

DOCKET ITEM # 9
Rezoning #2018-0001
Text Amendment #2018-0002
Old Town North Arts and Cultural District Map

Issue: Old Town North Arts and Cultural District (A) Initiation of a Map Amendment; (B) Public hearing and consideration of an amendment to the City of Alexandria’s official zoning map to add the Old Town North Arts and Cultural District Overlay, which covers portions of N. Fairfax, Montgomery, Madison, First, N. Saint Asaph, N. Pitt, N. Royal, Third, and N. Washington Streets and Canal Center, more particularly shown in Figure 2.04 of the Old Town North Small Area Plan and depicted as “Required or Optional Retail or Arts and Cultural Uses”; (C) initiation of a Text Amendment; and (D) a Text Amendment to the Zoning Ordinance to add section 6-900 regarding Old Town North Arts and Cultural District.	Planning Commission Hearing:	April 3, 2018
	City Council Hearing:	April 14, 2018

Staff Recommendation: APPROVAL of both the Rezoning and Text Amendment subject to compliance with all applicable codes, ordinances, and recommended permit conditions found in Section III of this report.

Staff: *Planning and Zoning:* Karl Moritz, Director, Jeffrey Farner, Deputy Director; Carrie Beach, Division Chief NPCD, Heba ElGawish, Urban Planner; *Recreation, Parks, and Cultural Activities:* James Spengler, Director, Diane Ruggiero, Deputy Director, Jack Browand, Division Chief.

I. SUMMARY

The proposal will amend the Zoning Map and Zoning Ordinance text to implement the recommendation of the recently approved Old Town North Small Area Plan to establish an Arts and Cultural District in Old Town North as highlighted in Figure 1. The Zoning Map Amendment will add an Overlay for the Old Town North Arts and Cultural District as shown in Figure 2. In addition, the proposed text amendment will add a new Arts and Cultural District Overlay within Section 6 of the Zoning Ordinance for Old Town North, which outlines the incentives for Arts and Cultural spaces within Old Town North Arts and Cultural District. The text amendment also establishes definitions for Ground Floor Arts and Cultural Tenant and an Arts and Cultural Anchor.

OLD TOWN NORTH SMALL AREA PLAN UPDATE IMPLEMENTATION TASKS		Short-term (0-5 years)	Mid-term (6-10 years)	Long-term (11+ years)	On-going	Developer Responsibility (as part of development review process)	Responsibility*	Recommendation Number Chapter # . # Rec. # Section
A. Establishment of OTN Developer Contributions and Funds								
1	Establish developer contributions to implement the Plan improvements based on amount of impacts.	x					City	4.4.16
2	Establish all necessary funds such as: a. Streetscape/Tree Canopy Fund b. Open Space Fund c. Combined Sewer/Stormwater Infrastructure Fund, if necessary	x					City	4.4.16
B. Land Use and Economic Development								
3	Coordinate with the former power plant site property owner(s) to attract innovation anchor/uses that build on the intent and recommendations of the Plan.	x	x			x	City	2.5.6
4	Explore the feasibility of a Business Improvement District (BID) or comparable entity to manage the implementation of the Retail Corridors and Arts District.		x				Developer/City	2.5.11
5	Zoning Ordinance change(s) to establish an Art District as permitted through Code of Virginia Section 15.2-1129.1, allowing for the implementation of additional floor area as outlined in the Plan.	x					City	2.5.14
6	Rezone designated redevelopment sites to facilitate adopted Plan objectives.				x		Developer	2.5.15-21

Figure 1 Old Town North Small Area Plan Implementation Matrix

II. DISCUSSION

A. Map Amendment

The provisions of the Zoning Ordinance text amendment under proposed new Section 6-900 outlined further in this report will apply to the areas depicted in Figure 2. The proposed spaces for Arts and Cultural uses will be required to have frontage on the streets within the boundary highlighted in the map; N. Washington Street, N. Saint Asaph Street, Montgomery Street, N. Fairfax Street, Canal Center Plaza, and Third Street.

