

From: ninarand@gmail.com
Sent: Friday, March 15, 2013 11:02 PM
To: City Council; City Council Aides; JoAnn Maldonado; Elaine Scott; Jackie Henderson
Subject: Call.Click.Connect. #30901: Mayor, Vice Mayor, City Council Mayor Euille, Vice Mayor Silberberg and

Dear *Call.Click.Connect.* User

A request was just created using *Call.Click.Connect.* The request ID is 30901.

Request Details:

- Name: Nina Randolph
- Address: No Address Specified
- Phone Number: 703 405 8882
- Email: ninarand@gmail.com
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Mayor Euille, Vice Mayor Silberberg and Council Members,

It is disheartening to see how the City Council and Planning Commissioners have joined forces to push through their agenda to make it easy for developers to influence the direction of our unique City. The Planning Commissioners, at their meeting on March 7, 2012, heard a number of well respected citizens argue for a postponement of a vote on the two agenda items related to the Waterfront Small(?) Parcel Plan based on legal issues. Even your Commissioner Dunn asked the Planning Commissioners to take a month to look into a clarification of the "petition/supermajority issue". Because the whole evening was so scripted and purposeful in delivering to the City Council what you wanted them to do, all voices were ignored.

I, as a taxpayer, have great concerns that the City's studies of the flood mitigation, environmental issues, growing density all over the city, the traffic, etc. are not up-to-date, objective and the best for Alexandria's citizens and that there are going to be negative consequences to the City coffers and ambiance. We have heard how much the developers are going to add to the city with proffers and business. Since this is and has been a "done deal" since the beginning, my hope is that you have driven a hard bargain FOR an OUTSTANDING return for having giving up the waterfront to developers rather than having the vision of saving it for the people.

"Parks are the breathing lungs and beating hearts of all great cities"
Great cities have great parks and great parks have great cities.

Respectfully submitted, Nina Randolph

- Expected Response Date: Friday, March 22

Please take the necessary actions in responding, handling and/or updating this request at [the *Call.Click.Connect.* staff interface.](#)

If you need assistance with handling this request, please contact CommunityRelations@alexandriava.gov or call 703.746.HELP.

This is an automated email notification of a *Call.Click.Connect.* request. Please do not reply to this email.

Jackie Henderson

4/5
3-16-13

From: groundedbabs@hotmail.com
Sent: Friday, March 15, 2013 11:23 PM
To: City Council; City Council Aides; JoAnn Maldonado; Elaine Scott; Jackie Henderson
Subject: Call.Click.Connect. #30903: Mayor, Vice Mayor, City Council Mayor, Vice Mayor and City Council,P

Dear *Call.Click.Connect.* User

A request was just created using *Call.Click.Connect.* The request ID is 30903.

Request Details:

- Name: Barbara Corcoran
- Address: No Address Specified
- Phone Number: 703-778-5508
- Email: groundedbabs@hotmail.com
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Mayor, Vice Mayor and City Council,

Please vote "No" to both item #2(#005-rezoning) and item #3 (#006-protest petition) at the city council meeting Saturday March 16,2013.

Thank you,
Barbara Corcoran

- Expected Response Date: Friday, March 22

Please take the necessary actions in responding, handling and/or updating this request at the *Call.Click.Connect.* staff interface.

If you need assistance with handling this request, please contact CommunityRelations@alexandriava.gov or call 703.746.HELP.

This is an automated email notification of a *Call.Click.Connect.* request. Please do not reply to this email.

Jackie Henderson

4/5
3-16-13

From: lizabaldwin@comcast.net
Sent: Friday, March 15, 2013 4:33 PM
To: City Council; City Council Aides; JoAnn Maldonado; Elaine Scott; Jackie Henderson
Subject: Call.Click.Connect. #30890: Mayor, Vice Mayor, City Council Dear Mr. Mayor, Madam Vice-Mayor and Mem

Dear *Call.Click.Connect.* User

A request was just created using *Call.Click.Connect.* The request ID is 30890.

Request Details:

- Name: Elizabeth Baldwin
- Address: No Address Specified
- Phone Number: No Phone
- Email: lizabaldwin@comcast.net
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Dear Mr. Mayor, Madam Vice-Mayor and Members of the City Council,

I am writing to urge you to vote against Docket Items 4 & 5 at tomorrow's City Council Meeting.

Changing the text of the W1 Zoning language to implement the existing Small Area Waterfront Plan should be delayed until consideration of the impact of two major events on the existing plan can be incorporated: the successful closing of the GenOn Plant adding significant waterfront development acreage to Alexandria, the cost and physical impact of super-storms on all developed waterfront property.

I urge you all to consider the compromise proposals being offered by the Vice-Mayor as a starting point in reaching a plan that preserves our history and our river, and supports our growth sustainably -- out of the destructive reach of super-storms and rising waterlines.

Lastly, please delay consideration of any changes to citizens' right to protest a text or map zoning amendment. Any changes made to the zoning text, prior to hearing the decisions of our courts on cases now before them, is ill-considered since delay does not hinder any current activities and voting now only deepens the existing divide created by the City's legal action against its own Board of Zoning Appeals.

Allowing full and open discussion of the implications of this requested change over a protracted period, far longer than the one month that council has allowed, is an important first step in building the trust that has been broken with at least half of the Alexandria community.

Sincerely,
Elizabeth Baldwin
428 N Union Street
Alexandria, VA

- Expected Response Date: Friday, March 22

Please take the necessary actions in responding, handling and/or updating this request at [the *Call.Click.Connect.* staff interface.](#)

If you need assistance with handling this request, please contact CommunityRelations@alexandriava.gov or call 703.746.HELP.

This is an automated email notification of a *Call.Click.Connect.* request. Please do not reply to this email.

Jackie Henderson

415
3-16-13

From: jrwood72@gmail.com
Sent: Friday, March 15, 2013 5:52 PM
To: City Council; City Council Aides; JoAnn Maldonado; Elaine Scott; Jackie Henderson
Subject: Call.Click.Connect. #30892: Mayor, Vice Mayor, City Council Mayor Euille and Members of City Council

Dear *Call.Click.Connect.* User

A request was just created using *Call.Click.Connect.* The request ID is 30892.

Request Details:

- Name: Bob Wood
- Address: No Address Specified
- Phone Number: 571-216-2642
- Email: jrwood72@gmail.com
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Mayor Euille and Members of City Council,
Tomorrow's discussion and vote on the two text amendments are extremely important for the city. The W1 Text amendment sets the framework in place for all discussions and decisions ahead as each SUP comes forward for development along the waterfront. Language in the Waterfront Plan, as we were repeatedly reminded, defines a concept for future development. The W1 text amendment is the authoritative guidance. Please consider small but important amendments to guidance on density and public space. Please consider the vast majority of residents living in proximity to the waterfront have repeatedly asked for this consideration.

I'd ask you also to defer decision on changes to Section 11-808. You may well feel the citizens don't understand the facts or misunderstand the zoning intent. When the Federation of Civic Associations unanimously state they need clarification, do not dismiss their concerns out of hand. Change is certainly needed to resolve misunderstanding. The residents need reassurance and much better explanation of potential effects on their right to petition. Such a review doesn't need to take long.

