

**City of Alexandria  
Meeting Minutes  
Saturday, September 17, 2016, 9:30 AM  
City Council Public Hearing**

Present: Mayor Allison Silberberg, Vice Mayor Justin M. Wilson, Members of Council Willie F. Bailey, Sr., John Taylor Chapman, Timothy B. Lovain, Redella S. Pepper, and Paul C. Smedberg.

Absent: None.

Also Present: Mr. Jinks, City Manager; Mr. Banks, City Attorney; Ms. Baker, Deputy City Manager; Mr. Mallamo, Director, Office of Historic Alexandria; Mr. Geratz, Principal Planner, Planning and Zoning (P&Z); Mr. Dambach, Division Chief, P&Z; Ms. Riddy, Communications Officer, Office of Communications, Ms. Contreras, Urban Planner, P&Z; Ms. Horowitz, Urban Planner, P&Z; Ms. Vorel, Urban Planner, P&Z; Mr. Melkerson, Division Chief, Transportation and Environmental Services; Police Captain Andreas; Mr. Ward, Information Technology Services (ITS); Mr. Mohammed, ITS; and Mr. Lloyd.

Recorded by: Gloria Sitton, Deputy City Clerk and Clerk of Council.

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**OPENING**

1. Calling the Roll.

Mayor Silberberg called the meeting to order and the Deputy City Clerk called the roll. All the members of Council were present, with Councilman Chapman arriving at 9:45 a.m.

2. Public Discussion Period.

The following persons participated in the public discussion period:

1) Janice Grenadier, 15 West Spring Street, spoke about her issues with the police and justice system.

2) Jack Sullivan, 4300 Ivanhoe Place, spoke about the change in plans and the increase in costs of the proposed Patrick Henry Elementary School.

3) Bill Goff, 1313 Bishop Lane, spoke about the increase the costs for the construction of the Patrick Henry School and Recreation Center and how costs for school capital projects have been steadily increasing over the years. Mr. Goff also spoke about other issues with recent decisions made by the School Board.

4) Bert Ely, 200 South Pitt Street, spoke about the construction at Robinson Terminal South and the impact it is having on the surrounding communities and requested staff address all the challenges that may arise with the construction at Robinson Terminal South and those that may come with development of Robinson Terminal North.

5) Jim Bender, 502-A East Bellefonte Avenue, spoke about the Alfred Street Baptist Church and the community services that the church provides to the City residents. Mr. Bender spoke about how Alfred Street will be working to expand those services in the future.

6) Jennifer Jones, 1115 Cameron Street, spoke about living in Old Town and being a member of Alfred Street Baptist Church and their services and their expansion in the community.

7) Nancy Jennings, 2115 Marlboro Drive, representing the Seminary Hill Association Inc., spoke about the plans for the expansion of the Patrick Henry Elementary School and the increase in the cost for the construction. Ms. Jennings stated that the Seminary Hill Association Inc. will continue to closely monitor the expansions for compliance as the project progresses.

8) Dr. Darrel Drury, 1030 North Royal Street, spoke about the need for increased enforcement of cyclists along North Royal Street with the upcoming redevelopment of North Old Town.

9) Tim Morgan, 319 South Union Street, representing Waterfront Place Homeowners Association, spoke about the construction at Robinson Terminal South and the impact it is having on the homes surrounding the construction site, specifically the monitoring of the air quality at the site.

10) Ann Shack, 501 Tobacco Quay, spoke about the need for increased enforcement of cyclists along North Royal Street.

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

### **ACTION CONSENT CALENDAR (3-12)**

#### **Planning Commission**

3. Special Use Permit #2016-0042  
3120 Colvin Street - A&B Auto Finance Co.  
Public Hearing and Consideration of a request for an automobile sales establishment and for a temporary trailer; zoned: I/Industrial. Applicant: Bruce (Behkooz) Raiszadeh  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 09/17/16, and is incorporated as part of this record by reference.)

4. Special Use Permit #2016-0048

4875 Eisenhower Avenue, Suite 210 - CARD Academy  
Public Hearing and Consideration of a request to operate a private academic school; zoned: OCM(100)/Office Commercial Medium. Applicant: Center for Autism and Related Disorders, Inc.  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 09/17/16, and is incorporated as part of this record by reference.)

5. Special Use Permit #2016-0049  
833 South Pickett Street (parcel address: 821 S. Pickett St.) - Belvoir Collision Center  
Public Hearing and Consideration of a request to operate a general automobile repair business; zoned: I/Industrial. Applicant: Belvoir Collision Center by Brad Jenkins  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 09/17/16, and is incorporated as part of this record by reference.)

