replacement public housing sites across the City.

(l) Roger Wood, 731 N. Fayette Street, said he lives in Braddock Lofts and he expressed his concern regarding the future plans for mixed income housing in the Braddock Metro neighborhood, and the long-term concern of the neighborhood is the continued high concentration of public housing, which is not healthy for the residents of public housing or the rest of the community. He said identifying replacement sites for public housing is a major challenge, but moving them to other sites is necessary to reduce the level of concentration in the Braddock Metro Area. He said one of his concerns lie with the negative effect of the suggested income mix within Bland on the ability of the market rate units to be sold. He noted that they have been told that based on successful mixed income housing development elsewhere, a mix of two-thirds market rate housing to one-third public housing is workable. A truly mixed income community with a balance among the various income levels can go a long way toward creating a sense of community and mutual support. He encourages Council to continue to make public housing successful.

(m) Craig Cummings, 1530 North Edgewood, Arlington, said he is a property owner in Braddock Lofts and supports Ms. Zeller's comments. He said the point is to

stick to the two-thirds theme. He said he bought in Braddock Lofts in 2002 with a plan to come back to Alexandria, but realize they can't move into the Braddock Lofts area, as it is not family friendly, as there are no parks and the dynamics of the public housing islands are not family friendly. He said he is renting in Arlington and are waiting for the area to improve so he can move back to his hometown. He asked that it not dip below the two-thirds, and help them get the parks and vibrancy back in the Braddock Metro area.

(n) Heidi Ford, 1022 Oronoco Street, spoke about the Bland project and said she has seen little effort to address the concerns, specifically in relation to off-siting more ARHA units, the overall density, height issues and a lack of open space. She said that in a February 2008 letter on the Braddock Small Area Metro Plan, she noted the need to deconcentrate public housing in the Braddock, Parker Gray and inner City area, and the task force recommended doing it by scattering public housing sites throughout the City. At the June Inner City Civic association meeting, the Mayor was presented with a petition noting the need to reduce the public housing in the area by 50 percent. For Bland, this would require off-siting an additional 33 units. Ms. Ford said that despite this, Ms. Hamer, in her August 19 memo, did not list the need to off-site additional public housing units as among the neighborhood's concerns with the Bland project. She said she doesn't oppose public or mixed-income housing, but in order to make it work, every neighborhood needs to shoulder a fair share of the public housing. She said the over-concentration of public housing is detrimental to the development of the neighborhood, the viability of their local elementary school, property values, quality of life and the residents of public housing.

(o) Adam Hardinger, 424 Cook Street, said he is a homeowner in Chatham Square and the police liaison. He said there are two issues that were talked about in a meeting a year ago with the Mayor and Mr. Priest, and one was the Hopkins Tancil playground areas. He said when they met, they were told to allow Mr. Priest some time to resolve the issues. He said that a year later, they have not been addressed, and in going to the Police, Deputy Chief Spruill walked through the neighborhood and he wrote an email to him, in which he said they had raised the dilapidated state of the parks with ARHA and the City Manager and Mayor, and his question is when are these things going to be addressed. Mr. Hardinger said there is a MOU with ARHA and if they are not getting done, then things need to change. He said he has been working with the Police Department and something has to change on another front, as the Police are doing a lot, but there is a continued problem so he hoped Council could think of new solutions, as well as ARHA.

Mayor Euille said that when he meets with the City Manager, they will set a date for the Quality of Life meeting and will get with ARHA. Council has discussed a further MOU between the City and ARHA and will report back on opportunities to make change. He noted that the MOU is a public document and Mr. Hardinger could get a copy from the City Manager's Office.

(p) Donald Worden, 1120 Madison Street, spoke about the density issue with

the Bland project. He said he lives a couple hundred feet from the Bland project and a couple hundred feet on the other side is the Andrew Atkins project. Sitting in the middle of the two projects is Braddock Lofts. He said the City is getting a significant amount of money in property taxes from the property, and there are acres of public housing land which it doesn't get tax revenue from. He said it seemed like the land in the Braddock area is so valuable that if it were sold at market rate, there would be so much money that ARHA could build first class housing with the same number or maybe even more housing units if it were dispersed in the lower cost of land areas within Alexandria.

(q) Noah Teates, 1125 Wythe Street, spoke about opportunity and said the most compelling thing he saw on the tour of public housing in the area was a woman who grew up in the Bland project and then moved to an ARHA townhouse off of Duke Street in a mixed income community, and her neighbors didn't know she was in public housing. He said public housing works when you can't see it. He said that returning 143 units of the new Bland development to ARHA's control is a recipe for failure, as the market rates won't sell or won't sell for as much, and more importantly, ARHA families will self identify as residents of a project. He said they have the opportunity to build public housing that helps people help themselves, which is the only reason they would talk about spending this much of the public funds on something like this in the first place. Mr. Teates said that given the resources and the people in the room, he knew they could find that solution.