I have attached a copy of my letter to the editors of several of our newspapers that add some details to my request to you. Let's move forward on the waterfront with our sides much closer, our interests equally assured, and our city more prepared for change that's necessary and coming soon.

Thank you.
Bob Wood

- Expected Response Date: Friday, March 22

Please take the necessary actions in responding, handling and/or updating this request at the *Call.Click.Connect.* staff interface.

If you need assistance with handling this request, please contact CommunityRelations@alexandriava.gov or call 703.746.HELP.

This is an automated email notification of a *Call.Click.Connect.* request. Please do not reply to this email.



Mr. Robert L. Montague III
1007 King St
Alexandria, VA 22314

4/5
3-16-13

To:
Subject:

<http://alexandriava.gov/Council>
From: Robert L Montague 111, Vice President-Northern Virginia Preservation Council

I write to submit my views on items # 005 rezoning and #6 protest petition. I share the position of the Old Town Civic Association and Andrew Mac Donald regarding these matters. Seldom in my experience with municipal issues have the citizens of this city become so involved in trying to offer guidance. It has been insufficiently heeded which has led to litigation and a vigorously contested local election. It would seem that the only hope for citizens of Old Town would be to secede from the city and establish a separate municipality where citizens' views and participation in the governing process are better appreciated, but that is not a realistic option. You need to do a better job of working with and not against the citizens of the community who are most affected by your actions and decisions. The City needs more parkland on the water front, not parking lots and traffic problems that come with higher density uses. The flood plain is no place for high density development that lacks 360 degree access.

Respectfully submitted
Robert L Montague

From: nrjennings@comcast.net
Sent: Thursday, March 14, 2013 6:32 AM
To: City Council; City Council Aides; JoAnn Maldonado; Elaine Scott; Jackie Henderson
Subject: Call.Click.Connect. #30683: Mayor, Vice Mayor, City Council City Council Public Hearing - March 16,

Dear *Call.Click.Connect.* User

A request was just created using *Call.Click.Connect.* The request ID is 30683.

Request Details:

- Name: Nancy Jennings
- Address: No Address Specified
- Phone Number: 703-820-6930
- Email: nrjennings@comcast.net
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: City Council Public Hearing - March 16, 2013 - docket items #4 and #5

Seminary Hill Association, Inc., passed the resolution below before two separate docket items were created. The resolution relates to both item #4 and #5. SHA urges City Council to reject both proposed amendments at this time. In particular, item #5 cries out for more information about cases in the past 20 years when this section of the zoning code was used.

Thank you for your consideration,
Nan Jennings

RESOLUTION ON THE WATERFRONT TEXT AMENDMENT RE-TRY

Whereas, an earlier vote by City Council on a Waterfront Text Amendment failed to achieve a supermajority; and

Whereas, a citizen petition under Section 11-808 of the Zoning Code to require a supermajority of Council was turned back apparently illicitly by the Alexandria Planning Director;

Whereas, citizens have sued the City of Alexandria, a suit now under consideration by the Supreme Court of Virginia; and

Whereas, the Alexandria Board of Zoning Appeals (BZA) also has disagreed with the actions and interpretations of the Planning Director; and

Whereas, the City has sued the BZA, a case now pending in the Circuit Court; and

Whereas, the City Manager has proposed a new attempt to pass the Waterfront Text Amendment, despite the pending litigation, and

Whereas, the said Amendment also would alter severely the text and import of Section 11-808 to the considerable detriment of the residents of Seminary Hill and, indeed, all citizens of Alexandria,

Now therefore, the Executive Board of the Seminary Hill Association, Inc., strongly opposes this action by the City Manager and urges the Planning Commission and the Alexandria City Council to reject the proposed amendment and allow current judicial activities to proceed to their conclusion before any further action is taken.

Approved on February 26, 2013.

- Expected Response Date: Thursday, March 21

Please take the necessary actions in responding, handling and/or updating this request at the **Call.Click.Connect.** staff interface.

If you need assistance with handling this request, please contact CommunityRelations@alexandriava.gov or call 703.746.HELP.

This is an automated email notification of a **Call.Click.Connect.** request. Please do not reply to this email.

Jackie Henderson

415
3-16-13

From: groundedbabs@hotmail.com
Sent: Friday, March 15, 2013 11:23 PM
To: City Council; City Council Aides; JoAnn Maldonado; Elaine Scott; Jackie Henderson
Subject: Call.Click.Connect. #30903: Mayor, Vice Mayor, City Council Mayor, Vice Mayor and City Council,P

Dear *Call.Click.Connect.* User

A request was just created using *Call.Click.Connect.* The request ID is 30903.

Request Details:

- Name: Barbara Corcoran
- Address: No Address Specified
- Phone Number: 703-778-5508
- Email: groundedbabs@hotmail.com
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Mayor, Vice Mayor and City Council,

Please vote "No" to both item #2(#005-rezoning) and item #3 (#006-protest petition) at the city council meeting Saturday March 16,2013.

Thank you,
Barbara Corcoran

- Expected Response Date: Friday, March 22

Please take the necessary actions in responding, handling and/or updating this request at the *Call.Click.Connect.* staff interface.

If you need assistance with handling this request, please contact CommunityRelations@alexandriava.gov or call 703.746.HELP.

This is an automated email notification of a *Call.Click.Connect.* request. Please do not reply to this email.

Jackie Henderson

4/5
3-16-13

From: ninarand@gmail.com
Sent: Friday, March 15, 2013 11:02 PM
To: City Council; City Council Aides; JoAnn Maldonado; Elaine Scott; Jackie Henderson
Subject: Call.Click.Connect. #30901: Mayor, Vice Mayor, City Council Mayor Euille, Vice Mayor Silberberg and

Dear *Call.Click.Connect.* User

A request was just created using *Call.Click.Connect.* The request ID is 30901.

Request Details:

- Name: Nina Randolph
- Address: No Address Specified
- Phone Number: 703 405 8882
- Email: ninarand@gmail.com
- Service Type: Mayor, Vice Mayor, City Council
- Request Description: Mayor Euille, Vice Mayor Silberberg and Council Members,

It is disheartening to see how the City Council and Planning Commissioners have joined forces to push through their agenda to make it easy for developers to influence the direction of our unique City. The Planning Commissioners, at their meeting on March 7, 2012, heard a number of well respected citizens argue for a postponement of a vote on the two agenda items related to the Waterfront Small(?) Parcel Plan based on legal issues. Even your Commissioner Dunn asked the Planning Commissioners to take a month to look into a clarification of the "petition/supermajority issue". Because the whole evening was so scripted and purposeful in delivering to the City Council what you wanted them to do, all voices were ignored.

I, as a taxpayer, have great concerns that the City's studies of the flood mitigation, environmental issues, growing density all over the city, the traffic, etc. are not up-to-date, objective and the best for Alexandria's citizens and that there are going to be negative consequences to the City coffers and ambiance. We have heard how much the developers are going to add to the city with proffers and business. Since this is and has been a "done deal" since the beginning, my hope is that you have driven a hard bargain FOR an OUTSTANDING return for having giving up the waterfront to developers rather than having the vision of saving it for the people.