6. Special Use Permit #2016-0035  
Encroachment #2016-0005  
3000 Potomac Avenue - National Industries for the Blind  
Public Hearing and Consideration of requests for: (A) a Special Use Permit for a parking reduction; and (B) an encroachment into the public right-of-way for underground transformer vault; zoned: CDD #10/Coordinated Development District #10. Applicant: National Industries for the Blind represented by Kenneth Wire, attorney  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 09/17/16, and is incorporated as part of this record by reference.)

7. Special Use Permit #2015-0071  
190 South Whiting Street - Sunoco Inc.  
Public Hearing and Consideration of a request for an amendment to Special Use Permit #2006-0003 to expand an existing automobile service station, for a zone transition setback modification, to add a convenience store, and for off-premises alcohol sales; zoned: OCM (50)/Office Commercial Medium-50. Applicant: Sunoco Inc. (R&M), represented by M. Catharine Puskar, attorney  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 09/17/16, and is incorporated as part of this record by reference.)

8. Special Use Permit #2016-0046

525 Wythe Street (parcel address 515 Wythe Street) - Old Town Massage Center

Public Hearing and Consideration of requests: (A) to operate a massage establishment; and (B) for a parking reduction; zoned: CD/Commercial Downtown.

Applicant: Old Town Massage Center, Inc.

Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 09/17/16, and is incorporated as part of this record by reference.)

9. Special Use Permit #2016-0050

2 South Whiting Street - Alley Cat Restaurant

Public Hearing and Consideration of a request for an amendment to a previously-approved Special Use Permit (SUP #1058) to extend the hours of operation of a restaurant; zoned: CRMU-M/Commercial Residential Mixed Use/Medium. Applicant: Abdelkader Elgarch

Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 09/17/16, and is incorporated as part of this record by reference.)

10. Special Use Permit #2016-0051

5770 Dow Avenue (parcel address: 650 S. Van Dorn St) - Portner Brewhouse

Public Hearing and Consideration of a request for amendments to a previously-approved Special Use Permit #2015-0089 to allow off-premises alcohol sales and additional outdoor seating, and a request for a parking reduction; zoned: CDD #17/Coordinated Development District #17. Applicant: Portner Brewhouse, LLC

Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 09/17/16, and is incorporated as part of this record by reference.)

11. Special Use Permit #2016-0047

121 South Union Street - Union Street Public House

Public Hearing and Consideration of a request for outdoor dining on the rooftop of an existing restaurant; zoned: CD/Commercial Downtown. Applicant: John MacBrian, Inc.

Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 09/17/16, and is incorporated as part of this record by reference.)

12. Development Site Plan #2016-0018

Transportation Management Plan SUP #2016-0039

5001 Eisenhower Avenue - Victory Center

Public Hearing and Consideration of a request for: (A) an amendment to the previously-approved Development Site Plan (DSP2014-0030); and (B) a Transportation Management Plan Special Use Permit; zoned: OCM (100)/Office Commercial Medium (100). Applicant: Eisenhower Real Estate Holdings, LLC, represented by Kenneth Wire, attorney  
Planning Commission Action: Recommend Approval 6-0 for Transportation Management Plan SUP #2016-0039

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 12; 09/17/16, and is incorporated as part of this record by reference.)

## **END OF ACTION CONSENT CALENDAR**

**WHEREUPON**, motion by Councilman Smedberg, seconded by Vice Mayor Wilson and carried unanimously, City Council approved the action consent calendar, with the exception of docket items #5, #7, #9, #10, and #11, which were considered under separate motions. The approval was as follows:

3. City Council approved the Planning Commission recommendation.
4. City Council approved the Planning Commission recommendation.
6. City Council approved the Planning Commission recommendation.
8. City Council approved the Planning Commission recommendation.
12. City Council approved the Planning Commission recommendation.

The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

5. Special Use Permit #2016-0049  
833 South Pickett Street (parcel address: 821 S. Pickett St.) - Belvoir Collision Center  
Public Hearing and Consideration of a request to operate a general automobile repair business; zoned: I/Industrial. Applicant: Belvoir Collision Center by Brad Jenkins  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 09/17/16, and is incorporated as part of this record by reference.)

Councilman Smedberg asked staff about the changes in land use in the area of this SUP and how the business would be affected should the changes occur sooner rather than later. Mr. Dambach, Division Chief, Planning and Zoning, stated that this parcel would not be affected by any upcoming changes within five years.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg, Opposed, none.

