

From: [Jeffrey Yates](#)
To: [PlanComm](#)
Cc: [Jeffrey Yates](#)
Subject: [EXTERNAL]PC June 4 Meeting - Docket Item #7 - Yates Auto Care SUP
Date: Monday, June 3, 2024 4:38:52 PM
Attachments: [N Fayette - South View 2012.png](#)
[Fayette Sidewalk Improvements Exhibit \(A1069160\).pdf](#)
[ExecutedLease1050NFayetteSt \(1\).pdf](#)

Dear Chair Macek, Vice Chair McMahon, and all Planning Commission Members,

I understand you have limited time and capacity before Tuesday's hearing which includes a 5-year review of my Yates Auto Care SUP for compatibility of use and redevelopment potential, so I appreciate your review of the below.

I am happy to see Staff's recommendation of approval, but I understand there was some question about where the proposed new sidewalk would be located.

In the last two years, I worked together with P&Z staff, the developer of Braddock Gateway (Carmel Partners), and neighbors to design an optimal sidewalk design which connects our property to the adjacent new sidewalks while preserving access to our building, given no development is feasible for the foreseeable future. The background and details of that finalized sidewalk location and design is below:

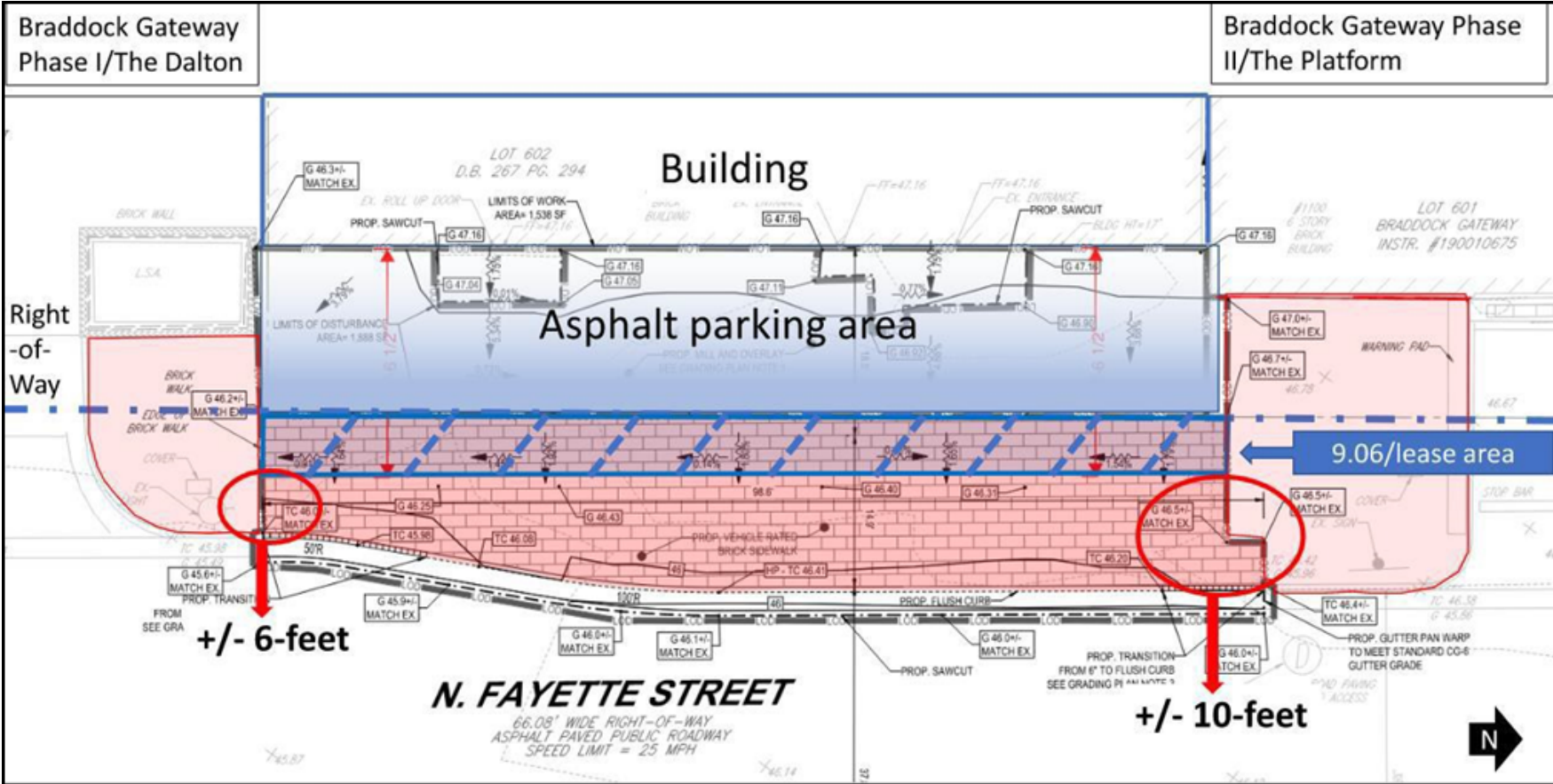
- Until recently and for decades past, all property owners on N Fayette had legal nose-in parking access - (please see attached historical Google Streetview photo from 2012)
- As a result of the approved recent development of the Braddock Gateway CDD and the inclusion of N Fayette St as a designated walking street, a new condition arose where my property did not include a clearly delineated pedestrian sidewalk connecting the new sidewalks built on either side of us.
- The attached (below) sidewalk design has been approved by PC and City Council and is the current Exhibit of the existing ROW lease. This design is what was represented to me will be constructed in the forthcoming ROW lease, the new version of which will be nearly identical to the existing lease save for including terms for "facilitating construction of a brick sidewalk" using City funding, which a recent FOIA request suggests is approximately \$100,000 placed in the Braddock Fund. I intend to work diligently to provide reasonable access to City contractors to construct the below design as soon as possible.
- The existing ROW lease is also attached below for your reference.