"Parks are the breathing lungs and beating hearts of all great cities"
Great cities have great parks and great parks have great cities.

Respectfully submitted, Nina Randolph

- Expected Response Date: Friday, March 22

Please take the necessary actions in responding, handling and/or updating this request at the [Call.Click.Connect. staff interface](#).

If you need assistance with handling this request, please contact CommunityRelations@alexandriava.gov or call 703.746.HELP.

This is an automated email notification of a *Call.Click.Connect.* request. Please do not reply to this email.

Jackie Henderson

5
3-16-13

From: Geoffrey Goodale <geoff.goodale@gmail.com>
Sent: Friday, March 15, 2013 9:41 PM
To: William Euille; Allison Silberberg; John Chapman; Timothy Lovain; Del Pepper; Paul Smedberg; Justin Wilson
Cc: Jackie Henderson
Subject: Docket Item No. 5: Comments Regarding Text Amendment #2013-0006
Attachments: Goodale Comments on Text Amendment No. 2013-0006.pdf

Dear Mayor Euille amd Members of City Council:

In connection with Docket Item No. 5 for the public hearing to be held tomorrow by City Council ("Council"), I hereby submit the attached comments regarding Text Amendment #2013-0006. As discussed in the comments, I urge Council to defer action on this proposed text amendment and instead vote to create a working group that would analyze Section 11-808 of the Zoning Ordinance ("Section 11-808") and make comprehensive recommendations as to what changes should be made to Section 11-808 consistent with the City Charter and Virginia state law.

Your consideration of this matter is greatly appreciated. I respectfully request that this e-mail and the attached document be included in the record relating to this proceeding, and accordingly, I have included the City Clerk as a "cc" recipient on this e-mail. If you have any questions, please do not hesitate to contact me at geoff.goodale@gmail.com or (703) 618-6640.

Respectfully submitted,

Geoffrey M. Goodale

GEOFFREY M. GOODALE
494 Naylor Place
Alexandria, VA 22304

March 15, 2013

Mayor William D. Euille and Members of City Council
301 King Street – City Hall
Alexandria, VA 22314

Re: Comments Regarding Text Amendment #2013-0006

Dear Mayor Euille and Members of City Council:

I hereby submit these comments relating to Text Amendment #2013-0006, which the City Council ("Council") will consider as Agenda Item No. 5 during its hearing on March 16, 2013. As discussed below, I urge Council to defer action on this proposed text amendment and instead vote to create a working group that would analyze Section 11-808 of the Zoning Ordinance ("Section 11-808") and make comprehensive recommendations as to what changes changes should be made to Section 11-808 consistent with the City Charter and Virginia state law ("Working Group").

As an initial matter, it is unclear whether the Council has the legal authority to amend Section 11-808(d) to strike "text or" before "map amendment" given the language contained in Section 9.13 of the City Charter that pertains to protest petitions. Section 9.13 makes clear that a protest petition can be filed in opposition to a proposed amendment to a "zoning condition." See Exhibit 1. Given that the term "zoning condition" is not specifically defined in the City Charter, it is entirely possible that, when drafting Section 9.13, the Virginia General Assembly intended to allow citizens to be to file protest petitions in opposition to proposed text amendments that would change "zoning conditions." If so, the Council cannot amend Section 11-808(d) as City staff has proposed.

The legislative history that has been presented to date also suggests that protest petitions may be intended to apply to both text amendments and map amendments. Specifically, the protest petition provisions in the pre-1992 version of the Zoning Ordinance makes clear that such petitions "shall, except for city-owned property, apply to comprehensive zoning when the council adopts comprehensive zoning changes or revisions." See Exhibit 2. In addition, at the Planning Commission hearing on March 5, 2013, former Council Member Connie Ring provided testimony that it was his recollection that, when the changes to the Zoning Ordinance were made in the early 1990s, that the reference to "text or map amendment" in Section 11-808(d) was intentional. In contrast, no evidence has been presented that indicates that the changes to the Zoning Ordinance in the early 1990s were intended to restrict protest petitions to only map amendments.

Due in large part to the kinds of ambiguities discussed above, the City's Board of Zoning Appeals passed a resolution, without dissent, at its hearing in April 2012 recommending that the Council establish a committee (or working group) to review Section 11-808. See Exhibit 3 at p. 2. More recently, at the Planning Commission hearing on March 5, 2013, numerous people and organizations, including the Alexandria Federation of Civic Associations and Old Town Civic Association, urged that the proposed text amendment be deferred so that more careful study and analysis of it could be performed.

For all of the reasons discussed above, I urge that Council defer action on this proposed text amendment and instead vote to create a Working Group to analyze what changes should be made to Section 11-808 that are consistent with the City Charter and state law. Your consideration of this request is greatly appreciated.

Respectfully submitted,



Geoffrey M. Goodale

Encl.

EXHIBIT 1

Sec. 9.13 - Effect of protest by twenty per cent of the owners of property.

If a protest is filed with the city clerk against an application of motion to amend the boundaries of a zone or to amend the terms of an adopted conditional zoning proffer or zoning condition, signed by the owners of twenty percent or more either of the area of land within the boundaries of such proposed change or of the area of land within 300 feet of the boundaries of the land affected by such proposed change, the council shall not approve the application or motion, or adopt the ordinance making such amendment, by less than three-fourths affirmative votes of the members of council. Streets, alleys and lands dedicated to public use or lands owned by the city, Commonwealth, or federal government shall not be included in computing the abovementioned areas.

Any such protest shall be filed not later than 12 o'clock noon on the last working day before the day on which a public hearing on the application or motion is first conducted by the city council. Once any such protest has been filed no changes thereto by way of addition, substitution, amendment or withdrawal, may be made after said 12 o'clock noon deadline. (Acts 1960, ch. 8, § 1; Acts 1966, ch. 12, § 1; Acts 1966, ch. 83, § 1; Acts 1971, Ex. Sess., ch. 166, § 1; Acts 1974, ch. 595, § 1, Acts 1988, ch. 157; Acts 1990, ch. 652, § 1)

EXHIBIT 2

Sec. 7-6-288 Protest of landowners.

(a) If a protest is filed with the city clerk against such amendment, supplement or repeal signed by the owners of 20 percent or more either of the area of land within the boundaries of such proposed change or of the area of land within 300 feet of the boundaries of such proposed change, the council shall not adopt the ordinance making such amendment, supplement or repeal by a less than three-fourths (3/4) affirmative vote of the members of council. Following the filing of such an appeal, the department of planning and community development shall verify that those filing are legal property owners. Through mathematical calculations and the use of a planimeter, the department of transportation and environmental services shall verify said 20 percent area. Streets, alleys and land dedicated to public use or land owned by the city, state or federal governments shall not be included in computing the above-mentioned areas. The provisions of this section shall, except for city-owned property, apply to comprehensive zoning when the council adopts comprehensive zoning changes or revisions.