(r) Joanne Lepanto, 4009 N. Garland Street, president, Seminary Hill Association, said the board of directors voted to support the Cameron Station Civic Association's request for an investigation by an independent investigator outside City government into the City's failure to provide timely notification to the public of the Norfolk Southern Ethanol Transloading facility and mishandling of the situation in general. She said Ms. Sanden's letter makes a compelling case for why the independent investigation is essential. She noted other examples of how the City has not been working the way it should: a traffic calming project at Pickett and Pegrum was poorly handled in terms of communicating with the citizens, and parts of the project had to be ripped up and re-done twice; brand new sidewalks were installed on Ft. Williams Parkway without moving the utility boxes, which ended up in the middle of sidewalks, in violation of the Americans with Disabilities Act; a large uncovered dumpster was placed in Ft. Ward Park to receive truckloads of trash from the City's public schools, Burke Library and City Hall; and Ft. Ward Park has been deteriorating over the years and is being abused, with excessive noise, crowds, alcohol and trash, which show a shameful disrespect for the park and diminish the quality of life for the neighbors. Ms. Lepanto said something is wrong in City Hall, from small issues to the bigger issues. The City isn't getting things right, and she asked who is running the show and where does the buck stop in City Hall. She said they need to know where and how and why such a lapse of management in City Hall could occur inside of City Hall and they need accountability. Ms. Lepanto urged Council to commence an independent investigation post-haste, which is an essential first step in trying to restore citizen confidence in their local government.

(s) Lisa Katic, 747 N. Fayette Street, spoke about the concentration of public housing within the Braddock Metro Neighborhood Plan and said she had concerns about the redevelopment of the neighborhood. She read from ARHA's mission statement on housing assistance on promoting self-sufficiency. She said that what she sees across the street from her is not consistent with the mission statement. Ms. Katic said she sees the entire area outside of her house blocked off by 8, 9, 10 or 15 police cars at night. She said the Police send out a fleet of policemen for even minor incidents, and they are told it is necessary due to the nature of the neighborhood. She said drug deals are taking place on a regular basis, and she asked what kind of life that is for a young person to grow up in, and if they are to promote personal and economic self-sufficiency as stated in the ARHA mission, how are public housing residents to achieve this in such an environment. She said they have looked at vandalism of personal property, trespassing on personal property and litter and debris in the neighborhood on a regular basis, and she asked if this is what they are trying to preserve. She said that by relocating the appropriate number of housing units and adding both affordable and market rate housing to the neighborhood, all residents can take advantage of a rising tide.

(t) Anita Henry, 729 N. Fayette Street, Braddock Lofts, expressed concern for the future plans for mixed income housing in the Braddock Metro neighborhood, and the long-term concern of the neighborhood is a continued concentration of public housing. The Braddock Plan reinforces deconcentration of public housing by scattering it throughout the City. She said her concerns lie with the negative effect of the suggested income mix with Bland on the ability of the market rate units to be sold. Bland exceeds the ratio of the good mix of two-thirds market rate housing to one-third public housing by 16 units and by even more if the City reduces the number of market rate homes by adding affordable and workforce housing and removes several of the market rate townhomes to make a larger park. She requested the additional ARHA units be relocated off the Bland site so that an appropriate mix of income levels, including affordable and workforce housing, can be integrated while ensuring the success of the property and the sale of the market rate units. She said that in order to fund the deconcentration of public housing, the affordable housing fund contributions for the new developments in their neighborhood should be allocated for replacement public housing sites across the City.

(u) Karl Tammi, 702 North Columbus Street, spoke about Bland and said there needs to be more open space. They are taking the mature trees, a tot park and grass area and replacing it with high density, high height townhouses and mixed unit houses. There will be nothing on the block, and two proposed open space parks both favor the north end, more than two blocks away from his house, so there is nowhere for he and his son to play catch or football. He asked for a pocket park place on his block or one of the parks moved closer, centrally located within Bland, so that it is more accessible to everyone. He said he would also like to see more units on Bland off-sited.

(v) Nancy O'Donnell, 704 N. Columbus Street, spoke in opposition to the

City placing 35 and 50 foot structures behind and on top of their 20 foot historic townhomes. She said the row of 12 townhomes that are 20 feet was represented by a much larger, much taller end unit that is unique to that block of homes. She said the height imposed on them will be 35 to 40 feet, and the western most side of the row of units fronting on Wythe Street is what they are going to be looking at. Placing three and a half or four stories atop of and adjacent to two-story homes is in conflict with the Bland redevelopment plan, and the City's willingness to do this calls into question their motivation and objectivity on the project. She asked Council to require the development to be consistent with the step up requirements placing two stories immediately behind them and progressing with the step-up within the project.

(w) Leslie Zupan, 1309 Queen Street, president of the Inner City Civic Association, thanked Council for celebrating the Hunter-Miller Park this morning. She said that in June, she sent the City Attorney an email asking about the laws affecting hazardous material transportation on Route 1 and she asked when she might expect to have that.

