

**City of Alexandria
Meeting Minutes
Saturday, February 20, 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. Moritz, Director, Planning and Zoning (P&Z); Ms. Anderson, Deputy City Attorney; Mr. Lambert, Director, Transportation and Environmental Services (T&ES); Ms. McIlvaine, Director, Office of Housing; Mr. Keeler, Division Chief, Office of Housing; Mr. Cox, Division Chief, P&Z; Mr. Geratz, Principal Planner, P&Z; Mr. Wagner, Principal Planner, P&Z; Mr. Canfield, City Architect, P&Z; Mr. Cox, Division Chief, P&Z; Mr. Fields, Director, Code Administration; Mr. Kerns, Division Chief, P&Z; Mr. Imm, Urban Planner, P&Z; Ms. Jaatinen, Civil Engineer, T&ES; Ms. Bryan, Information Technology Services; Mr. Ward, Information Technology Services; Police Captain Andreas; and Mr. Lloyd.

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

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 Smedberg arriving to the meeting at 9:40 a.m.

2. Public Discussion Period.

The following persons participated in the public discussion period:

1. Ronald Gochenour, 3011 Hickory Street, spoke about a disabled fire engine in Warwick Village and not receiving responses from inquiries about issues in the community.

2. Gary Carr, 216 Aspen Street, spoke about restoring the running track at George Washington Middle School for use by the community. Mr. Carr also spoke about the reconstruction of the Parker-Gray Stadium and he noted that during the renovation there will be no running track available for use by the students. Mr. Carr requested that a Running

Track Suitability Study be implemented to evaluate where running tracks might be built in the City.

3. Bert Ely, 200 South Pitt Street, representing Friends of the Alexandria Waterfront, spoke about the truck haul route for the Robinson Terminal North (RTN) project and the interim plan for Fitzgerald Square. Mr. Ely requested that Council direct the City Manager to take the necessary steps to obtain public comment on the haul route options for RTN before final decisions are made. Mr. Ely expressed concern over the cost of proposed Interim Plan for Fitzgerald Square given the need for overdue maintenance for many City buildings, including City Hall.

4. Tyree Hawkins, 1111 Princess Street, spoke about parking issues in his neighborhood that are being exacerbated by the increase in the number of customers at a newly opened yoga studio. Mr. Hawkins requested assistance from the City in resolving the issue. Mr. Hawkins requested that the "No Thru" sign in the alley be replaced for safety reasons.

5. Fatima Assebbane, 1112 Princess Street, spoke about the parking issue in her neighborhood caused by the increase in the number of customers at a newly opened yoga studio.

6. Letitia Alexander, 1116 1/2 Princess Street, spoke about the parking issue in her neighborhood caused by the increase in the number of customers at a newly opened yoga studio in the neighborhood and she submitted a petition from the community requesting help from the City with the matter.

7. Nancy Jennings, 2115 Marlboro Drive, representing Seminary Hill Association, Inc., spoke about the expansion of Patrick Henry School and recreation facility. Ms. Jennings requested that the Council require the DSUP for the expansion include five provisions outlined in her letter to City Council, including addressing open space, parking, park amenities, the formation of a neighborhood advisory group, and the location of the proposed recreation center.

8. Liz Parker, 700 North Latham Street, stated that there was neighborhood concern about having the proposed entrance and parking lot for the new Patrick Henry School be located on Latham Street, a residential street. Ms. Parker stated that the entrance and parking lot should be located along Taney Avenue, as it is a collector street. Ms. Parker requested that the entrance be located along Taney Avenue for safety reasons and to protect the residential neighborhood.

9. Carol James, 1000 North Vail Street, spoke about retaining open space in the area near the expansion of the Patrick Henry School and recreation facility. Ms. James requested that Council not sacrifice more open space to complete the expansion of the school.

10. Mary Biegel, 811 North Latham Street, requested that the processes and communications for the Patrick Henry School project continue to be improved and that a group consisting of residents and homeowners to monitor the construction phase and active use of the facilities be included as a condition of the DSUP. Ms. Biegel requested that the entrance for the expansion remain on Taney Avenue and not be placed on Latham Street. Ms. Biegel

requested that the outdoor space be accessible to the surrounding community and that no lights be placed on the field because they are not appropriate for a neighborhood setting.