(b) Any such protest shall be filed not later than noon on the last working day before the day first advertised for public hearing before the city council pursuant to the sentence of section 9.12 of the charter which reads as follows: "At least 15 days' notice of the time and place of any such hearing before the council shall be given by publication thereof in a newspaper of general circulation published in the city. In the event there is no newspaper of general circulation published in the city, then such notice may be published in a newspaper of general circulation in the city." Once any such protest has been filed, no changes thereto by way of addition, substitution, amendment or withdrawal may be made after such noon deadline. In those instances when a change is made in the description of the land sought to be rezoned from that shown in the application for rezoning, and such change in description is made subsequent to the publication of the 15 day notice requirement of section 9.12 of the charter, any such protest shall be filed not later than noon on the day advertised for second reading and public hearing of the proposed ordinance to rezone. (Code 1963, Sec. 42-104, as amended by Ord. No. 2577, 5/16/81, Sec. 17)

Sec. 7-6-289 Limitation on frequency of public hearings before council as to changes in zone boundaries and zoning regulations.

Public hearings before the city council in relation to the adoption, supplement, amendment, alteration or change of regulations and restrictions and determination of zone boundaries shall not be held more frequently than once every two (2) months; provided, that more frequent rezoning ordinances may be enacted under the emergency ordinance provision of the charter. (Code 1963, Sec. 42-105)

Sec. 7-6-290 Withdrawal of applications.

Applications for amendment, supplement or change in this chapter may be withdrawn, but written notice of the withdrawal of a proposed rezoning by an applicant must be filed with the city clerk by noon on the last working day prior to city council consideration. Where the withdrawal is after the planning commission has made its recommendation and there is opposition to the withdrawal by a citizen or a party in interest, the subject matter of the withdrawn application shall not be considered by the planning commission or the city council for a period of one (1) year after such withdrawal. Any such opposition to a withdrawal shall be made not later than the time at which the application is first considered by the city council on its docket. (Code 1963, Sec. 42-106, as amended by Ord. No. 2577, 5/16/81, Sec. 18)

Sec. 7-6-291 Reconsideration of subject matter.

(a) The subject matter of any application for amendment, supplement or change in this chapter which is denied by the city council shall not be considered thereafter by the planning commission or the city council for a period of one (1) year.

(b) The subject matter of an application for amendment, supplement or change in this chapter which has been denied by the city council, or withdrawn with opposition, may be reconsidered by the planning commission and the city council after a period of six (6) months if the new application differs in a material respect from the ap-

EXHIBIT 3

MINUTES

The regular meeting of the Board of Zoning Appeals was held on
Thursday, April 12, 2012
at 7:30 P.M. in Council Chambers, City Hall, Alexandria, Virginia.

The proceedings of the meeting were tape recorded; records of each case are on file in the
Department of Planning and Zoning.

Members Present: Mark Allen, Chair
Geoffrey Goodale
John Keegan
Stephen Koenig
David Lantzy
Jennifer Lewis
Eric Zander

Members Absent: None

Staff Present: Jim Banks, CAO
Joanna Anderson, CAO
Barbara Ross, P&Z
Peter Leiberg, P&Z

- A. Call to order: The meeting was called to order at 7:30 P.M.
- B. Election of Officers
- Mr. Allen was re-elected Chair.
 - Mr. Lantzy was re-elected Vice Chair.
 - Ms. Lewis was re-elected Secretary.
- C. Consideration of the following cases under Section 11-1200 of the Alexandria Zoning Ordinance.
- 1A. BZA CASE #2012-0003
April Burke, Elizabeth Gibney and Marie Kux by Roy Shannon, attorney
- 1B. BZA CASE #2012-0004
Michael Peck by Benjamin Chew, attorney
- 1C. BZA CASE #2012-0005
Elizabeth P. Baldwin Trust by Benjamin Chew, attorney

W-1/WATERFRONT MIXED USE ZONE TEXT AMENDMENT

Appeal challenging the Director's determination regarding the validity of a protest petition, under section 11-808 of the Zoning Ordinance, relating to Text Amendment #2011-0005.

BOARD OF ZONING APPEALS ACTION OF APRIL 12, 2011: On a motion by Mr. Goodale, seconded by Mr. Keegan, the Board overturned the Director's determination regarding the validity of a protest petition, under section 11-808 of the Zoning Ordinance, relating to Text Amendment #2011-0005. The motion was approved on a vote of 4 to 2. Messrs. Koenig and Zander dissented. Mr. Allen recused himself.

BOARD OF ZONING APPEALS ACTION OF APRIL 12, 2011: On a motion by Mr. Goodale, seconded by Ms. Lewis, the Board recommended that City Council appoint a committee to review the zoning language of section 11-808 of the Zoning Ordinance. The motion was approved on a vote of 6 to 0. Mr. Allen recused himself.

Speakers:

Joanna Anderson, Assistant City Attorney, City of Alexandria, presented the case in support of the Director.

Barbara Ross, Deputy Director, Department of Planning and Zoning, City of Alexandria, presented the case in support of the Director.

Roy Shannon and Michael W. Tompkins, attorneys for April Burke, Elizabeth Gibney and Marie Kux, presented the case in support of the appeal.

T. Michael Guiffre, attorney for Michael Peck and Elizabeth P Baldwin Trust, presented the case in support of the appeal,

Elizabeth Gibney, property owner at 300 South Lee Street, spoke in support of the appeal.

April Burke, property owner at 101 Wolfe Street, spoke in support of the appeal.

Marie Kux, property owner at 125 Duke Street, spoke in support of the appeal.

Frank Putzu, property owner at 1423 Juliana Place, spoke in support of the appeal.

Joe Demshar, property owner at 302 Prince Street, spoke in support of the appeal.

Daniel Bernstein, property owner at 121 Princess Street, spoke in support of the appeal.

Dennis Kux, property owner at 125 Duke Street, spoke in support of the appeal.

Andrew Macdonald, property owner at 217 North Columbus Street, spoke in support of the appeal.

Van Van Fleet, property owner at 26 Wolfe Street, spoke in support of the appeal.

Julie Van Fleet, property owner at 26 Wolfe Street, spoke in support of the appeal.

Deena de Montigny, property owner at 302 Prince Street, spoke in support of the appeal.

Katy Cannady, property owner at 20 East Oak Street, spoke in support of the appeal.

Nancy Morgan, property owner at 500 South Pitt Street, spoke in support of the appeal.

John Wood, property owner at 711 Potomac Street, spoke in support of the appeal.

Elizabeth Warner, property owner at 400 Madison Street #2208, spoke in support of the appeal.

Boyd Walker, property owner at 1307 King Street, spoke in support of the appeal.

Lynn Hampton, property owner at 215 Park Road, spoke against the appeal.

Jack Sullivan, property owner at 4300 Ivanhoe Place, spoke in support of the appeal.

Bert Ely, property owner at 200 South Pitt Street #2, spoke in support of the appeal.

Ursula Weide, property owner at 1302 Bayliss Drive, spoke in support of the appeal.

Michael V. Jennings, property owner at 10 Potomac Court, spoke in support of the appeal.