City Attorney Pessoa said it is a complex issue and they are still researching it, and he expected to have by the end of the coming week something in writing explaining the parameters and categories where local authority differs.

Ms. Zupan said that last week, the Inner City Civic Association met to discuss the Bland project and it was their position that there was not enough open space on the Bland property and that what open space was envisioned was not centrally located enough, and the neighborhood on that side of Route 1 has no parks like Hunter-Miller Park. She said they would like to see that open space more centrally located and/or the possibility of open space in the form of a pocket park on Wythe Street. She said it was the position of the association that money contributed to the affordable housing trust fund by developers working in the Braddock Road Metro Area should be returned to their community in terms of paying for off-siting. She said they believe that 33 more units need to come off the Bland site, and it is critical to establish a benchmark of 50 percent off-siting and was disturbed at the work session last week when Planning Director Hamer spoke about the inappropriate use of the term deconcentration, and she referred to the Braddock Road Plan which referred to deconcentrating public housing and scattering low income housing. She said it is the City's own language and they can't be changing the language now. She said there was a statement made by Ms. Hamer that there is no magic number, but there are numbers and precedents. Chatham Square had 45 percent off-siting and for Quaker Hill, they also had a substantial amount of off-siting. She said the City has engaged in very significant efforts to deconcentrate public housing, and they are asking Council to do so again and to make it a priority.

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES**

### **ACTION CONSENT CALENDAR (3-13)**

## **Planning Commission**

3. SPECIAL USE PERMIT #2008-0031  
816 NORTH SAINT ASAPH STREET  
YOGA CENTER

Public Hearing and Consideration of a request for a change of ownership, increased hours of operation, an increase in the number of students allowed, and a request for a parking reduction; zoned CDX/Commercial Downtown Old Town North. Applicant: All is Well, LLC, by Heidi Thompson

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 9/13/08, and is incorporated as part of this record by reference.)

4. SPECIAL USE PERMIT #2008-0045  
119 SOUTH ROYAL STREET  
FONTAINE

Public Hearing and Consideration of a request for an amendment to allow off-premise alcohol sales; zoned CD/Commercial Downtown. Applicant: Fontaine, Inc., by Kyong R. Yi

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 9/13/08, and is incorporated as part of this record by reference.)

5. SPECIAL USE PERMIT #2008-0046  
630 NORTH COLUMBUS STREET  
PARKING REDUCTION

Public Hearing and Consideration of a request for approval of a parking reduction; zoned RB/Residential. Applicant: James A. Merklinger

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 9/13/08, and is incorporated as part of this record by reference.)

6. SPECIAL USE PERMIT #2008-0048  
3406 COMMONWEALTH AVENUE (Parcel Address: 3400 Commonwealth Ave.)  
RESTAURANT

Public Hearing and Consideration of a request to operate a restaurant; zoned CSL/Commercial Service Low. Applicant: Shahzad Kiani

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 9/13/08, and is incorporated as part of this record by reference.)

7. SPECIAL USE PERMIT #2008-0049  
451 CALVERT AVENUE (Parcel Address: 2610 Jefferson Davis Highway)  
BEST AUTO CORNER  
Public Hearing and Consideration of a request to operate a general automobile repair business; zoned I/Industrial. Applicant: Best Auto Corner by Nariman Sulthzada

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 9/13/08, and is incorporated as part of this record by reference.)

8. SPECIAL USE PERMIT #2008-0053  
501 NORTH HENRY STREET  
CHILD DAY CARE CENTER  
Public Hearing and Consideration of a request to operate a child day care center; zoned CSL/Commercial Service Low. Applicant: Maria Bustinza

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 9/13/08, and is incorporated as part of this record by reference.)

9. SPECIAL USE PERMIT #2008-0041  
25 SOUTH QUAKER LANE, SUITES 13 & 15  
SPECTRUM BEAUTY ACADEMY  
Public Hearing and Consideration of a request to operate a beauty school; zoned CSL/Commercial Service Low. Applicant: Spectrum Beauty Academy, LLC by Patricia Green

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 9/13/08, and is incorporated as part of this record by reference.)

10. SPECIAL USE PERMIT #2008-0042

2040 JAMIESON AVENUE (Parcel Address: 2050 Jamieson Avenue)  
STARBUCK'S COFFEE  
Public Hearing and Consideration of a request to operate a restaurant; zoned CDD-1/Coordinated Development District-1. Applicant: Westin Alexandria by John Varghese

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 9/13/08, and is incorporated as part of this record by reference.)

11. SPECIAL USE PERMIT #2008-0050  
2004 EISENHOWER AVENUE (Parcel Address: 2000 Eisenhower Avenue)  
RESTAURANT  
Public Hearing and Consideration of a request to operate a restaurant with amusement enterprise (arcade games); zoned CDD-1/Coordinated Development District. Applicant: Bruce and Lauren Catts

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 9/13/08, and is incorporated as part of this record by reference.)