11. Janice Grenadier, 15 West Spring Street, spoke about her issues with the judicial system.

12. Ann Shack, 501 Tobacco Quay, representing the Tobacco Quay Homeowners Association, requested that Council delay any demolition and excavation at the Robinson Terminal North West site until an independent assessment of the site's cross contamination has been completed. Ms. Shack submitted a list of items the assessment should review.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Vice Mayor Wilson and carried unanimously, City Council closed the public discussion period. 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.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES

ACTION CONSENT CALENDAR (3)

Planning Commission

3. Vacation #2015-0001
305 Franklin Street
Public Hearing and Consideration of a request to vacate approximately 376 square feet of Franklin Street public right-of-way; zoned CL/Commercial Low. Applicant: Margaret Robinson, represented by John Savage, Architect
Planning Commission Action: VAC #2015-0001 Recommend Approval 7-0

(A copy of the Planning Commission report dated February 4, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 3; 02/20/16, and is incorporate as part of this record by reference.)

END OF ACTION CONSENT CALENDAR

WHEREUPON, upon motion by Vice Mayor Wilson, seconded by Councilman Smedberg and carried unanimously, City Council closed the public hearing and approved the action consent calendar. The approval was as follows:

3. City Council approved the Planning Commission recommendation. Mayor Silberberg appointed the following viewers for the vacation: Harvey Gray, Sandy Murphy (chair), and Michael Porterfield.

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.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

Planning Commission (continued)

4. Master Plan Amendment #2015-0003
Rezoning #2015-0003
Development Special Use Permit #2014-0035
Transportation Management Plan SUP #2015-0081
699 North Patrick Street - ARHA Ramsey Homes
Public Hearing and Consideration of requests for: (A) Master Plan Amendment to the Braddock East Master Plan within the Braddock Metro Neighborhood Plan to amend the land use designation and density tables from RB to CRMU-M; (B) amendment to the official zoning map for 699 N. Patrick Street from RB (townhouse zone) to CRMU-M (mixed-use zone); (C) Development Special Use Permit and Site Plan with modifications to construct 53 multi-family residential units in two buildings, including a special use permit for an increase in FAR to 2.0; (D) Special Use Permit for a transportation management plan; zoned RB/Townhouse. Applicant: Virginia Housing Development, LLC represented by Duncan Blair, Attorney
Planning Commission Action: Master Plan Amendment Recommend Approval 6-0-1; Rezoning Recommend Approval 6-0-1; Development Special Use Permit Recommend Denial 4-3

(A copy of the Planning Commission report dated February 4, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 4; 02/20/16, and is incorporated as part of this record by reference.)

Mr. Moritz, Director, Planning and Zoning and Mr. Geratz, Principal Planner, Planning and Zoning, gave a presentation of the proposed project and they, along with, Ms. McIlvaine, Director, Office of Housing, Mr. Keeler, Division Chief, Office of Housing, Ms. Anderson, Deputy City Attorney, and Mr. Banks, City Attorney, responded to questions from Council about historic preservation, community engagement, density, setbacks, process for special use permits, and funding from the Federal government.

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

1. Duncan W. Blair, 524 King Street, attorney for the applicant, spoke in support of the proposal and responded to questions from Council.
2. Merrick Malone, 425 Oronoco Street, Alexandria Redevelopment and Housing Authority (ARHA) Board member, spoke in support of the proposal.
3. Roy O. Priest, 401 Wythe Street, CEO, ARHA and applicant, spoke in support of the proposal and responded to questions from Council.
4. Erik Hoffman, 1325 G Street, NW, Washington, DC, tax credit attorney for the applicant, responded to questions about financing for the proposal.
5. Bill Hendrickson, 304 East Spring Street, spoke about preserving one of the buildings for historical purposes.