7. Special Use Permit #2015-0071  
190 South Whiting Street - Sunoco Inc.  
Public Hearing and Consideration of a request for an amendment to Special Use Permit #2006-0003 to expand an existing automobile service station, for a zone transition setback modification, to add a convenience store, and for off-premises alcohol sales; zoned: OCM (50)/Office Commercial Medium-50. Applicant: Sunoco Inc. (R&M), represented by M. Catharine Puskar, attorney  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 09/17/16, and is incorporated as part of this record by reference.)

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

- 1) Sara Mariska, 2200 Clarendon Blvd, #1300, Arlington, Virginia, attorney for the applicant, stated that the changes in the conditions requested by Council were agreeable for the applicant.

Members of Council discussed the replacement of the current sign with a monument sign and the addition of an 18-month review for request.

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Wilson and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation, with the following amendments: (1) delete condition #8; (2) modify condition #34 to read, "The free-standing pole sign shall be replaced concurrent with construction," and (3) modify condition #36 to include an 18-month review. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

9. Special Use Permit #2016-0050  
2 South Whiting Street - Alley Cat Restaurant  
Public Hearing and Consideration of a request for an amendment to a previously-approved Special Use Permit (SUP #1058) to extend the hours of operation of a restaurant; zoned: CRMU-M/Commercial Residential Mixed Use/Medium. Applicant: Abdelkader Elgarch  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 09/17/16, and is incorporated as part of this record by reference.)

Mayor Silberberg requested including an 18-month review for this SUP.

**WHEREUPON**, upon motion by Councilwoman Pepper, seconded by Vice Mayor Wilson and carried 6-1, City Council closed the public hearing and approved the Planning Commission recommendation, amending condition #31 to include an 18-month review of the Special Use Permit (SUP). The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, Councilman Chapman.

10. Special Use Permit #2016-0051  
5770 Dow Avenue (parcel address: 650 S. Van Dorn St) - Portner Brewhouse  
Public Hearing and Consideration of a request for amendments to a previously-approved Special Use Permit #2015-0089 to allow off-premises alcohol sales and additional outdoor seating, and a request for a parking reduction; zoned: CDD #17/Coordinated Development District #17. Applicant: Portner Brewhouse, LLC  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 10; 09/17/16, and is incorporated as part of this record by reference.)

Ms. Horowitz, Urban Planner, Planning and Zoning, responded to questions from Council about transporting and selling of kegs of beer.

**WHEREUPON**, upon motion by Vice Mayor Wilson, seconded by Councilman Chapman and carried unanimously, City Council city council closed the public hearing and approved the Planning Commission recommendation, with an amendment to condition #7 to read, "Accessory to the restaurant use, kegs of beer may be sold." The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

11. Special Use Permit #2016-0047  
121 South Union Street - Union Street Public House  
Public Hearing and Consideration of a request for outdoor dining on the rooftop of an existing restaurant; zoned: CD/Commercial Downtown. Applicant: John MacBrian, Inc.  
Planning Commission Action: Recommend Approval 6-0

(A copy of the Planning Commission report dated September 8, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 11; 09/17/16, and is incorporated as part of this record by reference.)

Mayor Silberberg disclosed that the owner of Union Street Public House made a donation to her campaign and she would be recusing herself from the vote on this item.

**WHEREUPON**, upon motion by Councilman Pepper, seconded by Councilmember Lovain and carried 6-0-1, City Council closed the public hearing and approved the Planning Commission recommendation. The vote was as follows: Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and

Councilman Smedberg; Opposed, none; Recused, Mayor Silberberg.

\*\*\*Please note: City Council considered the ordinances (Items #14 and #15) prior to hearing Docket Item #13.\*\*\*

14. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Section 11-513 (Administrative Special Use Permit) of Article XI (Development Approvals and Procedures) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by City Council on June 18, 2016 as Text Amendment No. 2016-0004. [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 14; 09/17/16, and is incorporated as part of this record by reference.)

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 14; 09/17/16, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Wilson and carried unanimously by roll-call vote, City Council closed the public hearing and approved an ordinance to amend and reordain Section 11-513 (Administrative Special Use Permit), of Article XI (Development Approvals and Procedures) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by City Council on June 18, 2016 as Text Amendment No. 2016-0004. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

The ordinance reads as follows:

#### ORDINANCE NO. 5037

AN ORDINANCE to amend and reordain Section 11-513 (Administrative Special Use Permit) of Article XI (Development Approvals and Procedures) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council on June 18, 2016 as Text Amendment No. 2016-0004.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2016-0004, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on June 9, 2016 of a text amendment to the Zoning Ordinance to change the type of approval needed for various uses to address small business zoning matters, which recommendation was approved by the City Council at public hearing on June 18, 2016;

2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms

and concurs in the finding and action of the Planning Commission above stated;

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 11-513 of the Zoning Ordinance be, and the same hereby is, amended by inserting new language, as shown in underline:

11-513 - Administrative special use permit.