12. SPECIAL USE PERMIT #2008-0052  
1106 ORONOCO STREET & 442 NORTH HENRY STREET  
U-HAUL RENTAL  
Public Hearing and Consideration of a request for an amendment to an existing gasoline/service station to include the operation of a U-Haul vehicle rental business; zoned CSL/Commercial Service Low. Applicant: Michael Huhn

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

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 9/13/08, and is incorporated as part of this record by reference.)

13. SPECIAL USE PERMIT #2008-0054  
3414 & 3414A MOUNT VERNON AVENUE  
(Parcel Address: 3408 Mount Vernon Avenue)  
Restaurant  
Public Hearing and Consideration of a request for an amendment to add an additional entryway and seating within an existing restaurant and market; zoned CG/Commercial General. Applicant: Tony Flores

**PLANNING COMMISSION ACTION: Recommend Approval 7-0**

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 9/13/08, and is incorporated as part of this record by reference.)

**END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Wilson and carried unanimously, City Council adopted the consent calendar, with the removal of items #6, 8 and 12 and considered them under separate motions, as follows:

- 3. City Council approved the Planning Commission recommendation.
- 4. City Council approved the Planning Commission recommendation.
- 5. City Council approved the Planning Commission recommendation.
- 7. City Council approved the Planning Commission recommendation.
- 9. City Council approved the Planning Commission recommendation.
- 10. City Council approved the Planning Commission recommendation.
- 11. City Council approved the Planning Commission recommendation.
- 13. City Council approved the Planning Commission recommendation.

The voting was as follows:

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

- 6. SPECIAL USE PERMIT #2008-0048  
3406 COMMONWEALTH AVENUE (Parcel Address: 3400 Commonwealth Ave.)  
RESTAURANT  
Public Hearing and Consideration of a request to operate a restaurant; zoned CSL/Commercial Service Low. Applicant: Shahzad Kiani

**PLANNING COMMISSION ACTION: Recommend Approval 7-0**

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6;

9/13/08, and is incorporated as part of this record by reference.)

Deputy Director of Planning and Zoning Josephson made a presentation of the staff report and responded to questions of City Council.

Mayor Euille noted to staff that it needs to get in the habit of requiring applicants to fully complete application forms and answer all the questions, and he noted that on several applications for this docket, several questions were not answered. He also asked that they add a question for the future on whether the restaurant is smoke free.

Councilman Smedberg asked if the application was available on line, as it is hard to read some of the writing and it would be nice to receive the applications with typed words. Mr. Josephson said they are working toward that.

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

(a) Nicole Quinn, 4 West Glebe Road, spoke about the lack of notification of the public hearings and spoke in opposition to the request.

(b) Debbie Hodnett, 2 West Glebe Road, speaking for the Common Wealth Crossing Homeowners Association, spoke in opposition to the request.

Councilman Wilson asked staff to refine the process on people and associations getting notified of the hearings.

(c) Joe Bloomer, 5 West Glebe Road, spoke in opposition to the request.

(d) James Galisdorfer, 12 West Glebe Road, spoke in opposition to the request.

(e) Robert Castro, 7 Herbert Street, spoke in opposition to the request.

(f) Mr. Mike Schofer, agent for Mr. Kiani, spoke in favor of the application. He, along with Mr. Shahzad Kiani, responded to questions of council.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilman Gaines and carried unanimously, City Council deferred this item to the September 23 legislative meeting (or when appropriate and it's been resolved) to allow staff to work with the applicant and the community to resolve any outstanding issues of concern.

In response to comments from Council, Mr. Josephson said he would go to Code Administration and Transportation and Environmental Services to get standards on the exhaust fans and Code requirements.

The voting was as follows:

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

8. SPECIAL USE PERMIT #2008-0053  
 501 NORTH HENRY STREET  
 CHILD DAY CARE CENTER  
 Public Hearing and Consideration of a request to operate a child day care center;  
 zoned CSL/Commercial Service Low. Applicant: Maria Bustinza

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 9/13/08, and is incorporated as part of this record by reference.)

Councilman Wilson noted that both his children attend a facility operated by the applicant, but he didn't believe it affects his ability to consider the request.

Mr. Josephson responded to questions of City Council regarding the playground areas and transporting children, and the Department of Human Services comments on the application.

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

- (a) Ms. Maria Bustinza, 422 Pendleton Street, the applicant, responded to questions of Council concerning the playground areas, noting that they will only have infants at the facility, and the children would be in strollers when leaving the facility.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Pepper and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation.

Councilman Smedberg noted that it would be helpful to have a statement from the Department of Human Services if there are any red flag issues, even if they don't have the regulatory authority.

The voting was as follows:

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

12. SPECIAL USE PERMIT #2008-0052  
1106 ORONOCO STREET & 442 NORTH HENRY STREET  
U-HAUL RENTAL

Public Hearing and Consideration of a request for an amendment to an existing gasoline/service station to include the operation of a U-Haul vehicle rental business; zoned CSL/Commercial Service Low. Applicant: Michael Huhn

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

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 9/13/08, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilman Krupicka and carried unanimously, City Council approved the Planning Commission recommendation, with an amendment to condition #18 that the review period extend to yearly for three years.