6. Joe Valenti, 1200 Braddock Place, #406, representing the Economic Opportunities Commission, spoke in support of the proposal and for affordable housing.
7. Judy Noritake, 1119 Wythe Street, spoke in support of the proposal.
8. Mykhaylo Panarin, 909 Pendleton Street, spoke against the proposal and noted how the underground parking would affect his property.
9. Heidi Ford, 1022 Oronoco Street, representing the West Old Town Citizens Association, spoke against the current proposal and she expressed concerns the neighborhood had about the density of the proposed site, lack of open space and the need for more neighborhood input from ARHA.
10. Elliot Bell-Krasner, 5812 Merton Court, representing the Historic Alexandria Resources Commission, spoke about preserving one of the buildings for historical purposes.
11. Canek Aguirre, 3061 Mount Vernon Avenue, N107, spoke in support of the proposal and for affordable housing.
12. Ingris Moran, 3801 Mount Vernon Avenue, representing Tenants and Workers United, spoke in support of the proposal and for affordable housing.
13. Siem Sium, 3801 Mount Vernon Avenue, representing Tenants and Workers United, spoke in support of the proposal and for affordable housing.
14. David Sprenger, 600 North Alfred Street, spoke in opposition to the proposed project.
15. Elaine Johnston, 831 South Fairfax Street, representing the Historic Alexandria Foundation, spoke about historical preservation on the site and supporting the deferral of the DSUP to explore options.
16. Allen Lomax, 5021 Seminary Road, #730, spoke in support of the proposal.
17. Gail Rothrock, 309 Duke Street, representing the Historic Alexandria Foundation, spoke in opposition to the project and about preservation issues on the site.
18. Danny Smith, 401 South Lee Street, spoke about preservation and finding a compromise with ARHA and the surrounding community.
19. Hal Hardaway, 311 South Union Street, spoke about density and finding a compromise with ARHA to address the preservation issue and affordable housing goals.
20. Marion Mealing, 625 North Patrick Street, spoke in support of the proposal and responded to questions from Council about living in Ramsey Homes.
21. Dino Drudi, 315 North West Street, spoke about finding a compromise on affordable housing and preservation of the site.

22. McArthur Myers, 3610 Valley Drive, representing the Alexandria Society for the Preservation of Black Heritage, spoke about preserving some of the buildings for historical purposes.

23. Salena Zellers, 1122 Madison Street, vice chair of the ARHA Board of Directors, spoke in support of the proposal and clarified misconceptions and mischaracterizations about ARHA and their decision-making process regarding this site.

24. Daniel Bauman, 1401 Key Drive, chair of the ARHA Board of Directors, spoke in support of the proposal and he spoke of process and the feasibility assessment the board members went through for the site.

25. Yvonne Weight Callahan, 735 South Lee Street, representing the Old Town Civic Association, spoke about ARHA's engagement with the surrounding community and historic preservation on the property and the deferral of the DSUP.

26. Boyd Walker, 1307 King Street, spoke against the proposal and about historic preservation.

WHEREUPON, upon motion by Vice Mayor Wilson, seconded by Councilmember Lovain 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.

City staff responded to questions from Council about alternatives for the proposal, funding, historic preservation requirements and funding, and procedure for voting under the protest petition filed by the neighborhood.

WHEREUPON, upon motion by Vice Mayor Wilson, seconded Councilwoman Pepper, a motion was made to approve the Master Plan Amendment #2015-0003 and Rezoning #2015-0003 and defer Development Special Use Permit #2014-0035 per the applicant's request and requested that other development options be explored. The motion failed for lack of a supermajority, 5-2. The vote was as follows: In favor, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain, and Councilwoman Pepper; Opposed, Mayor Silberberg and Councilman Smedberg.

*****City Council took a recess at 3:45 p.m. The meeting resumed at 4:03 p.m.*****

WHEREUPON, upon motion by Vice Mayor Wilson, seconded by Councilwoman Pepper and carried 5-2, City Council moved to reconsider the previous motion. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilmember Lovain and Councilwoman Pepper; Opposed, Councilman Chapman and Councilman Smedberg.

WHEREUPON, upon motion by Councilmember Lovain, seconded by Vice Mayor Wilson and carried by 6-1 supermajority, City Council approved the Planning Commission recommendation to approve Master Plan Amendment #2015-0003. The vote was as follows: In favor, Mayor Silberberg, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman,

Councilmember Lovain and Councilwoman Pepper; Opposed, Councilman Smedberg.

WHEREUPON, upon motion by Councilmember Lovain, seconded by Councilwoman Pepper and failed 5-2 for lack of a supermajority, City Council failed to approve Rezoning #2015-0003. The vote was as follows: In favor, Vice Mayor Wilson, Councilman Bailey, Councilman Chapman, Councilmember Lovain and Councilwoman Pepper; Opposed, Mayor Silberberg and Councilman Smedberg.

Development Special Use Permit #2014-0035 was not considered by City Council at this time.

Vice Mayor Wilson requested that staff be prepared on Tuesday to discuss revisiting the Braddock East Master Plan during the Long-Range Planning item.