Howard Bergman, property owner at 101 Quay Street, spoke in support of the appeal.

Nathan Macek, property owner at 724 Franklin Street, spoke against the appeal.

Alicia Hughes, citizen at 200 Yoakum Parkway, spoke in support of the appeal.

- D. Consideration of the minutes of the December 8, 2011 Board of Zoning Appeals hearing.

BOARD OF ZONING APPEALS ACTION OF APRIL 12, 2012: On a motion to approve by Mr. Zander, seconded by Ms. Lewis, the minutes were approved by a vote of 5 to 0. Mssrs. Goodale and Lantzy abstained.

- E. Additional Business:
- F. Adjournment: This meeting adjourned at 1:00 A.M.

Jack Sullivan

5

An Amendment to Protect the Rights of Alexandria
Property Owners: 3-16-13

To Section 11:808 of the Zoning Ordinance add the
following subsection:

**Subsection (F): For the purposes of this provision,
any text amendment that is specific to a property
or parcel within a zone shall be considered to be a
map amendment.**

STATEMENT ON THE TEXT AMENDMENT TO CITY
COUNCIL
MARCH 16, 2013

MR. MAYOR, MEMBERS OF COUNCIL

CITY COUNCILS ARE REMEMBERED FOR MANY THINGS. THE COUNCIL TWO TIMES REMOVED WILL ALWAYS BE THE "BRAC COUNCIL." THE LAST ONE AS "THE LONG COUNCIL" FOUR YEARS, NOT THREE.

LET THIS COUNCIL NOT BE REMEMBERED FOR STRIPPING AN IMPORTANT PROTECTION FROM PROPERTY OWNERS.

THATS WHAT ADOPTING THIS AMENDMENT WOULD DO. THE STAFF REPORT OFFERS DUBIOUS REASONS:

FIRST, THAT "TEXT AND" WAS A MISTAKE. THERE IS NO GOOD EVIDENCE FOR THAT.

SECOND, THAT LEAVING THE WORDS IN WILL PUT ALL FUTURE TEXT AMENDMENTS AT RISK. THAT IS A PATENT ABSURDITY. NO TIME TO EXPLAIN BUT PLEASE ASK A QUESTION.

THIRD, THAT TEXT AMENDMENTS ARE NOT MAP AMENDMENTS. THAT IS A DISTINCTION WITHOUT A DIFFERENCE. LET ME EXPLAIN:

I QUOTE FROM THE WATERFRONT PLAN, PAGE 86:
“AS TO EACH SITE, THE PLAN PROPOSES SOME INCREASE TO WHAT EXISTING ZONING NOW PERMITS....”

THERE IS A THICK BOOK OF GUIDELINES -- SOME 300 PAGES-- THAT RELATE NOT EXCLUSIVELY TO THE ZONE AS A WHOLE BUT TO RE-ZONING EACH PROPERTY AND PARCEL. IN THE WATERFRONT CASE THE TEXT AMENDMENTS ARE, IN THEIR EFFECT, MAP AMENDMENTS.

THE WATERFRONT PLAN CLEARLY SETS A PRECEDENT. AT THE FEDERATION OF CIVIC ASSNS. RECENTLY, MS HAMER EXTOLLED THIS STRATEGY AS ALLOWING MORE “FINE GRAINED” PLANNING. IT WILL BE USED AGAIN.

IF YOU REMOVED “TEXT AND” YOU HAVE REMOVED AN IMPORTANT PROTECTION FOR US ALL.

IF YOU DO, I HOPE YOU WILL GIVE FULL ATTENTION TO AN AMENDMENT I AM HANDING OUT TONIGHT. IT WOULD CLARIFY SECTION 11-808 BY ESTABLISHING THAT ANY TEXT AMENDMENT THAT WAS SPECIFIC TO A PROPERTY OR PARCEL IN A ZONE WOULD BE CONSIDERED A MAP AMENDMENT. JUST THAT SIMPLE.

TWO MEMBERS OF THE PLANNING COMMISSION AGREED WITH ME. THE RESULT WAS A MANDATE TO STAFF TO RE-CAST SECTION 11:808 IN ITS ENTIRETY. THAT MAY BE TOO LITTLE TO LATE.

MY PLEA TODAY IS TO URGE YOU EITHER TO KEEP "TEXT AND" OR ADOPT IN ITS PLACE LANGUAGE SIMILAR TO MY AMENDMENT.

OTHERWISE THIS COUNCIL RUNS THE RISKS OF BEING REMEMBERED AS THE ONE THAT STRIPPED PROPERTY OWNERS OF AN IMPORTANT PROTECTION AND THEREBY OPENED A "PANDORA'S BOX."

I WILL BE HAPPY TO RESPOND TO QUESTIONS.

I WOULD BE HAPPY TO RESPOND TO QUESTIONS.

**A statement by Bert Ely to the Alexandria City Council
regarding the proposal to drop “text or” from Section
11-808 of the Zoning Ordinance**

March 16, 2013

Mr. Mayor and members of Council, I am Bert Ely. As co-chair of Friends of the Alexandria Waterfront, I am here to express FAW’s opposition to the deletion of the words “text or” from Section 11-808(D) of the Zoning Ordinance. After discussing why, I will propose an alternative as to how Council should address this issue today.

The proposed change – dropping two words, “text or,” from Section 11-808(D) of the Zoning Ordinance – would represent a monumental diminution of the rights of property owners throughout the City. In brief, zoning encompasses not only the boundaries of a particular zone but also the parameters as to what can and cannot occur in that zone. What can occur, or not occur, within a particular zone is as important, if not more important, as the land area encompassed by that zone.

Not only would deleting “text or” from the Zoning Ordinance weaken zoning protections in a fundamental manner, but this proposed deletion is being rushed through the legislative process without sufficient debate or consideration of all of its implications. Mr. Mayor and members of Council, the City will not face a crisis if those two words remain in the Zoning Ordinance for the time being.

With that thought in mind, I propose that Council defer acting today on the proposed amendment to Section 11-808(D) and instead authorize a Citizens’ Committee to undertake a comprehensive study as to how to modernize Section 11-808. Forming such a committee would reflect a recommendation the BZA made last year.

Let me cite two examples where modernization is needed. Section 11-808(C) states that City staff must use a “planimeter” to measure the land area in which protest petitioners must own land, yet a planimeter is an obsolete measurement tool the City no longer uses. Likewise, subsection (C) does not specify how the ownership of land should be allocated to owners of condominiums and homes where the underlying land is owned by a condominium or homeowners’ association.

The Citizens Committee conducting this study should be comprised of at least seven City residents from across the City with varied expertise, including a representative of the Planning Commission and another from the BZA. However, this committee should not be dominated by land-use experts – a majority of its members should not be such experts so as to bring a broader citizens' perspective to this most important zoning-policy issue. The Committee should report its recommendations to the Planning Commission and the City Council within six months after the committee is formed.

In closing, I urge Council not to drop "text or" from Section 11-808(D) of the City's Zoning Ordinance today and instead to authorize the formation of a Citizens' Committee that would recommend how to modernize Section 11-808 of the Zoning Ordinance. Given the enormous long-term implications of any zoning action, it is vital that Council act only in a very deliberate manner in altering the Zoning Ordinance's protest provisions. Good legislative process demands as much.