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

\* \* \* \* \*

City Council took a 15 minutes recess from 12:15 to 12:30 p.m.

\* \* \* \* \*

**REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

14. Public Hearing to receive public comment on the Revised City Policy on Acquired Art. (#14, 9/9/08)

(A copy of the City Manager's memorandum dated September 2, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 14; 9/13/08, and is incorporated as part of this record by reference.)

Director of Recreation, Parks and Cultural Activities Kincannon made a presentation of the report.

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

(a) Julie Crenshaw Van Fleet, 26 Wolfe Street, said that anytime there is public art, it needs to be considered by other organizations than just the Arts Commission. If it is anything in the historic district, all of the historic organizations need

to be notified of what it is so they can talk about it. She said it is important for historic, civic and arts organizations to be notified. She said they also need to take into consideration whether it fits in the area that it is being placed. Ms. Crenshaw Van Fleet said the arts has no business under Parks and Recreation and is at a more school level than at an elevated level.

(b) Matthew Harwood, 1755 N. Cliff Street, said Pat Miller asked him to say that the Alexandria Commission for the Arts supports the changes City staff has made for the policy on public art. Mr. Harwood said there is an editing error on page 7, number 3 of the policy, public art committee, arts and arts professional, it should say reside "and/or work" in the City. Mr. Harwood spoke to process and the effort made to bring people in and talk to the communities.

(c) Sherry Brown, 1600 Prince Street, said she is happy the language has been corrected on the visual arts rights act. Ms. Brown said the revised policy will serve them well, as it contains a process that accommodates public input with a timetable to ensure adequate time for thoughtful deliberation.

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

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

**WHEREUPON**, upon motion by Councilman Krupicka, seconded by Councilman Wilson and carried unanimously, City Council adopted the City Policy on Acquired Art, with an amendment to Section 1.3, Public Art Committee Composition: items two and three that now say up to five persons should read: "up to four persons;" item four should read "up to four," and that should include people who live or work in the City with an interest in art; and to add a new condition on the overall make-up of the Commission that a minimum three-quarters of the members of the Commission need to be City residents. The voting was as follows:

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

## **REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

### **Planning Commission (continued)**

15. DEVELOPMENT SPECIAL USE PERMIT #2008-0008

621 NORTH PAYNE STREET  
621 NORTH PAYNE STREET RESIDENCES

Public Hearing and Consideration of a request for an amendment to DSUP #2005-0014 to adjust the unit mix and add a loading bay; zoned CRMU-H/Commercial Residential Mixed Use High. Applicant: Erkiletian Development Corporation by Harry P. Hart, attorney

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

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 9/13/08, and is incorporated as part of this record by reference.)

Mr. Farner, Planning and Zoning, made a presentation of the staff report.

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

(a) Harry Hart, 307 N. Washington Street, attorney representing the applicant, spoke in favor of the request.

Mayor Euille said it would be helpful for staff to initiate discussion on the plan with the Post Office across the street.

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

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

16. DEVELOPMENT SPECIAL USE PERMIT #2007-0033

1200 NORTH QUAKER LANE  
EPISCOPAL HIGH SCHOOL - GYM EXPANSION

Public Hearing and Consideration of request for a development special use permit, with site plan, to expand a private school gymnasium; zoned R-20/Residential. Applicant: The Protestant Episcopal High School in Virginia by Duncan Blair, attorney

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 16; 9/13/08, 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"	

17. DEVELOPMENT SPECIAL USE PERMIT #2007-0031  
3300 DUKE STREET  
PNC BANK

Public Hearing and Consideration of a request for a development special use permit, with site plan, to construct a bank with drive-through service; zoned CG/Commercial General. Applicant: PNC Bank by M. Catherine Puskar, attorney

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

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 17; 9/13/08, and is incorporated as part of this record by reference.)

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

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

18. SPECIAL USE PERMIT #2007-0107

CARLYLE DEVELOPMENT-Area bounded by Duke Street to the north, Holland Lane to the east, Eisenhower Ave to the south and Mill Road to the west, known as the Carlyle Development

CARLYLE COORDINATED SIGN PROGRAM

Consideration of a request for an amendment to the Carlyle Coordinated Sign Program; zoned CDD-1/Coordinated Development District - 1. Applicant: Carlyle-Lane-CFRI Venture II, LLC and LCOR Ballenger Avenue, LLC by Jonathan P. Rak, attorney

PLANNING COMMISSION ACTION FROM 7/1/08: Recommend Approval 7-0

(A copy of the Planning Commission report dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 18;

9/13/08, and is incorporated as part of this record by reference.)