5. Consideration of a Loan Request to ARHA for Ramsey Homes and a Request for Adoption of a Resolution Designating the Ramsey Homes Site a Revitalization Area Which Will be Considered for Council's Action Following Public Hearing on the Related Land Use Approvals. [ROLL-CALL VOTE]

(A copy of the City Manager's memorandum dated February 3, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 5; 02/20/16, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Wilson, seconded by Councilwoman Pepper and carried unanimously, City Council deferred this item. 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.

6. Coordinated Development District Concept Plan #2015-0006
Development Special Use Permit #2015-0001
Transportation Management Plan SUP #2015-0100
Coordinated Sign Program SUP #2015-0101
2901 and 2775 Eisenhower Avenue
Public Hearing and Consideration of requests for: (A) Coordinated Development District Concept Plan; (B) Development Special Use Permit with site plan and subdivision with modifications to construct a mixed-use project including special use permit requests for land without frontage, increase in number of penthouses, bonus density and height increase in exchange for the provision of affordable housing pursuant to Section 7-700 of the zoning ordinance, and parking reduction; (C) Special Use Permit for a coordinated sign program; and (D) Special Use Permit for a Transportation Management Plan (TMP); zoned CDD #3/Coordinated Development District #3. Applicant: Rushmark Eisenhower, LLC represented by M. Catharine Puskar, Attorney
Planning Commission Action: CDD Concept Plan #2015-0006, TMP SUP #2015-0100, Coordinated Sign Program SUP #2015-0101 Recommend Approval 7-0 and DSUP #2015-0001 Recommend Approval as Amended 7-0

(A copy of the Planning Commission report dated February 2, 2016, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 6; 02/20/16, and is incorporated as part of this record by reference.)

The following person participated in public hearing for this item:

1. Cathy Puskar, 2200 Clarendon Blvd, Arlington, Virginia, attorney for the applicant, spoke in support of the project and responded to questions from Council.

WHEREUPON, upon motion by Vice Mayor Wilson, seconded by Councilwoman Pepper and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation with amendments to (1) amend Condition #21 (p. 26 of the staff report), deleting the word "multifamily"; and (2) amend Condition #33 (pp. 28, 29 of the staff report), adding the following language: For Sale: (a) If either building 1 or 2 or developed as for sale housing, the developer shall provide affordable set-aside for-sale units within the Development. The set-aside units will include one-bedroom units to be marketed and sold at \$175,000 and two bedroom units to be marketed and sold at \$225,000 to households within incomes as designated by the City. These prices include at least one parking space for each unit; (b) the set-aside units shall be of the same size and floor plan and with the same finishes as other similar units in the Development; (c) at the City's discretion, the set-aside units may be sold to a non-profit entity, at the same terms described above, to be operated as affordable rentals. In this case, operation of the rental units shall be governed by a separate agreement to be entered into between the City and the designated non-profit entity; (d) any incentives offered to potential market-rate homebuyers shall also be offered to purchasers of the set-aside units; (e) the developer agrees that residents of the set-aside units shall have access to all amenities offered on the entire Development; (f) the set-aside units shall have a 40-year affordability period that is established through deed restrictions recorded as covenants at the time of the sale of each of the set-aside units, in accordance with the City's set-aside resale policy. Language for the covenants shall be provided by the City in advance of the final sale of any unit; (g) the City shall have exclusive right to market the set-aside units for 90 days, after which the developer will also have the right to market the units at the affordable price to buyers qualified for the set-aside program; (h) if the developer sells the market-rate units for less than expected, the developer shall index the price on the affordable units proportionately; (i) real estate commissions shall be paid (or not paid) on the set aside units in the same manner and on the same basis as market-rate units; and (j) amendments to the approved Affordable Housing Plan must be submitted to the Alexandria Housing Affordability Advisory Committee for consideration, and require final approval from the City Manager. 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

7. Public Hearing, Second Reading and Final Passage of an Ordinance to amend and reordain Article A (General Provisions) and Article G (Posting of Signs in the Right of Way) both of Chapter 2 (Street and Sidewalks) of Title 5 (Transportation and Environmental Services) of the Code of the City of Alexandria, Virginia, 1981, as amended. [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. 7; 02/20/16, 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. 7; 02/20/16, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Wilson, seconded by Councilwoman Pepper and carried 5-2 by roll-call vote, City Council closed the public hearing and adopted an ordinance to amend and reordain Article A (General Provisions) and Article G (Posting of Signs in the Right-of-Way) both of Chapter 2 (Streets and Sidewalks) of Title 5 (Transportation and Environmental Services) of the Code of the City of Alexandria, Virginia, 1981, as amended. The vote was as follows: In favor, Vice Mayor Wilson, Councilman Bailey, Councilmember Lovain, Councilwoman Pepper and Councilman Smedberg; Opposed, Mayor Silberberg and Councilman Chapman.