Thank you for your time this morning. I welcome your questions.

Mr. Mayor and members of the City Council

5
3-16-13

The question revolves around the protection that was originally envisaged for individual property owners, and how it will be maintained in the future if the proposed amendment is adopted. This is particularly important, given the significant evolution in the way zoning changes are being applied. In the construct of small area plans and pre-specified zoning designations, a separation between map and zoning text is conceivable, but not for form based type zoning changes, which are becoming prevalent.

There, the barriers between the two become blurred. Therefore, the Federation requests the broadest and most open debate before it goes to vote, thereby affording the ability to create a construct that will enable the retention of the individual property owners' right and protection they had 50 years ago.

An example of the evolution can be found in the Waterfront Plan. Simply put, the plan is a bunch of guidelines pertaining to individual properties, which the text amendment to the M1 zone says if you follow the guidelines, you get the changes. At the federation meeting, Mrs. Hamer agreed that the way that the Waterfront Plan and guidelines are structured does raise issues of protections that the citizens of Alexandria have enjoyed in the past.

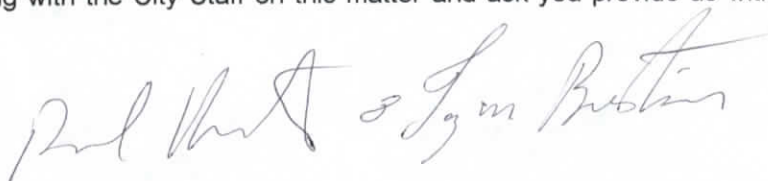
Any such deliberation must be premised on a clarification of the original legislative intent and proper understanding of the new zoning paradigm. For this reason

"The Federation requests that the Planning Commission and the City Council defer consideration of the proposed amendment of the text of Zoning Code Section 11-808(D) on the announced schedule, and urges that such an amendment be considered only

- (1) After it is clear what the present state of the law and its applicability to Map and Text Amendments is, and
- (2) After there has been ample opportunity for full and open public discussion of the merits and effects of the proposed amendment

before it is considered by the Planning Commission and the City Council."

We believe everyone involved wishes to accord this matter the time it deserves for a more deliberative and collaborative result to prevail. After all, in its essence, the public hearing is an adversarial and sometimes intimidating process that does not lend itself to thoughtful dialogue. We look forward to working with the City Staff on this matter and ask you provide us with that opportunity by deferring this item.



5
3-16-13

Statement of Michael E. Hobbs
for the City Council
March 16, 2013

Text Amendment #2013-0006

Thank you, Mayor Euille, Vice Mayor Silberberg, and members of the Council. I am Michael Hobbs, residing at 419 Cameron Street.

For as long as anyone remembers, the Alexandria Zoning Ordinance has provided an opportunity for landowners who feel that they would be harmed by a proposed zoning change to protest against that change. The question now before you is what the proper scope for such protests should be.

It should be clear at the outset that this is not a "waterfront" zoning text amendment. This section of the ordinance says nothing about the Waterfront Zone. The change would apply to all zones, everywhere in the city, from this time forward; and whether you adopt it or not neither delays nor accelerates implementation of the Waterfront Plan.

The proposal before you asserts that it is self evident that the present ordinance applies only to Map Amendments and never to Text Amendments. But that is precisely the question that is to be heard by the Alexandria Circuit Court just three weeks from now; and if the answer to that question is so abundantly clear, then presumably you can rely on the Circuit Court to say so. If, indeed, as has been suggested, this is just a "technical error," contrary to the unmistakable meaning and intent of the present ordinance, you could probably assume that the Court would grant your motion to dismiss this unfounded lawsuit.

But regardless of the merits and the meaning of the present ordinance, the process by which this proposal to amend it comes to you is deeply flawed. You first announced your intention to seek some change to this section of the ordinance less than one month ago, and the specific change you propose was published just three weeks ago yesterday. That is far from adequate to allow the sort of public awareness, thoughtful deliberation, reasoned consideration of reasonable alternatives, and full, fair and open opportunity for public comment, which the Council should require for its own benefit, and should insist precede any amendment of the Zoning Ordinance—especially where, as here, the amendment goes, not to a particular application, but to the very process by which you consider all applications.

It is said that this amendment is necessary to "allow other pending text amendments that have been stalled [due to the waterfront litigation] to move forward." But there is nothing in the present language of this section that has prevented the City from moving forward with any and all other text amendments. You have, in fact, considered and acted on a number of other text amendments since the meaning of this section was first called into question. Neither the BZA nor the courts have enjoined the city from considering and acting on any text amendments, and they would probably not have the power to do so. Indeed, as the companion measure you have just adopted makes plain, you have the power to move forward on the Waterfront Plan Text Amendment itself, notwithstanding the litigation, and notwithstanding this or any other section of the Zoning Ordinance.

If the city has observed a moratorium on consideration and enactment of some Text Amendments, it has been self-imposed; it has been unnecessary; and amendment of this section of the ordinance is not required in order to remove it.

Just a few months ago, you initiated the “What’s Next Alexandria” project, out of concern that the process by which Alexandria conducts its public business has fallen short of the standard of public engagement which you believe it should involve, and that public confidence in the integrity of that process may have been frayed.

Most recently, the What’s Next project identified eight “principles of engagement” which should characterize public participation in the public policy process. How does the process by which you are considering this Text Amendment comport with those principles? Not very well.

Several of those principles called for

- “accessible and informed participation”
- “early involvement
- “inclusiveness and equity”
- “meaningful engagement”
- “mutual accountability”
- “sustained cooperation”

and

- “transparency”

It’s hard to see how any of those principles is honored when a proposal is originated in an executive session, on which the first public hearing is held just eleven days after it is first published, and on which final action is taken just eleven days after that—in which the entire public process is initiated and speeded to its conclusion not quite one month after it began.

(The other “principle of engagement” in the What’s Next Alexandria framework says that the process should be characterized by “civility”. That is hard to square with the City’s explanation, in its announcement of this proposal, that any who may disagree with the City’s interpretation of the relevant section of the Zoning Ordinance are just “confused.”)

Granted, the “principles of engagement” are now just under discussion: they do not now, and may never, have the binding force of law. So how does your process for consideration of this text amendment comport with the present law?

First, the proposed amendment may—or may not—be in accord with the City Charter. The City says that the protest provision applies only to Map Amendments, and therefore that an amendment to apply it as well to Text Amendments would require an amendment of the City Charter, and thus, would require the approval of the Virginia General Assembly. But that is a circular argument, and begs the question. If the present provision does apply to Text Amendments, then removing it would be contrary to the City Charter and would require a charter amendment approved by the General Assembly. There has been no judicial determination as to which interpretation is correct—we have only the quasi-judicial opinion of the Board of Zoning Appeals, and the conflicting opinions of the City Attorney and, now, the Planning Commission.