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

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

### **Board of Architectural Review**

19. Public Hearing and Consideration of an Appeal of the Board of Architectural Review's decision approving a request for alterations at 209 Jefferson Street, zoned RM Residential, BAR 2008-0076. Applicant and Appellant: Joan Mabuchi.

(A copy of the Planning Department report dated September 13, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 19; 9/13/08, and is incorporated as part of this record by reference.)

Mr. Milone, Planning and Zoning, made a presentation of the staff report and responded to questions of City Council.

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

(a) James Spencer, 2437 Menokin Drive, member of the Board of Architectural Review, spoke in opposition to the appeal, noting the BAR's decision on the door.

(b) Kivehiko Mabuchi, 209 Jefferson Street, spoke in favor of the appeal.

(c) Denise Robotti, 776 N. Ripley Street, spoke in favor of the appeal and showed Council a sample of both the fiberglass and wooden doors.

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

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

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice

Mayor Pepper and carried 5-2, City Council upheld the decision of the Board of Architectural Review. The voting was as follows:

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

## **ORDINANCES AND RESOLUTIONS**

20. Public Hearing, Second Reading and Final Passage. Consideration of an Ordinance to Amend the Requirements for Child Care Providers. (#15, 9/09/02)  
**[ROLL-CALL VOTE]**

(A copy of the City Manager's memorandum dated September 4, 2008, is on file in the Office of the City Clerk and Clerk of Council, marked as Exhibit No. 1 of Item No. 20; 9/13/08, 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. 20; 9/13/08, 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. 20; 9/13/08, 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 adopted the ordinance to amend the requirements for child care providers. 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. 4559**

AN ORDINANCE to amend and reordain TITLE 12 (Education, Social Services, and Welfare), CHAPTER 3 (Child Care) ARTICLE A (General Provisions) and ARTICLE B (Day Care Homes) of the Code of the City of Alexandria, Virginia, 1981, amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Title 12, Chapter 3, Article A of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

## ARTICLE A General Provisions

### Sec. 12-3-1 Definitions.

For purposes of this chapter, the following terms shall have the meanings provided below:

- (1) "Adult" means any natural person of at least 18 years of age.
- (2) "Child" means any natural person under 18 years of age.
- (3) "Child care services" means the regular provision, ~~in exchange for compensation,~~ of care, protection and guidance to at least one, and up from one to and including five children for compensation, while such children are separated from their parents, guardians or legal custodians, in a dwelling not the residence of one or more of the children, during a part of the day for at least four days of a calendar week. ~~provided, that~~ The provision of such care, protection and guidance by a grandparent solely to his or her grandchildren shall not constitute child-care services for the purposes of this chapter. Providers caring for six or more children or more than four children under the age of two shall be licensed by the Virginia Department of Social Services.
- (4) ~~"Division of social Department of Human Services or Department"~~ means the component of is the City of Alexandria department of human services responsible for administering the provisions of article B of this chapter.
- (5) "Day- Child care home" means any residential building, or portion thereof, which is used to provide child care services.
- (6) ~~"Nursery school" means a child day care program for children from two to and including five years of age at which children two through four years of age attend no more than four hours per day and children five years of age attend no more than six and one half hours per day, and which is operated primarily for the educational development and instruction of two or more children who also are receiving care, protection, and guidance while separated from their parents.~~

### Sec. 12-3-2 Zoning.

No ~~day-~~ child care home shall be registered under this chapter unless the land upon which the ~~day-~~ child care home is to be operated, or is operated, is zoned to permit such use.

### Sec. 12-3-3 Performance of duties imposed by chapter.

It shall be unlawful for any person to fail, refuse or neglect to perform any duty imposed upon such person by this chapter.

Sec. 12-3-4 ~~Day- Child~~ care home regulations.

The ~~division of social~~ Department of Human Services shall issue regulations for ~~day- child~~ care homes which shall be designed to ensure that such homes are operated in a manner conducive to the health, safety and welfare of the children who receive their services; provided, that such regulations shall not be more extensive in scope than state regulations applicable to family day ~~care~~ homes, as defined in section 63.2-100 of the Virginia Code (1950), as amended.

Secs. 12-3-5 through 12-3-60 reserved.

Section 2. That Title 12, Chapter 3, Article B of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

ARTICLE B  
~~Day- Child~~ Care Homes

Sec. 12-3-61 Purpose of article.

The purpose of this article is to ensure that child care services provided in ~~day- child~~ care homes in the city are safe and of good quality.

Sec. 12-3-62 Registration required.

It shall be unlawful for any person to operate a ~~day-child~~ care home in the city without a registration issued by the ~~division of social~~ Department of Human Services pursuant to this article or in a manner not expressly authorized by such registration.

Sec. 12-3-63 Application for registration.