The ordinance reads as follows:

ORDINANCE NO. 4987

AN ORDINANCE to amend and reordain Article A (GENERAL PROVISIONS) and Article G (POSTING OF SIGNS IN THE RIGHT OF WAY) both of Chapter 2 (STREETS AND SIDEWALKS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article A of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

TITLE 5 - Transportation and Environmental Services

CHAPTER 2 - Streets and Sidewalks

ARTICLE A - General Provisions

Sec. 5-2-29 - Street encroachments.

Any encroachment into a public street, alley, sidewalk or other right-of-way may be authorized only by a special ordinance adopted by City Council, unless the encroachment is authorized pursuant to one of the following exceptions or is otherwise authorized by this code or the City of Alexandria Zoning Ordinance:

- (i) **Street or Alley Crossing Banner.** **With a special event permit pursuant to City of Alexandria Special Event Policy and Procedures approved by the City Council on January 23, 2010 as the same may be amended, the permittee may place a banner across a public street or alley for up to ten (10) days upon a determination made by the City Manager that the sign does not pose a danger to the safety of the public.**

(i-j) Encroachment requirements. In addition to any other restrictions or requirements imposed by this code or the City of Alexandria Zoning Ordinance, the owner of any sign, canopy, awning or marquee, nonpermanent planter, bench, bicycle display or similar street furniture that encroaches into a public right-of-way pursuant to this section shall also comply with the following:

- (1) Liability insurance. The owner shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000 which will indemnify the owner (and all successors in interest), and the City as an additional named insured, against all claims, demands, suits and related costs, including attorneys' fees, arising from any bodily injury or property damage which may occur as a result of the encroachment.
- (2) Removal of encroachment. The owner or any successor in interest shall remove the encroachment if the City determines that the encroachment interferes with public access or is otherwise inconsistent with the public welfare. In such case, the City shall provide the owner or successor in interest with written notice of the need to remove the encroachment at least 10 days prior to the date on which the removal must be completed. If the owner or successor in interest cannot be found, or fails to remove the encroachment within the time specified, the City shall have the right to remove the encroachment, at the expense of the owner or successor, and shall not be liable for any loss or damage to the encroaching structure that may occur as a result of the removal.

Section 2. That Title 5, Chapter 2, Article G of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

ARTICLE G: Posting of Signs in the Right-of-way

Sec. 5-2-170. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fixture means a pole; streetlight; tree; tree box; tree stake; fire hydrant; fire alarm box; trash receptacle; stand; wire; rope; public bridge; railroad trestle; drinking fountain; life buoy or any other lifesaving equipment; standard serving as a base or support for a directional sign, traffic regulation or control signal, sign or device; and any other fixture

or structure, whether publicly or privately owned or whether permanently or temporarily placed in, on or over a public way. But the term shall not include a fixture permanently attached to a building, structure, pole or standard on private property serving as a base or support for a sign and projecting over a part of a public way installed and maintained in accordance with law.

Public way means a street, sidewalk, alley, road, highway, bridge, viaduct, subway, underpass, park, parkway, playfield, playground and any other similar place in the City opened to and used by the public.

Sign means a sign, placard, banner, flag, bulletin and any other device of any kind posted for the purpose of communication.

Sec. 5-2-171 - Unlawful conduct.

It shall be unlawful for any person to paint, mark or write on or post or otherwise affix to or upon a public way or fixture thereon any sign. It shall furthermore be unlawful for any person to cause or, with knowledge, permit such actions to be taken on such person's behalf.

Willful interference with a person who is engaged in abatement under Section 5-2-173 shall also constitute a violation of this article.

Sec. 5-2-172. - Exceptions.

(a) This article shall not apply to the following signs:

(1) Regulatory, traffic, or informational signs established or posted by or at the direction of an authorized City department.

(2) Signs required to be posted pursuant to State, local, or Federal laws.