Second, your consideration of the proposed amendment at this time may—or may not—be in accord with the notice requirements of the Code of Virginia. §15.2-2204 of the Code requires that a “local planning commission shall not recommend nor the governing body adopt any plan, ordinance or amendment thereof until notice of intention to do so has been published once a week for two successive weeks in some newspaper published or having general circulation in the locality....” (Emphasis added.) A notice of the March 5 Planning Commission and March 16 Council hearings to consider this proposal was published in the February 21 edition of the Alexandria Times, but not in the following week’s edition. No notice was published in the February 21 or February 28 editions of the Alexandria Gazette-Packet nor, so far as I am aware, in the Washington Post or any other newspaper of general circulation in Alexandria.

Third, the proposal may have been initiated contrary to the spirit, if not the letter, of the Virginia Freedom of Information Act. That Act requires, as a general rule, that “all meetings of public bodies shall be open,” except where precisely enumerated exceptions are provided for your consideration of particular matters, such as discussion of personnel matters, contractual or other confidential business matters, consultation with legal counsel on litigation, and the like.

In your executive session on February 12, you no doubt discussed the pending litigation regarding the waterfront. But that is not what is at issue here. The stated reason for this Text Amendment is that it would clarify the meaning of Section 11-808 of the Zoning Ordinance, and thus promote more efficient and effective disposition of the City’s planning and zoning business. But discussion of prospective legislation to clarify and improve the conduct of the City’s business is not one of the matters on which the enumerated exceptions in the Freedom of Information Act permit you to initiate action in executive session. Consideration of general legislation is precisely the kind of public business for which strict observance of the Freedom of Information Act should be the standard.

If, on the other hand, the real reason you initiated this proposal is that you were advised that it might be used to advantage in argument in the pending litigation, it might be argued that was permissible under the open meeting exception for discussion of litigation. Even in that case, however, “initiation of a proposed amendment to the Zoning Ordinance” is not the same as, and goes well beyond the “consultation with legal counsel pertaining to litigation” that you are permitted to conduct in executive session. Getting the advice of counsel on pending litigation is one thing; initiating legislation is something entirely else again.

A full, open and deliberate consideration of the proposal before you might well conclude that it has merit. But if so, you should have confidence that it would well withstand the test of public scrutiny in an unhurried process that is unquestionably consistent with both the letter and the spirit of the Virginia Code and the “What’s Next Alexandria” principles of engagement. The City Council should be the last body which would agree to so abbreviate the public process that it would tend to undermine the possibility of public understanding and support of the result; and you should never allow your responsibility for the Zoning Ordinance to be subverted by or be seen as subordinate to tactical considerations in litigation on a particular matter, whether intentionally or not.

In sum, you have initiated this proposed legislation in a closed meeting; you may not have provided the required public notice; and you have allowed just three weeks and one day between the first publication of the proposal and your adoption of it.

Truncating your public process in this way might be justified only in the case of what might be called "emergency legislation". But there has not been such urgency as to require immediate action on this proposed amendment of the Zoning Ordinance in the thirteen months since the Waterfront Small Area Plan was adopted. If there is now an emergency which requires such accelerated action, you have not disclosed it. So far as you have confided in the public, there is no such urgency now that requires you to adopt this legislation just 22 days after it was published.

Thank you for your consideration.

Old Town Civic Association, Inc.
Board of Directors
February 26, 2013

Yvonne Way
Callahan

5

3-16-13

**RESOLUTION ON THE PROPOSED AMENDMENT OF THE ALEXANDRIA ZONING
ORDINANCE TO DELETE PROPERTY OWNERS' RIGHT TO PROTEST PROPOSED
TEXT AMENDMENTS**

Whereas, the Alexandria City Charter and Zoning Ordinance have long guaranteed the right of landowners to protest the adoption of zoning changes which they believe would be injurious to their interest, providing that if a valid landowners' protest is filed, adoption of the zoning change requires the affirmative vote of three-fourths (a "supermajority") of the members of the City Council; and

Whereas, the Alexandria Waterfront Small Area Plan altering the height, density, and permitted uses in the Waterfront Zone was adopted in January 2012 by less than a supermajority vote of the City Council; and

Whereas, a landowner petition under Section 11-808 of the Zoning Code to require a supermajority vote of Council was refused by the Alexandria Planning Director; and

Whereas, citizens filed a legal action against the City of Alexandria, which is now pending in the Supreme Court of Virginia; and

Whereas, the Alexandria Board of Zoning Appeals (BZA) determined that the actions and interpretations of the Planning Director in refusing to accept a petition of the landowners were improper, and that the landowners' protest was properly filed; and

Whereas, the City has appealed the decision of the BZA, a case now pending in the Circuit Court of the City of Alexandria; and

Whereas, the City Manager has requested that the Planning Commission initiate a text amendment to the City's Zoning Ordinance removing the ability of landowners in Alexandria to petition against the adoption of proposed text amendments, notwithstanding the pending litigation, and

Whereas, the proposal to amend the Zoning Ordinance was only published on February 22, 2013, with action by the Planning Commission now docketed for March 5, 2013, less than two weeks from the date of introduction, and

Whereas, the deletion of the ability of landowners to enforce a supermajority vote when adjacent landowners seek redress of their grievances would deprive all citizens of a basic property right, and

Whereas, the proposed deletion of the right of landowners to enforce a supermajority vote when text amendments are proposed by the City may be in violation of the Alexandria City Charter's protection of the right of landowners to protest changes in zoning conditions, and

Whereas, the docketing of this proposed change for action by City Council three weeks from the date of introduction would deprive landowners, the citizenry, the Planning Commission, and the Council itself of the opportunity for full, reasoned, and deliberate consideration and debate on the impact of a fundamental change to the ordinance, with city-wide implications and long-term impact; and

Whereas, the ability to "petition for a redress of grievances" has always been regarded under our system of government not as a privilege extended at the discretion of the government, but as a fundamental right of citizens; and

Whereas, deletion of the provision for landowners' protests would deprive all Alexandria citizens of a fundamental right that they have heretofore enjoyed;

Now therefore, the Board of Directors of the Old Town Civic Association opposes the proposed change to the Protest Provisions of the Municipal Code of the City of Alexandria. The OTCA Board further respectfully requests that the proposal be deferred in order to give the citizens and the City Council of the City of Alexandria time commensurate with its importance to deliberate on the implications and the effect of the proposal.

Sec. 7-6-288 Protest of landowners.

(a) If a protest is filed with the city clerk against such amendment, supplement or repeal signed by the owners of 20 percent or more either of the area of land within the boundaries of such proposed change or of the area of land within 300 feet of the boundaries of such proposed change, the council shall not adopt the ordinance making such amendment, supplement or repeal by a less than three-fourths ($3/4$) affirmative vote of the members of council. Following the filing of such an appeal, the department of planning and community development shall verify that those filing are legal property owners. Through mathematical calculations and the use of a planimeter, the department of transportation and environmental services shall verify said 20 percent area. Streets, alleys and land dedicated to public use or land owned by the city, state or federal governments shall not be included in computing the above-mentioned areas. The provisions of this section shall, except for city-owned property, apply to comprehensive zoning when the council adopts comprehensive zoning changes or revisions.