Thank you for considering this clarifying information, and looking forward to seeing you all tomorrow evening.

Sincerely,

Jeffrey Yates

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LEASE AGREEMENT

The AGREEMENT (the "Agreement") is executed in duplicate this 21st day of September, 2022 ("Effective Date"), by the CITY OF ALEXANDRIA, a municipal corporation of Virginia ("Lessor") and the Jeffrey Lee Yates Trust dated September 14, 2017 ("Lessee").

RECITALS

A. Lessee is the holder of Special Use Permit #2014-0032 approved by the City Council on June 14, 2014 (the "SUP") for a non-complying light automotive repair business at 1050 N. Fayette Street, Yates Auto Care (the "Business") and desires to obtain the right to use, subject to the terms and conditions of this Agreement, a certain portion of the public right-of-way, adjacent to the Business, owned by Lessor located at 1050 North Fayette Street; and

B. Lessor is willing to permit Lessee to use this property adjacent to the Business for overflow activities, such as drying or finishing of vehicles, subject to obtaining all required permits and approvals, and the terms and conditions contained in this Agreement.

NOW THEREFORE

For and in consideration of the sum of One Hundred Dollars (\$100.00), the receipt and sufficiency of which is hereby acknowledged and of the Recitals which are deemed as substantive and material part of this Agreement, Lessor and Lessee agree as follows:

1 Premises. The real property for which the lease is granted to Lessee, consists of a portion of the City of Alexandria public right of way land shown and designated on the City of Alexandria Tax Map-Block-Lot Number 044.03-06-01 as "1050 North Fayette Street" (the "Driveway") containing approximately 509 square feet more fully described and designated: "9.06 Lease Area" on the Exhibit B attached hereto incorporated herein by reference (the "Lease Area").

2. Lease. In exchange for the consideration described herein and based upon the terms and conditions described herein, Lessor grants Lessee a lease to use the Lease Area for continuous periods during the term of this Agreement exclusively for overflow activities, such as drying or finishing of vehicles, associated with the Business as described in the SUP. Notwithstanding the sidewalk and frontage improvements shown in Exhibit B, Lessee shall have the right to review the improvements prior to construction to ensure adequate vehicular access to the entirety of the Property is provided.

3. Term. The term of this Lease shall begin from the date of execution of this Agreement and shall continue for two (2) years from that date, or no later than June 30, 2024, the deadline for the SUP review for the existing business. The period from lease commencement date to and including the lease expiration date may hereafter be referred to as the "Lease Term".

4. Renewal. If City Council extends the SUP in 2024, provided Lessee is not in default of its obligations of performance under this Agreement at the end of the initial two (2) year term of this Agreement, Lessee shall have the Option to Renew the Agreement for one (1) additional five (5) year term to expire no later than June 30, 2029, if such a renewal is approved by the Alexandria City Council after holding a public hearing discussing said renewal.

5. Lease Fee. Lessee shall pay the Lessor an annual fee for the rights to use the Lease Area commencing three (3) months following the lease commencement date, without demand, deduction, set-off or counterclaim, the sum of Five Thousand Eight Hundred Two Dollars and Sixty Cents (\$5,802.60) which shall constitute "Base Rent". Beginning on the first (1st) anniversary of the lease commencement date and on each anniversary thereafter, Lessee's annual Base Rent shall be increased by an amount equal to three percent (3%) per annum over the prior year's Base Rent. The annual lease fee is therefore as follows: \$5,802.60 (year 1); and \$5,976.68 (year 2) to be paid annually.