(a) Any person desiring to operate a ~~day-child~~ care home shall apply for registration to the ~~division of social~~ Department of Human Services. In applying for registration, the applicant shall provide:

- (1) The applicant's name, birth date, address and phone number;
- (2) The name, birth date and address of every person who will provide or assist the applicant in the provision of child care services in the proposed ~~day- child~~ care home;
- (3) The name, birth date and relationship to the applicant (e.g., spouse, child) of every person living in the residence where the child care services are to be provided;
- (4) Certification of a national criminal record check ~~from the Central Criminal Records Exchange~~ for the applicant, for all persons who will provide or assist in the provision of child care services in the proposed ~~day- child~~ care home and for all adults who live in the proposed ~~day- child~~ care home establishing that such persons have never been convicted of any barrier crime or offense as defined in section 63.2-1719 of the Virginia Code (1950), as amended. ~~involving the sexual molestation of a child or~~

~~the physical or sexual abuse or rape of a child, or of murder, abduction for immoral purposes, sexual assault, failure to secure medical attention for an injured child, pandering, crimes against nature involving children, taking indecent liberties with children, neglect of children, obscenity or any offense identified in section 63.1-198.1 of the Virginia Code (1950), as amended;~~

(5) Certification from the Virginia Department of Social Services for the applicant, for all persons who will provide or assist in the provision of child care services in the proposed ~~day-~~ child care home and for all ~~adults~~ persons, age 14 and older, who live in the proposed ~~day-~~ child care home establishing that such persons have never been the subject of a founded complaint of child abuse or neglect;

(6) A completed self-certification form provided by the ~~division of social~~ Department of Human Services ~~stating attesting~~ that the proposed ~~day-~~ child care home complies with the regulations issued pursuant to section 12-3-4;

(7) Such additional information required by the ~~division of social~~ Department of Human Services to enable it to determine whether the proposed ~~day-~~ child care home will comply with all requirements imposed by the regulations issued pursuant to section 12-3-4; and

(8) A registration fee of \$5.

#### Sec. 12-3-64 Processing of application.

After receipt of an application for registration, the ~~division of social~~ Department of Human Services shall examine the information provided therein and seek clarification or explanation if necessary, and the city shall inspect the proposed ~~day-~~ child care home to ensure that it complies with fire and building code regulations. The ~~division~~ Department may also inspect and investigate the proposed ~~day-~~ child care home to determine whether it will comply with the regulations issued pursuant to section 12-3-4 and will adequately provide for the health, safety and welfare of the children for whom child care services will be provided.

#### Sec. 12-3-65 Action on registration.

(a) An application for registration under section 12-3-63 shall be denied if the ~~division of social~~ Department of Human Services finds that the applicant, any person who will provide or assist in the provision of child care services or any adult who lives in the proposed child day-care home has been convicted of any barrier crime or any of the offenses described in section 42-3-63(4) 63.2-1719 of the Virginia Code (1950) as amended or has been the subject of a founded case of child abuse or neglect. An application for registration under section 12-3-63 shall also be denied if the Department determines that the proposed child care home fails to comply with all requirements proposed by the regulations issued pursuant to section 12-3-4, or determines that the applicant will not adequately provide for the health, safety and welfare of the children for whom child care services are to be provided, unless the division Department determines, after careful investigation, that, notwithstanding such conviction or founded case, the applicant is capable of providing child care services consistent with the health, safety and welfare of the children who will be served and that the proposed home

~~complies with all requirements imposed by the regulations issued pursuant to section 12-3-4.~~ If an application for registration is denied under this subsection because of any adverse information appearing on a record obtained by the ~~division of social~~ Department of Human Services from the Central Criminal Records Exchange or the Virginia Department of Social Services, the ~~division~~ Department shall provide the applicant a copy of the information upon which the denial was based.

(b) An application for registration under section 12-3-63 shall be granted if the ~~division of social~~ Department of Human Services makes no finding under subsection (a), determines that the proposed ~~day-~~ child care home complies with all requirements imposed by the regulations issued pursuant to section 12-3-4 and determines that the applicant will adequately provide for the health, safety and welfare of the children for whom child care services are to be provided. A registration issued under this section shall, at a minimum, contain the name of the applicant-operator of the registered ~~day-~~ child care home, the address of the home, the names of all persons authorized to provide or assist in the provision of child care services at the home, the names of all persons who live in the home, and the maximum number of children to be served at any one time at the home.

Sec. 12-3-66            Display of registration; provision of child care information.

Any ~~day-~~ child care home registered under this chapter shall display its registration conspicuously. In addition, any such ~~day-~~ child care home shall provide to the parent, guardian or legal custodian of each child for whom child care services is provided a pamphlet on child care evaluation and standards prepared and provided by the ~~division of social~~ Department of Human Services.

Sec. 12-3-67            Change in operator, address or personnel; amendments to registration.