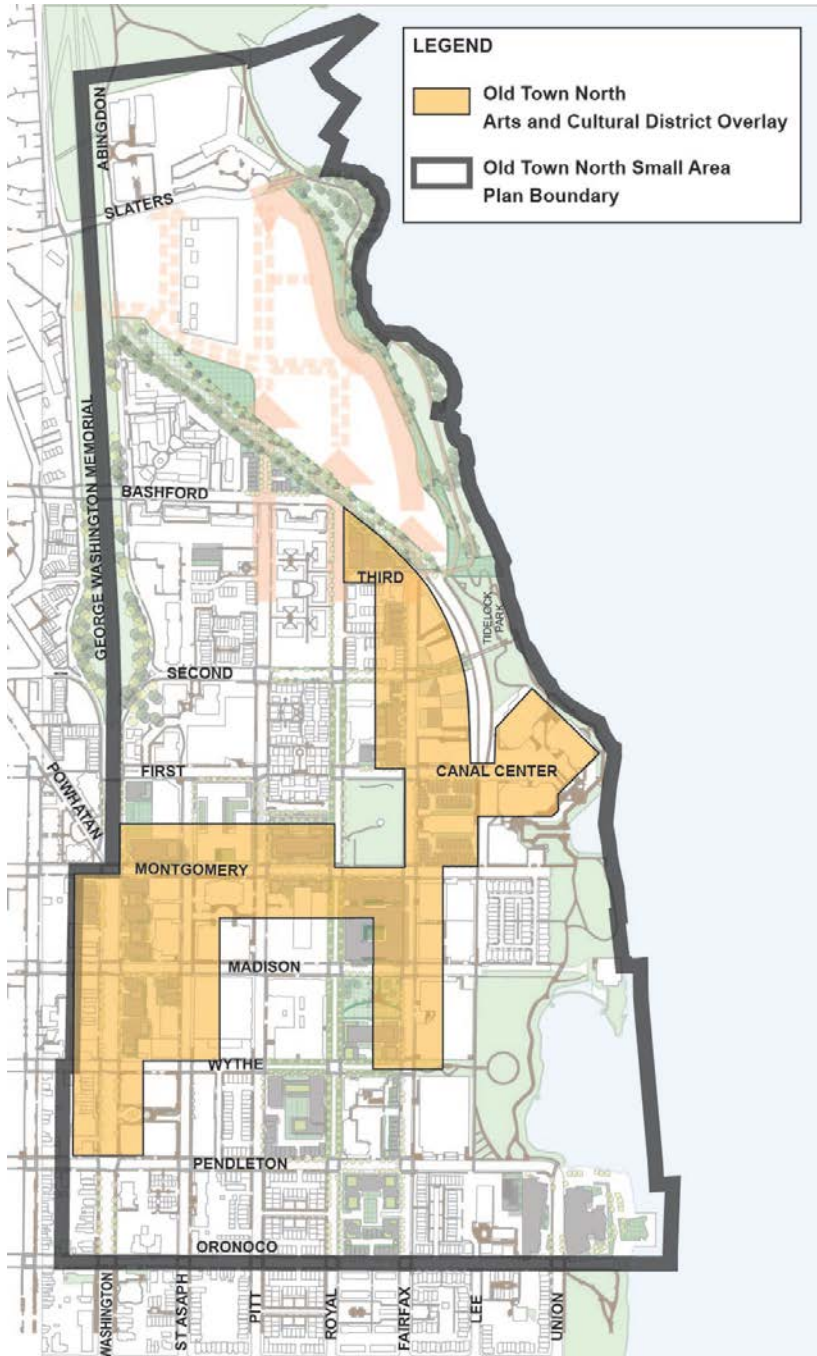


Figure 2: Old Town North Arts and Cultural District Overlay Map

B. Text Amendment

The proposed text amendment provides a definition for *Ground Floor Arts and Cultural Tenant* and *Arts and Cultural Anchor* - as recommended in the recently adopted Old Town North Small Area Plan - with associated regulatory incentives to retain and attract Arts and Cultural uses in Old Town North. The proposed incentives enable existing and future Arts and Cultural uses to be located within the Old Town North Small Area Plan to implement the vision of the Plan.