(b) Any such protest shall be filed not later than noon on the last working day before the day first advertised for public hearing before the city council pursuant to the sentence of section 9.12 of the charter which reads as follows: "At least 15 days' notice of the time and place of any such hearing before the council shall be given by publication thereof in a newspaper of general circulation published in the city. In the event there is no newspaper of general circulation published in the city, then such notice may be published in a newspaper of general circulation in the city." Once any such protest has been filed, no changes thereto by way of addition, substitution, amendment or withdrawal may be made after such noon deadline. In those instances when a change is made in the description of the land sought to be rezoned from that shown in the application for rezoning, and such change in description is made subsequent to the publication of the 15 day notice requirement of section 9.12 of the charter, any such protest shall be filed not later than noon on the day advertised for second reading and public hearing of the proposed ordinance to rezone. (Code 1963, Sec. 42-104, as amended by Ord. No. 2577, 5/16/81, Sec. 17)

Sec. 7-6-289 Limitation on frequency of public hearings before council as to changes in zone boundaries and zoning regulations.

Public hearings before the city council in relation to the adoption, supplement, amendment, alteration or change of regulations and restrictions and determination of zone boundaries shall not be held more frequently than once every two (2) months; provided, that more frequent rezoning ordinances may be enacted under the emergency ordinance provision of the charter. (Code 1963, Sec. 42-105)

Sec. 7-6-290 Withdrawal of applications.

Applications for amendment, supplement or change in this chapter may be withdrawn, but written notice of the withdrawal of a proposed rezoning by an applicant must be filed with the city clerk by noon on the last working day prior to city council consideration. Where the withdrawal is after the planning commission has made its recommendation and there is opposition to the withdrawal by a citizen or a party in interest, the subject matter of the withdrawn application shall not be considered by the planning commission or the city council for a period of one (1) year after such withdrawal. Any such opposition to a withdrawal shall be made not later than the time at which the application is first considered by the city council on its docket. (Code 1963, Sec. 42-106, as amended by Ord. No. 2577, 5/16/81, Sec. 18)

Sec. 7-6-291 Reconsideration of subject matter.

(a) The subject matter of any application for amendment, supplement or change in this chapter which is denied by the city council shall not be considered thereafter by the planning commission or the city council for a period of one (1) year.

(b) The subject matter of an application for amendment, supplement or change in this chapter which has been denied by the city council, or withdrawn with opposition, may be reconsidered by the planning commission and the city council after a period of six (6) months if the new application differs in a material respect from the ap-

ORDINANCE NO. 3614

AN ORDINANCE adopting a codification of the zoning regulations of the City of Alexandria, Virginia, entitled the City of Alexandria Zoning Ordinance, and for other related purposes.

WHEREAS, the City Council finds and determines that:

1. On June 24, 1992, city council adopted by Ordinance No. 3591 a document entitled Alexandria, Virginia, Zoning Ordinance, as the text of the zoning regulations of the City of Alexandria; and

2. It is necessary and desirable that the text of the said zoning regulations, together with such amendments thereto as may be adopted from time to time, be codified, printed and published so that the zoning regulations of the city in force and effect may more readily be known and ascertained; and

3. Pursuant to Section 3.14 of the city charter, the city attorney has caused to be prepared a codification of the said regulations, and caused same to be printed and compiled in loose leaf binder form, to be supplemented with replacement pages as subsequent amendatory legislation may require, and has caused to be prepared and will in the future cause to be prepared an index and other finding aids for such codification; and

4. In the course of preparing such codification, the city attorney has corrected unmistakable typographical and other errors and omissions in the type written text of the codification and has made such other technical and perfecting changes, alterations, modifications, additions and substitutions to the end that a complete codification might be presented with errors, inconsistencies, repetitions, ambiguities and conflicts eliminated; and

5. Based on the foregoing findings and all other facts and circumstances of which the city council may properly take notice in its capacity as the legislative body of the City of Alexandria, Virginia, adoption of this ordinance, pursuant to Section 3.14 of the city charter, is necessary and desirable to protect the public health, safety and general welfare; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That there is hereby adopted and published, as the text of the comprehensive zoning plan of the City of Alexandria, that certain codification, the title of which shall be the City of Alexandria Zoning Ordinance (Tallahassee, Fl.: Municipal Code Corporation, 1992), which is attached hereto and incorporated herein fully by reference.

Section 2. That so much of Section 1 of Ordinance No. 3591 as adopted the type written document entitled Alexandria,

March 15, 2013

Mayor Euille, Vice Mayor Silverberg, and Members of the Alexandria City Council
Alexandria, Virginia 22314

We support the deletion of the words "text or" from the Zoning Code section 808, as approved by the Planning Commission. We understand this language was never meant to pertain to text amendments and is basically a codification error. We understand that Protest Petitions apply to map amendments only.

We also support the Planning Commissions' action to review and clarify the use of text amendments. We are sorry that we cannot be at the meeting on March 16 because we are out of town on previously arranged business and wish that the Council include this letter in the documents concerning this text amendment.

Dennis Auld and Lynn Hampton
215 Park Rd
Alexandria, VA 22301

Jackie Henderson

From: Poul Hertel <poulh@erols.com>
Sent: Friday, March 15, 2013 10:48 AM
To: William Euille; Paul Smedberg; Del Pepper; delpepper@aol.com; jns-cwest@comcast.net; lynnbostain@yahoo.com; John Chapman; Allison Silberberg; Justin Wilson; Timothy Lovain
Cc: Rashad Young; Faroll Hamer; lynnbostain@yahoo.com; Jackie Henderson; Converse West
Subject: 11-808 Text Amendmend

Mr. Mayor and members of the City Council

The question revolves around the protection that was originally envisaged for individual property owners, and how it will be maintained in the future if the proposed amendment is adopted. This is particularly important, given the significant evolution in the way zoning changes are being applied. In the construct of small area plans and pre-specified zoning designations, a separation between map and zoning text is conceivable, but not for form based type zoning changes, which are becoming prevalent.

There, the barriers between the two become blurred. Therefore, the Federation requests the broadest and most open debate before it goes to vote, thereby affording the ability to create a construct that will enable the retention of the individual property owners' right and protection they had 50 years ago.

An example of the evolution can be found in the Waterfront Plan. Simply put, the plan is a bunch of guidelines pertaining to individual properties, which the text amendment to the M1 zone says if you follow the guidelines, you get the changes. At the federation meeting, Mrs. Hamer agreed that the way that the Waterfront Plan and guidelines are structured does raise issues of protections that the citizens of Alexandria have enjoyed in the past.

Any such deliberation must be premised on a clarification of the original legislative intent and proper understanding of the new zoning paradigm. For this reason

"The Federation requests that the Planning Commission and the City Council defer consideration of the proposed amendment of the text of Zoning Code Section 11-808(D) on the announced schedule, and urges that such an amendment be considered only

- (1) After it is clear what the present state of the law and its applicability to Map and Text Amendments is, and
- (2) After there has been ample opportunity for full and open public discussion of the merits and effects of the proposed amendment

before it is considered by the Planning Commission and the City Council."