(b) Nothing in this division shall apply to the installation of a plaque, plate, statue, or other commemorative monument or marker in accordance with permission from an authorized City Department with the approval of the City Council.

Sec. 5-2-173. - Removal and collection of costs.

Any violation of this article is hereby declared to be a nuisance. No person shall have any legal right to the continued presence of a sign in a public way in violation of this article, nor shall there be any legal remedy against any person solely for the removal from a public way of a sign which is in violation of this article. Any person may abate the nuisance created by a violation of this article without liability for doing so. If abatement is made by the City, the reasonable costs incurred in removal may be assessed against any person responsible for or benefited by the violation, and such costs shall be collected in the same manner as City taxes. For a willful violation, the City shall be entitled to recover costs, the reasonable value of attorney's fees, and punitive damages in any proceeding which it may bring to enjoin future violations.

Sec. 5-2-174. - Penalty for violation.

Violation of this article shall be a class four civil violation which shall be enforced through the levying of a civil penalty pursuant to section 1-1-11 of this code, provided, that the penalty for the first violation shall be \$100, for a second violation of the same regulation or requirement the penalty shall be \$250, and for each additional violation of the same regulation or requirement the penalty shall be \$500. Each individual sign shall be deemed a separate offense. Each day during which any such violation is continued may be treated for all purposes as a separate offense.

Section 3. That Title 5 Chapter 2 as amended pursuant to Section 1 and Section 2 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 4. That this ordinance shall become effective on March 1, 2016.

8. Public Hearing, Second Reading and Final Passage of an ordinance to amend and reordain Article IX (Signs, Marquees and Awnings) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by City Council on January 30, 2016 as Text Amendment No. 2015-0005 regarding signs in the public right of way. [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. 8; 02/20/16, 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. 18; 02/20/15, and is incorporated as part of this record by reference.)

WHEREUPON, upon motion by Vice Mayor Wilson, seconded by Councilwoman Pepper and carried 5-2 by roll-call vote, City Council closed the public hearing and adopted an ordinance to amend and reordain Article XI (Signs, Marquees and Awnings) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by City Council on January 30, 2016 as Text Amendment No. 2015-0005 regarding signs in the public right-of-way. The vote was as follows: In favor, Vice Mayor Wilson, Councilman Bailey, Councilmember Lovain, Councilwoman Pepper and Councilman Smedberg; Opposed, Mayor Silberberg and Councilman Chapman.

The ordinance reads as follows:

AN ORDINANCE to amend and reordain Article IX (SIGNS, MARQUEES AND AWNINGS) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council on January 30, 2016 as Text Amendment No. 2015-0005 regarding signs in the public right of way.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2015-0005, 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 January 5, 2016 of a text amendment to the Zoning Ordinance to amend Article IX regarding signs in the public right of way, which recommendation was approved by the City Council at public hearing on January 30, 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 Article of the Zoning Ordinance be, and the same hereby is, amended by deleting the current section in its entirety and inserting new language, as shown:

ARTICLE IX. - SIGNS, MARQUEES AND AWNINGS

Sec. 9-100 - General provisions.

9-102 - Definitions.

For purposes of this Article IX, the following words and phrases shall have the meanings ascribed to them below, unless the context otherwise indicates:

~~(E) Banner. Any sign appended on or from a staff, pole, wire, frame or similar support, extending across the entire width of any street, road, highway or alley.~~

~~(U) Motor vehicle sign. Any sign on or attached to a motor vehicle which is being used primarily for the purpose of displaying advertising and is not being utilized in the normal business or work of the vehicle owner.~~

9-103 - Scope of article.

(A) This Article IX governs the erection and display of all signs, marquees and awnings in the City, except those erected and displayed by the City, the Commonwealth of Virginia and the United States in furtherance of their governmental responsibilities and those required by law to be erected and displayed.

(B) It shall be unlawful to erect or display, on any building, structure or real property, any sign, marquee or awning unless it is expressly authorized by, is in accordance with and,

where applicable, a permit authorizing it has been obtained pursuant to the provisions of this Article IX.