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

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(B) *Appeals.*

(1) Any person **or civic or business association** affected by a decision of the director issued pursuant to section 11-513(A)(5) may appeal the decision to the planning commission, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the director within 30 days of the issuance of the decision.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 11-513 as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

15. Public Hearing, Second Reading and Final Passage of an Ordinance to Authorize the ABC/Giant to Construct and Maintain an Encroachment for a vault for electric transformers under the sidewalk right of way approved by City Council on March 12, 2016. [ROLL-CALL VOTE]

(A copy of the informal memorandum explaining the ordinance is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 15; 09/17/16, and is incorporated as part of this record by reference.

A copy of the ordinance referred to in the above item, of which each Member of Council received a copy not less than 24 hours before said introduction, is on file in the Office of the

City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No. 15; 09/17/16, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Councilman Smedberg, seconded by Vice Mayor Wilson and carried unanimously by roll-call vote, City Council closed the public hearing and approved an ordinance to authorize the ABC/Giant to construct and maintain an encroachment for a vault for electric transformers under the sidewalk right-of-way approved by City Council on March 15, 2016. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

The ordinance reads as follows:

#### ORDINANCE NO. 5038

AN ORDINANCE authorizing the owner of the property located at 530 First Street (parcel address 901 North Saint Asaph Street) to construct and maintain an encroachment for a vault for electric transformers under the sidewalk right of way at that location.

WHEREAS, Giant Alexandria E & A LLC is the Owner (“Owner”) of the property located at 530 First Street (parcel address 901 North Saint Asaph Street) in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to establish and maintain a below-grade vault for electric transformers which will encroach into the public sidewalk right-of-way at that location; and

WHEREAS, the public sidewalk right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, in Encroachment No. 2016-0001 the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on March 1, 2016 which recommendation was approved by the City Council at its public hearing on March 12, 2016 and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

#### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby are, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 530 First Street (parcel address 901 North Saint Asaph Street) in the City of Alexandria, as shown on the attached Encroachment Plat, said encroachment consisting of a vault for electric transformers under the sidewalk right of way, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at their own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence \$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence \$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owner. Nothing in this section shall relieve Owner of their obligations and undertakings required under this ordinance.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall in addition be subject to and conditioned upon the following terms:

- (a) Neither the City of Alexandria nor any public or private utility company shall be responsible for damage to Owner' or Tenant's property encroaching into the public right-of-way during repair, maintenance or replacement of the public right-of-way or any public facilities or utilities in the area of encroachment.
- (b) The Owner shall be responsible for replacement and repairs to the adjacent City right-of-way, including any areas damaged during construction activity.
- (c) In the event the City shall, in the future, have need for the area of the proposed encroachment, the Owner or Tenant shall remove any structure that encroached into the public right-of-way, within six months, upon notification by the City.
- (d) The applicant shall not be permitted any above ground encroachment in the public right of way, except access panels that must be flush with the sidewalk. The opening of the access panels shall be sized to maintain and replace the transformers and switch gears when needed.
- (e) The underground encroachment shall be limited from 5 feet below grade to the depth needed for installation of transformers and switch gears. The 5 feet below

grade depth may be used by the City for landscape or other infrastructure improvements.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Owner maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Owner the removal of the encroachment. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

Section 8. The term "Owner" shall be deemed to include Giant Alexandria E & A LLC and its respective successors in interest.

Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

## **REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER**

13. Public Hearing on the Report of the Ad Hoc Advisory Group on Confederate Memorials and Street Names.

(A copy of the City Manager's memorandum dated September 7, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 13; 09/17/16, and is incorporated as part of this record by reference.)

Mr. Mallamo, Director, Office of Historic Alexandria and Mary Lyman, Chair of the Ad Hoc Advisory Group on Confederate Memorials and Street Names, gave an overview of the report from the group and responded to questions from Council.