(a) Due Date. The initial lease payment is due three (3) months from the Effective Date of this Agreement. Each subsequent annual Lease Payment after the initial lease payment will be due on the date that is one (1) year from the date of the initial payment.

(b) *Payment Mailing Address.*

All payments shall be sent to Lessor at the following address:

City of Alexandria

Department of General Services

421 King Street, Suite 220

Alexandria, Virginia 22314

Checks tendered in payment of the annual fee shall be made payable to "City of Alexandria."

(c) *Late Payment.* In the event any payment due to the Lessor hereunder is delayed by more than thirty (30) business days, such payment shall increase by ten percent (10%) of the payment due, additionally, interest on the unpaid amount shall accrue at the rate of 2.5% per month from the due date until paid.

6. Special Condition of the Lease Agreement

(a) *Special Use Permit.* The Lessee is required to comply with the conditions of the SUP and any violation of the conditions of the SUP pertaining to the Lease Area shall be considered a violation of this Agreement and the Agreement shall be subject to Termination as described in Paragraph 9 herein.

(b) *Maintenance.* The Lessee shall be responsible for general upkeep, including regular cleaning of the brick sidewalk and snow removal of the Lease Area. Failure of the Lessee to do so may be considered a condition of default under Section 9 of this Lease Agreement. Lessee shall address any maintenance requests from the Lessor within fourteen (14) days from the date the request is received.

7. Liability

(a) *Insurance.* Lessee agrees to provide, and shall certify to the satisfaction of the Lessor that it is covered by (1) liability insurance in the amount not less than \$1,000,000 per person and \$2,000,000 per occurrence, which insures Lessee against (i) all claims of personal injury and personal property damage arising from the use of the Lease Area, which allege that the injury or damage has been caused by the negligence or gross negligence of the Lessee and the Lessee's agents and employees, and (ii) claims of personal injury and property damage arising from the use of the Lease Area. Lessor shall be named as an additional insured in the policy required by this paragraph 7(a). In the event the Lessee is unable to obtain the required insurance naming Lessor as a named insured, or the required insurance lapses, this Lease Agreement shall terminate. Lessee agrees to maintain insurance coverage required by this provision throughout the term of this Agreement.

(b) *Indemnification.* Lessee agrees to indemnify and hold harmless the Lessor and all of its officers, employees, and agents from and against all suits, action, causes of action, damages, claims, liability, and expenses (including court costs and attorney's fees), and against any losses incurred by Lessor, resulting from or arising out of any act or omission of the Lessee or any of its employees, agents, invitees, licensees or guests in the course of operating, maintaining or using the Lease Area.

(c) *Waiver of Lessor's Liability.* By executing this Agreement, Lessee expressly acknowledges and agrees that the Lessor and its officers and employees shall not be liable to Lessee or to any of its employees, agents, invitees, licensees or guests for any bodily injury or property damage sustained by any of them while on the Lease Area or for any property damage to Lessee's facilities located within the Lease Area.

8. Applicability of Federal, State and Local Laws. This Agreement is subject to the Alexandria City Code, federal and state law. In particular, this Agreement is subject to, and Lessee shall comply with, the criminal, fire, health and safety laws of the City of Alexandria and the Commonwealth of Virginia. Lessee shall permit officers of the City of Alexandria charged with enforcement of such laws to inspect the Lease Area during the periods of the Lessee's use.

9. Termination. Except as provided in Paragraph 7(a), in the event Lessee violates any term of this Agreement, Lessee shall be considered in default. If such continues for a period of thirty (30) days after Lessee has received written notice of the default, Lessor may terminate this Agreement effective immediately unless such default is of such a nature that it cannot be cured within such thirty (30) day period, in which case, Lessee may request that Lessor agree to extend the cure period for a reasonable amount of time to effect such a cure and such agreement shall not be unreasonably withheld by Lessor. Further, Lessor shall have the right to terminate this Agreement, effective immediately, in the event Lessee shall cease to own and operate the Business.

10. Assignment. This Agreement may not be assigned by Lessee without the written consent of Lessor, which consent may not be unreasonably withheld, but may require the approval of the Alexandria City Council. An assignment by Lessee to an affiliate, which is under the control of the Lessee or formed for the purpose of operating the Business for Lessee, shall not require the Lessor's consent.