- (C) All rights and privileges acquired under the provisions of this Article IX are mere licenses revocable at any time by the director upon a violation of any applicable provision of this Article IX.
- (D) The provisions contained in this Article IX shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this ordinance or other City ordinances. Nothing contained in this Article IX shall excuse any person from compliance with all other applicable provisions of this ordinance or the City code.
- (E) Wherever authority is to be exercised under this Article IX by the City Manager or the director, the authority may also be exercised by his or her designee.
- (F) This Article shall apply to signs, marquees, and awnings on property not used for public right-of-way. Under no circumstances shall any provision herein authorize placement of a sign on any public right-of-way.**

9-104 - Prohibited signs, marquees and awnings and exceptions.

The following signs, marquees and awnings are prohibited or are permitted only as specified below, regardless of their location in the City:

- (E) Signs, marquees and awnings encroaching upon a public right-of-way. No sign, marquee or awning, or any part thereof, or any part of the foundation or support thereof, may be erected or displayed on, over or across any street, road, highway, alley, sidewalk or other public right-of-way, unless an ordinance authorizing such encroachment has been enacted by City Council; ~~provided, however, that any banners authorized pursuant to section 9-104(F), political signs authorized by section 9-201(A)(10), signs, marquees and awnings specifically authorized by city council in a commercial zone authorized by section 9-202(B)(4), 9-202(B)(8), and 9-202(F) and curb signs shall not be subject to this section 9-104(E).~~
- ~~(G) Banners. No banner may be erected or displayed, except (1) across a street, road or highway in a commercial zone for up to ten days pursuant to special authorization provided by city council, and (2) across an alley pursuant to a permit issued by the city manager upon a finding that the banner poses no danger to the safety of the public.~~

- ~~(I) Motor vehicle signs. No such signs may be erected or displayed.~~

- (J) Signs affixed to certain property. No sign may be painted, marked, written, posted or displayed on, or otherwise affixed to, any **private** street sign, bus stop sign or traffic

sign, sidewalk, crosswalk, curb, curbstone, street, lamp post, hydrant, railroad trestle, electric light or power pole or telephone pole or wire appurtenance thereof, fixture of the fire alarm system, ~~public bridge~~, drinking fountain, natural features such as trees, shrubs, rocks or tree stakes or guards; ~~provided, however, that curb signs and signs posted for the purpose of identification of a structure or for safety may be erected and displayed; and provided further, that political signs authorized by section 9-201(A)(10) may, with the owner's permission, be affixed to street lamp posts, electric light or power poles and telephone poles.~~

~~9-108. - Political signs.~~

~~Political signs are permitted in the following locations, and for the following periods of time, subject to the following limitations:-~~

~~(A) Private property. Political signs may be posted on private property with the permission of the property owner or lawful occupant of the property. Such signs shall not exceed the size of the largest sign permitted on such property pursuant to section 9-200.~~

~~(B) Public right-of-way. Political signs may be posted within the public right-of-way subject to the following rules:-~~

- ~~1. Such signs may be posted in the grass portion of the public right-of-way, adjacent to a street, road, highway, alley or sidewalk.~~
- ~~2. No such sign may be posted in any public garden or landscaped area.~~
- ~~3. No such sign may be placed within the public right-of-way of Washington Street, or the George Washington Memorial Parkway.~~
- ~~4. No such sign shall be placed within 15 feet of any point at which the curb or curb line of any two intersecting streets meet, within 15 feet of the end of any street median, or within any traffic channelization island.~~
- ~~5. Any political sign erected or displayed within the public right-of-way shall be free standing, shall have no part of the sign or support thereof extending more than 42 inches above ground level, and shall be supported by no more than two supports, each support having dimensions of no more than one inch by two inches.~~
- ~~6. Prior to the display of any political sign within the public right-of-way, a cash bond in the amount of \$100.00 shall be deposited with the city manager. The bond will be refunded unless there has been a violation of the provisions of this article, in which case the city shall retain the entire amount of the bond to defray the cost of enforcing the provisions of this article.~~
- ~~7. No political sign shall be erected or displayed within the public right-of-way more than 90 days prior to the nomination or election to which it pertains.~~

~~Signs, including sign posts or stakes, shall be removed within 15 days after the announced results of the nomination, or primary, special or general election to which the sign pertains. Successful candidates in nominations or primary elections may continue to display their signs during the interval between the nomination or primary, and the ensuing special or general election, and without posting any additional bond, except where the interval exceeds 90 days.~~

Sec. 9-200 - Signs, marquees and awnings permitted in various zones.

9-202 - Commercial zones.