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

- 1) Ellen Tabb, 2507 Central Avenue, suggested sending a resolution and condolence letter to families affected by the Charleston tragedy. Ms. Tabb spoke against the changes to the memorials and street names.
- 2) Len Rubenstein, 17 West Cedar Street, spoke about the plaque at Hotel Monaco and asked that Council request the plaque be removed.
- 3) Richard Merritt, 2729 Franklin Court, spoke in favor of changing the name of Jefferson Davis Highway and applauded the work of the Ad Hoc Advisory Group.
- 4) Bernard Berne, 4316 North Carlin Springs Road, Arlington, Virginia, spoke in favor of keeping the name Jefferson Davis Highway.
- 5) Cat Clark, no address given, spoke in favor the changes to the memorials and street names.
- 6) Gail Nemec, 3812 Elbert Avenue, spoke against the changes to the memorials and street names.
- 7) Joseph Judson Smith III, 401 Wilkes Street, spoke against the changes to the memorials and street names.
- 8) Charles Linderman, 515 Putnam Place, spoke in favor of the changes for the memorials and street names.
- 9) Jim Bender, 502-A East Bellefonte Avenue, spoke in favor of the changes for the memorials and street names.
- 10) Herve Aitken, 1422 Roundhouse Lane, spoke in favor of the changes for the memorials and street names.
- 11) Bill Dickinson, 805 Quaker Lane, spoke against the changes to the memorials and street names.
- 12) Dylan Raycroft, 1725 North Cliff Street, spoke in favor of the changes for the memorials and street names.
- 13) Hunter Fortè, Alexandria, spoke in favor of the changes for the memorials and street names.
- 14) Dr. Patrick Jennings, 2045 South Pitt Street, spoke for balanced consideration regarding the memorials and street names.
- 15) Greg Thrasher, 614 Overlook Park Drive, National Harbor, Maryland, spoke in favor of the changes to the memorials and street names.
- 16) Joshua Bowman, 225 Guthrie Avenue, spoke in favor of the changes to the memorials and street names.

17) William Turner, 1300 Prince Street, spoke against the changes to the memorials and street names.

**WHEREUPON**, upon motion by Vice Mayor Wilson, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

\*\*\*At 12:36 p.m., City Council took a recess until 1:07 p.m.\*\*\*

Council had discussions about the process for renaming Jefferson Davis Highway and the possibility of relocating the Appomattox statue to the nearby corner lawn at the Lyceum and working on getting permission from the General Assembly to relocate the statue.

City Council received the report and made the following motions:

**WHEREUPON**, upon motion by Councilmember Lovain, seconded by Councilwoman Pepper and carried unanimously, City Council received the report from the Ad Hoc Advisory Group on Confederate Memorials and Street Names and City Council directed the City Manager to begin the process of renaming Jefferson Davis Highway by generating staff recommendations on specific approaches for implementation, including a robust community engagement/consultation process. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper and Councilman Smedberg; Opposed, none.

**WHEREUPON**, upon motion by Councilmember Lovain, seconded by Councilwoman Pepper and carried unanimously, City Council accepted the Ad Hoc Advisory Group's recommendation for other street names in the City stating that individual requests for new names should be considered by City Council if brought under existing processes. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper and Councilman Smedberg; Opposed, none.

**WHEREUPON**, upon motion by Councilmember Lovain, seconded by Councilman Smedberg and carried unanimously, City Council directed city staff to initiate a discussion with the United Daughters of the Confederacy regarding the possibility of moving the Appomattox statue to the nearby corner lawn of the Lyceum, adding contextual information, to request permission from the General Assembly to move the Appomattox statue to the nearby corner lawn of the Lyceum and to monitor the results of the Governor's Task Force and report back to Council with recommendations. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

## **ORDINANCES AND RESOLUTIONS**

\*\*Please note City Council considered the following ordinances prior to the public hearing for docket item #13.\*\*

- 14. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Section 11-513 (Administrative Special Use Permit) of Article XI (Development Approvals and Procedures) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by City Council on June 18, 2016 as Text Amendment No. 2016-0004. [ROLL-CALL VOTE]
- 15. Public Hearing, Second Reading and Final Passage of an Ordinance to Authorize the ABC/Giant to Construct and Maintain an Encroachment for a vault for electric transformers under the sidewalk right of way approved by City Council on March 12, 2016. [ROLL-CALL VOTE]

**REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**  
**DEFERRAL/WITHDRAWAL CONSENT CALENDAR**  
**Planning Commission (continued)**

None.

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**THERE BEING NO FURTHER BUSINESS TO DISCUSS**, upon motion by Vice Mayor Wilson, seconded by Councilwoman Pepper and carried unanimously, the public hearing meeting of September 17, 2016, was adjourned at 2:17 p.m. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, Councilwoman Pepper, and Councilman Smedberg; Opposed, none.

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APPROVED BY:

\_\_\_\_\_  
ALLISON SILBERBERG      MAYOR

ATTEST:

\_\_\_\_\_  
Gloria Sitton, Deputy City Clerk