(a) No change in the operator or address of a registered ~~day-~~ child care home may occur without the approval of the ~~division of social~~ Department of Human Services. If, following the registration of a ~~day-~~ child care home, the person identified as the applicant-operator in the home's registration proposes to be replaced with another operator, or proposes to move the ~~day-~~ child care home from the address stated in the home's registration, the original applicant-operator shall immediately notify the ~~division of social~~ Department of Human Services of the proposal in writing on a form provided by the ~~division~~ Department. With respect to the proposed new operator, the original operator shall provide the information described in subsections (4), (5) and, if applicable, (7) of section 12-3-63. If the proposed new operator has not been convicted of any barrier crime or any of the offenses described in section 12-3-63(4) and has not been the subject of a founded case of child abuse or neglect, and the ~~division~~ Department determines that the child ~~day-~~ care home will continue under the proposed new operator to provide child care services consistent with the health, safety and welfare of the children it is serving, the ~~division~~ Department shall approve the proposed new operator and shall amend the registration of the home accordingly. With respect to the proposed new address, if the ~~division~~ Department determines that the new address

meets the requirement of section 12-3-2, it shall approve the change in address and shall amend the registration of the home accordingly and issue a new certificate.

(b) An operator of a registered day child care home may not, without the approval of the ~~division of social~~ Department of Human Services, continue to provide child care services if a person not identified in the registration of the ~~day- child~~ care home provides or assists in the provision of child care services at the home, or if a person, age 14 and older, adult not identified in the registration lives in the home. If an operator proposes that one or more persons not identified in the registration provide or assist in the provision of child care services at a registered home, or that one or more ~~adults~~ persons, age 14 and older, not identified in the registration live in the home, the operator of the home shall immediately notify the ~~division of social~~ Department of Human Services in writing on a form provided by the ~~division-~~ Department. With respect to each such person, the operator shall provide the information described in subsections (4), (5) and, if applicable, (7) of section 12-3-63. If such persons have not been convicted of any barrier crime or any of the offenses described in section 12-3-63(4) and have not been the subject of a founded case of child abuse or neglect, and the ~~division~~ Department determines that, with such persons, the ~~day- child~~ care home will continue to provide child care services consistent with the health, safety and welfare of the children it is serving, the division shall approve the continued operation of the ~~day- child~~ care home and shall amend the registration of the home accordingly.

Sec. 12-3-68 Inspection of ~~day- child~~ care home.

The city may inspect any ~~day- child~~ care home registered under this article ~~on weekdays between 8:00 a.m. and 5:00 p.m.~~ at any time child care services are scheduled to be provided.

Sec. 12-3-69 Revocation of registration.

(a) The registration of a ~~day- child~~ care home may be revoked by the ~~division of social~~ Department of Human Services if it is determined that the home is in violation of applicable fire or building codes, that any person providing or assisting in the provision of child care services or an adult living in the home has been convicted of a barrier crime or offense described in section 12-3-63(4) 63.2-1719 of the Virginia Code (1950) as amended, or any person living in the home, age 14 or older, has been the subject of a founded case of child abuse or neglect, that the home has served more children than the maximum number listed in its registration, that permission to inspect the home ~~on a weekday between 8:00 a.m. and 5:00 p.m.~~ during any time the home is scheduled to provide child care has been denied, that the home has represented its registration as constituting official city approval of the child care services it is providing, that the applicant has misrepresented or provided false information on or in conjunction with the application for the home, that the home is not complying with all requirements imposed by the regulations issued pursuant to section 12-3-4, or that the home is not being operated in a manner consistent with the health, safety and welfare of the children it is serving.

(b) No registration may be revoked without 10 days written notice to the

applicant-operator, at the address listed on the registration, which shall contain a statement of the reasons why the registration is being revoked. Unless the health, safety and welfare of the children being served by the home is immediately threatened, the notice shall inform the applicant-operator that he or she has 10 days within which to remove the reasons for the revocation or to establish that such reasons either do not exist or do not warrant the revocation of the registration. The notice shall also inform the applicant-operator that, prior to the expiration of this 10-day period, he or she may meet with the ~~chief of the division of social services~~ Director of the Department of Human Services, or a designee, in order to present reasons why the registration should not be revoked. In the event that the reasons for the revocation have not been removed or negated within the 10-day period, the ~~division~~ Department shall revoke the registration.

Sec. 12-3-70 Penalties.

Any person who violates section 12-3-62 shall be guilty of a class 4 misdemeanor. For purposes of this article, each day a person operates a ~~day-~~ child care home without a registration or in a manner not authorized by a registration shall constitute a separate offense.

Sec. 12-3-71 Business license not required.

Persons operating a ~~day-~~ child care home under a registration issued pursuant to this article shall not come within the provisions of article C, chapter 1, title 9 of this code.

**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**

**DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

**Planning Commission (continued)**

None.

**END OF DEFERRAL/WITHDRAWAL CONSENT CALENDAR**

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**THERE BEING NO FURTHER BUSINESS TO BE CONSIDERED**, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried unanimously, the City Council meeting of September 13, 2008, was adjourned at 1:36 p.m. The voting was as follows:

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

Wilson "aye"

APPROVED BY:

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WILLIAM D. EUILLE MAYOR

ATTEST:

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Jacqueline M. Henderson, CMC, City Clerk