~~(F) A-frame signs. Notwithstanding any provision to the contrary in this ordinance, A-frame signs may be permitted on King Street for businesses within the Central Business District, as defined by Section 8-300, provided they comply with the following provisions:~~

~~(a) Application and approval process. An application for an A-frame sign permit shall be submitted and shall include a plan reasonably depicting the location, size, text, appearance and method of installation of the proposed sign to be located in the public right of way, and such additional information as the director may reasonably require. The director may approve the application after determining that the proposed sign plan will be reasonable, attractive and promote pedestrian and retail vitality in the Central Business District, and that there is adequate space remaining within the public right of way to facilitate safe circulation of pedestrian traffic. No material change to the approved plan shall be made without prior written approval by the director.~~

~~(b) King Street locations. A maximum of four signs may be located on any one intersection of King Street and each intersecting street, one on each corner.~~

~~(c) Eligible businesses. For each sign, eligible businesses include restaurants, retail uses, and retail oriented businesses, which include restaurants and retail and personal services uses, as those terms are defined by this ordinance, located on adjacent blockface on a street within the Central Business District, which street intersects with or is parallel to King Street. Eligible businesses shall not include banks, savings and loans, credit unions and contractor or other offices.~~

~~(d) Number of signs. A maximum of one A-frame sign is permitted for all eligible businesses on any eligible blockface.~~

- ~~(e) Size of sign. Signs may not exceed 42 inches in height and 24 inches in width.~~
- ~~(f) Illumination. Illuminated signs are prohibited.~~
- ~~(g) Pedestrian safety. Pedestrian safety shall be preserved through the placement and securing of signs so as to permit safe and adequate pedestrian throughway along the sidewalk, crossing of streets, entry and alighting from cars and buses, and access to curb ramps.~~
- ~~(h) Temporary signs. All signs, including installation materials, placed in the right of way shall be temporary and shall be readily removable without any damage to the surface of the right of way.~~
- ~~(i) Compliance with law. All signs shall comply with all applicable city, state and federal laws and regulations.~~
- ~~(j) Director requirements. Signs shall comply with such additional reasonable terms and conditions as the director may require and include in the permit.~~

9-204 – Signs Permitted in All Zones

- (A) Additional temporary signs no larger than the largest sign allowed on the property pursuant to Section 9-200 are permitted on any property with the permission of the property owner for no more than ninety (90) days prior to and fifteen (15) days after a National, State or Local election.

Sec. 9-400 - Administration and enforcement.

~~9-402 - Liability insurance coverage.~~

- ~~(A) Coverage required. No person may erect, display, construct, reconstruct or alter any sign, marquee or awning for which a permit is required under section 9-401 and which lies on, over or across any street, road, highway, alley, sidewalk or other public right-of-way unless and until a liability insurance policy meeting the requirements of this section 9-402 has been obtained and approved by the city attorney. Said policy shall name the city as an "additional insured" and shall protect and hold harmless the city and its agents and employees from and against any suit, action, claim, cause of action, damages, losses, liability and expenses (including court costs and attorneys' fees) resulting from, arising out of or incident to the construction, reconstruction, alteration, maintenance, repair, removal, presence, falling or collapse of the sign, marquee or awning. In addition, the minimum bodily injury protection of said policy shall be \$100,000.00 per~~

~~person and \$300,000.00 per occurrence, and the minimum property damage protection of the policy shall be \$50,000.00 per occurrence. The city may require additional insurance or other security if the sign, marquee or awning relates to a public right-of-way which supports a high level of vehicle or pedestrian traffic.~~

~~(B) Notice of cancellation. The insurance policy required by section 9-402(A) shall remain in force and effect during the life of the sign, marquee or awning. The owner of the sign, marquee or awning shall notify the building official of any change in the insurance policy, including any change in amount, carrier or of coverage conditions. Failure to maintain the policy in full force and effect shall be due cause for the city manager to order the removal of the sign, marquee or awning.~~

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

Section 3. That Article IX 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 March 1, 2016, 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.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

DEFERRAL/WITHDRAWAL CONSENT CALENDAR

Planning Commission (continued)

None.

THERE BEING NO FURTHER BUSINESS TO DISCUSS, upon motion by Vice Mayor Wilson, seconded by Councilman Smedberg and carried unanimously, the public hearing meeting of February 20, 2016, was adjourned at 5:06 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.

APPROVED BY:

ALLISON SILBERBERG MAYOR

ATTEST:

Gloria Sitton, Deputy City Clerk