The use of the incentives proposed by the text amendment will be limited to properties located within the areas depicted in Figure 2, fronting the streets outlined in section A above.

The text amendment establishes two incentive categories for the creation of Arts and Cultural spaces as outlined below:

I – Ground Floor Arts and Cultural Tenant:

For the areas within the Old Town North Arts and Cultural District, floor area may be excluded if that space is leased to a Ground Floor Arts and Cultural Tenant. A *Ground Floor Arts and Cultural Tenant* is defined as small scale or individual uses which include art galleries, artist studios, graphic art design, and crafts such as the production or creation of individual handmade objects.

The ground floor area exclusion will be limited to 15,000 square feet for each development block and a covenant, or comparable restriction, will be required to ensure that the space is used and occupied by an Arts and/or Cultural Use for a minimum period of 15 years. The 15,000 square feet limit for Arts and Cultural Ground Floor Tenant space for each block is intended to provide appropriate distribution of ground floor Arts and Cultural spaces throughout the Old Town North Arts and Cultural District.

In order to utilize this provision, developers/applicants will be required to commit to these types of uses and will need to charge rents that accommodate them in order to fill the spaces that are excluded from the maximum permitted floor area.

Use of this incentive will be subject to:

- a. Approval of a special use permit.
- b. Provide sufficient assurance by way of contract, deed, covenant or other recorded instrument in a form approved by the City that ensures the ground floor space excluded from the floor area will be limited to the uses defined above or as approved as part of the special use permit process and that said space will only be used as an approved Arts and Cultural Tenant space for a minimum period of 15 years from the issuance of the certificate of occupancy for the space.
- c. The Ground Floor Arts and Cultural Tenant space will be open to the public during regular hours.

- d. The uses will be required to front onto N. Washington Street, N. Saint Asaph Street, Montgomery Street, N. Fairfax Street, Third Street, and Canal Center Plaza.

II– Arts and Cultural Anchor:

For the areas within the Old Town North Arts and Cultural District, Floor Area Ratio (FAR) and an associated amount of density may be increased by a maximum of 30 percent above the maximum FAR otherwise permitted by the Zoning Ordinance for a building or project that includes an Arts and/or Cultural Anchor. This incentive is targeted for larger Arts and Cultural institutions (Arts and Cultural Anchors) that provide public access with significant public activity and participation.

Arts and Cultural Anchor is defined as a larger destination use or venue where visual or performing arts and cultural works are taught, created, and made available to the public by various means including presenting live performances of theater, dance, music, or other imaginative work and/or producing or exhibiting physical works created by or under the direction of one or more artists, which are intended for unique production or limited reproduction. Museums where art and/or historic artifacts are displayed and/or created, art schools, including but not limited to culinary art schools, instructional art, music, or drama academy may also qualify as Arts and/or Cultural Anchor.

To qualify for the 30% increase in allowable FAR, the space provided for the Arts and Cultural Anchor will be a minimum consolidated size of 5,000 square feet. The final size, proposed use, and the FAR increase for the provision of Arts and Cultural Anchor space will be further evaluated during the development review process. The public benefit of the Arts and Cultural Anchor space will be generally equivalent to the amount of added density, the use will be restricted with a covenant, or comparable restriction, that limits the use of the space to an Arts and Cultural Anchor for a minimum period of 30 years. The intent of this provision is to ensure that the space is used as an Arts and Cultural Anchor as defined in Section 6-900 for a minimum period of 30 years. A longer period may be negotiated as part of the special use permit process. However, based on staff's analysis of lending, liability and comparable discussions regarding affordable housing, we anticipate the longest period for the covenant will likely be 30-40 years. In addition, as social and cultural trends continue to evolve and technology advances, the use of these spaces will likely need to adapt over time. While the covenant has a time limit of likely 30-40 years, the Anchor uses will also be required by a condition of the development special use permit. Any future change of the Anchor use will require an amendment to the development special use permit and approval by City Council even after the 30-40 year covenant expires. Therefore, City Council will still have the ability to review future uses for the space.