11. Quiet Enjoyment. Lessor covenants that it has full right, power and authority to enter into the Agreement and that Lessee, upon paying the annual lease fee, and performing all of Lessee's other obligations pursuant to the Agreement, shall peaceably and quietly have, hold and enjoy the Lease Area during the term of this Agreement and any renewal terms, without hindrance, ejection or molestation by any person lawfully claiming by, through or under Lessor, or as a member of the general public.

12. Governing Law. This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia.

13. Notices. All notices under the terms of this Lease must be in writing and shall be deemed properly served if such notice is hand delivered or sent by certified or registered mail, return receipt required, or sent by an established overnight commercial courier for delivery on the next business day with delivery charged prepaid, addressed to the other party at the following

addresses, or such other address as either party may, from time to time, designate in writing:

LANDLORD:

City of Alexandria
Department of General Services
421 King Street, Suite 220
Alexandria, VA 22314
Attn: Director of General Services

TENANT:

The Jeffrey Lee Yates Trust dated
September 14, 2017
2705 King Street
Alexandria, Virginia 22302
Attn: Jeffrey L. Yates, Trustee of the Jeffrey
Lee Yates Trust dated September 14, 2017

With a copy to:

City of Alexandria
Office of City Attorney
301 King Street, Suite 1300
Alexandria, VA 22314
Attn: City Attorney

With a copy to:

Robert D. Brant, Esq.
Walsh, Colucci, Lubeley & Walsh, P.C.
Courthouse Plaza
2200 Clarendon Boulevard, Suite 1300
Arlington, Virginia 22201-3359

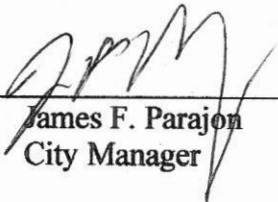
[Signatures Follow On The Next Page]

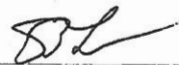
IN WITNESS WHEREOF, the Lease has been duly executed by the parties hereto on the day and year first hereinabove written.

LANDLORD:

THE CITY OF ALEXANDRIA a municipal corporation of the Commonwealth of Virginia

By: _____


James F. Parajon
City Manager


Approved as to Form
Shawn Lassiter
Assistant City Attorney

TENANT:

The Jeffrey Lee Yates Trust dated September 14, 2017

By: _____

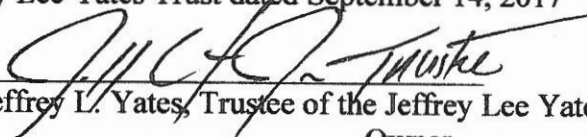

Jeffrey L. Yates, Trustee of the Jeffrey Lee Yates Trust dated September 14, 2017
Owner

Exhibit A

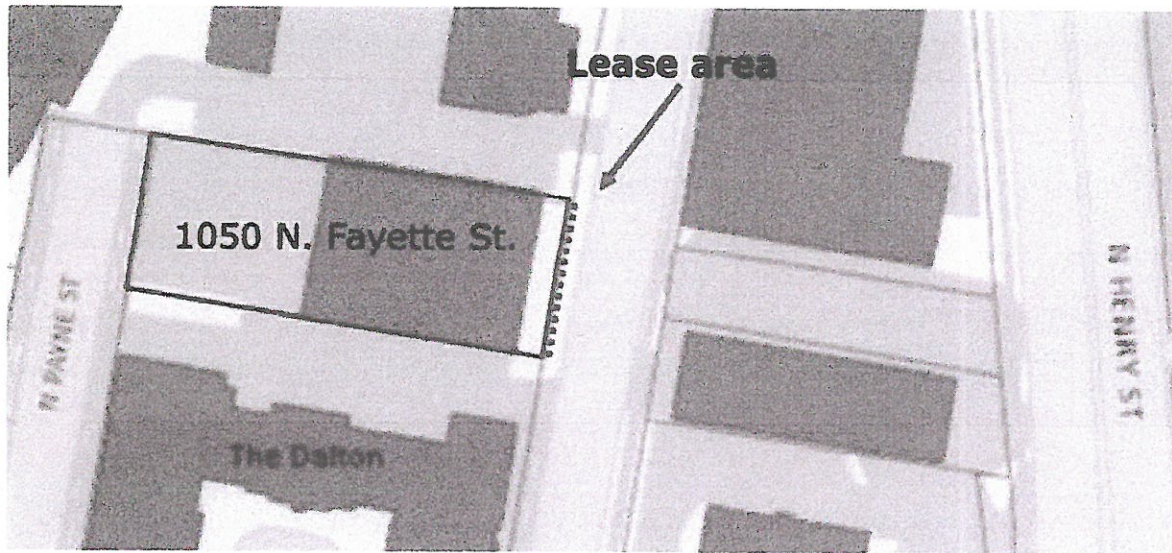


Exhibit B