To ensure maximum public benefit and activation of the Arts and Cultural Anchor space, the proposed operator is required to offer a program of regularly scheduled presentations, activities, classes or performances that are open to the public commensurate with the use.

In the event the Arts and Cultural Anchor space is vacated for a period of 90 calendar days, or the tenant is no longer able to operate within the space, the City will have the right of first refusal to purchase the space.

The total floor area for Arts and Cultural Anchor Spaces created through the use of the Arts and Cultural Anchor incentive will be limited to 50,000 square feet throughout the Old Town North Arts and Cultural District. Given the new nature of this program and the limited precedents for such a program, this provision aims to test the applicability and success of spaces created through this incentive.

Additionally, the Old Town North Arts and Cultural District Overlay map with associated regulatory incentives proposed under the text amendment will not apply to the redevelopment of the former power plant site. Arts and Cultural uses for that site will need to be evaluated as part of the future re-zoning for the site.

The 50,000 square foot limit and the exclusion of the power plant site represent a change from what was originally recommended in the Plan, which originally recommended 250,000 square feet of Arts and Cultural space and inclusion of the power plant site. Staff recommends this adjustment in implementation as a test period for the City to evaluate this incentive and approach. Based on the results from the initial trial period, the 50,000 square foot limit can be increased as part of a subsequent text amendment.

Additional requirements and provisions for the Arts and Cultural Anchor space incentive are outlined further in **Attachment 1**

III. OUTREACH

Department of Planning and Zoning staff met with property owners and two art institutions (the Art League School and MetroStage) in Old Town North to ensure that the text amendment provisions are applicable and implementable. In addition, the Department of Planning and Zoning presented the text amendment to the Alexandria Commission for the Arts at their January 16th meeting and to the Alexandria Housing Affordability Advisory Committee (AHAAC) at their January 11th and February 1st Meetings.

The Alexandria Commission for the Arts voted to support the proposed text amendment. The commission made a recommendation to increase the total floor area for Arts and Cultural Anchor space with the Old Town North Arts and Cultural District from 50,000 square feet to 150,000 square feet. Staff understands the Commission's desire to allow more space for Arts and Cultural Anchors, however, staff continues to recommend the 50,000 square feet limit as a trial phase in order to assess this incentive approach with the understanding that additional floor area may be evaluated in the future as part of a subsequent text amendment.

The Planning and Zoning Department will continue to work with the Office of the Arts on future development applications that utilize the incentives outlined in this report to ensure the alignment between the Old Town North Arts and Cultural District and the Arts and Cultural Master Plan 2016-2026.

During the January 11th meeting, AHAAC expressed concern over the utilization of the density bonus incentive for the creation of arts space; an incentive that has been used for the creation of

affordable housing to date. Staff presented refinements at the February 1st meeting including the proposed 50,000 square foot limit for the creation of Arts and Cultural Anchor space and the exclusion of the former power plant site from the Old Town North Arts and Cultural District. AHAAC submitted a letter dated February 20, 2018, which does not oppose the proposed incentives for arts and cultural uses.

IV. STAFF RECOMMENDATION

Staff recommends initiation and approval of the proposed Map Amendment to implement the Old Town North Arts and Cultural District Overlay and initiation and approval of the Zoning Ordinance text amendment to include Section 6-900, Old Town North Arts and Cultural District as outlined in Attachment 1.

Attachments:

1. Zoning Ordinance Text Amendment, Section 6-900 - Old Town North Arts and Cultural District Overlay
2. Old Town North Arts and Cultural District Overlay Map
3. Alexandria Housing Affordability Advisory Committee Letter

Attachment 1

Section 6-900 Old Town North Arts and Cultural District Overlay

6-901 – Intent

The intent of this provision is to provide incentive(s) to retain and attract Arts and Cultural uses in Old Town North through the creation of an Arts and Cultural District pursuant to Virginia Code 15.2-1129.1. Additional floor area, density, height, may be permitted for properties within the Arts and Cultural District Overlay as part of a special use permit, subject to the provisions of this section.

The intent of the Ground Floor Arts and Cultural Tenant space defined in Section 6-902(A) is to provide a range of uses on the ground floor that will reinforce the arts, cultural and creative identity of Old Town North.

The intent of the Arts and Cultural Anchor defined in Section 6-902(B) is to provide destination anchor(s) that have a significant amount of public access and activity and attract additional large Arts and Cultural institutions. The use of these incentives will be limited to areas within the Old Town North Arts and Cultural District Overlay Map. The regulatory incentives for Arts and Cultural uses as outlined in this section will not preclude the potential use of all applicable provisions of Section 7-700 for the provision of low- and moderate-income housing.

6-902 - Definitions:

- (A) *Ground Floor Arts and Cultural Tenant*: Small scale or individual uses which includes art galleries, artist studios, graphic art design, and crafts such as the production or creation of individual handmade objects.
- (B) *Arts and Cultural Anchor*: A larger destination use or venue where visual or performing arts and cultural works are taught, created, and made available to the public by various means including presenting live performances of theater, dance, music, or other imaginative work and/or producing or exhibiting physical works created by or under the direction of one or more artists, which are intended for unique production or limited reproduction. Museums where art and/or historic artifacts are displayed and/or created, art schools, including but not limited to culinary art schools, instructional art, music, or drama academy may also qualify as Arts and/or Cultural Anchor.

6-903 – I: Incentives for Ground Floor Arts and Cultural Tenant

For parcels along the frontages within the Old Town North Arts and Cultural District, the floor area for ground floor Arts and Cultural Tenant spaces(s) may be excluded from the maximum floor area ratio permitted for the site. The allocation of Arts and Cultural Tenant space(s) will be limited to the ground floor of the parcel frontages identified in the Old Town North Arts and Cultural District Overlay Map and limited to a maximum amount of 15,000 square feet of floor area for each redevelopment block.

Notwithstanding any contrary provision of the Zoning Ordinance, the uses as defined in Section 6-902 (A) for Ground Floor Arts and Cultural Tenant may be allowed by special use permit. The use of this incentive will be subject to the following:

- (A) Approval as part of a special use permit in accordance with the procedures and requirements set forth in Section 11-500.
- (B) The applicant for the special use permit shall provide sufficient assurance by way of contract, deed, or other recorded instrument in a form approved by the City that the ground floor space excluded from the floor area shall be limited to the uses defined in Section 6-902(A) or as approved as part of the special use permit process and that said space shall only be leased to an approved Arts and Cultural Tenant(s) as defined in Section 6-902(A) for a minimum period of 15 years from the issuance of the certificate of occupancy for the space.
- (C) The Ground Floor Arts and Cultural Tenant space will be open to the public during regular hours.
- (D) The uses will be required to front onto N. Washington Street, N. Saint Asaph Street, Montgomery Street, N. Fairfax Street, Third Street, or Canal Center Plaza.

6-904 – II: Incentives for Arts and Cultural Anchors

For parcels within the Old Town North Arts and Cultural District, floor area ratio and an associated amount of density may be increased by a maximum of 30 percent above the maximum floor area ratio otherwise permitted by the Zoning Ordinance for a building or project that includes an Arts and/or Cultural Anchor as defined in Section 6-902(B).

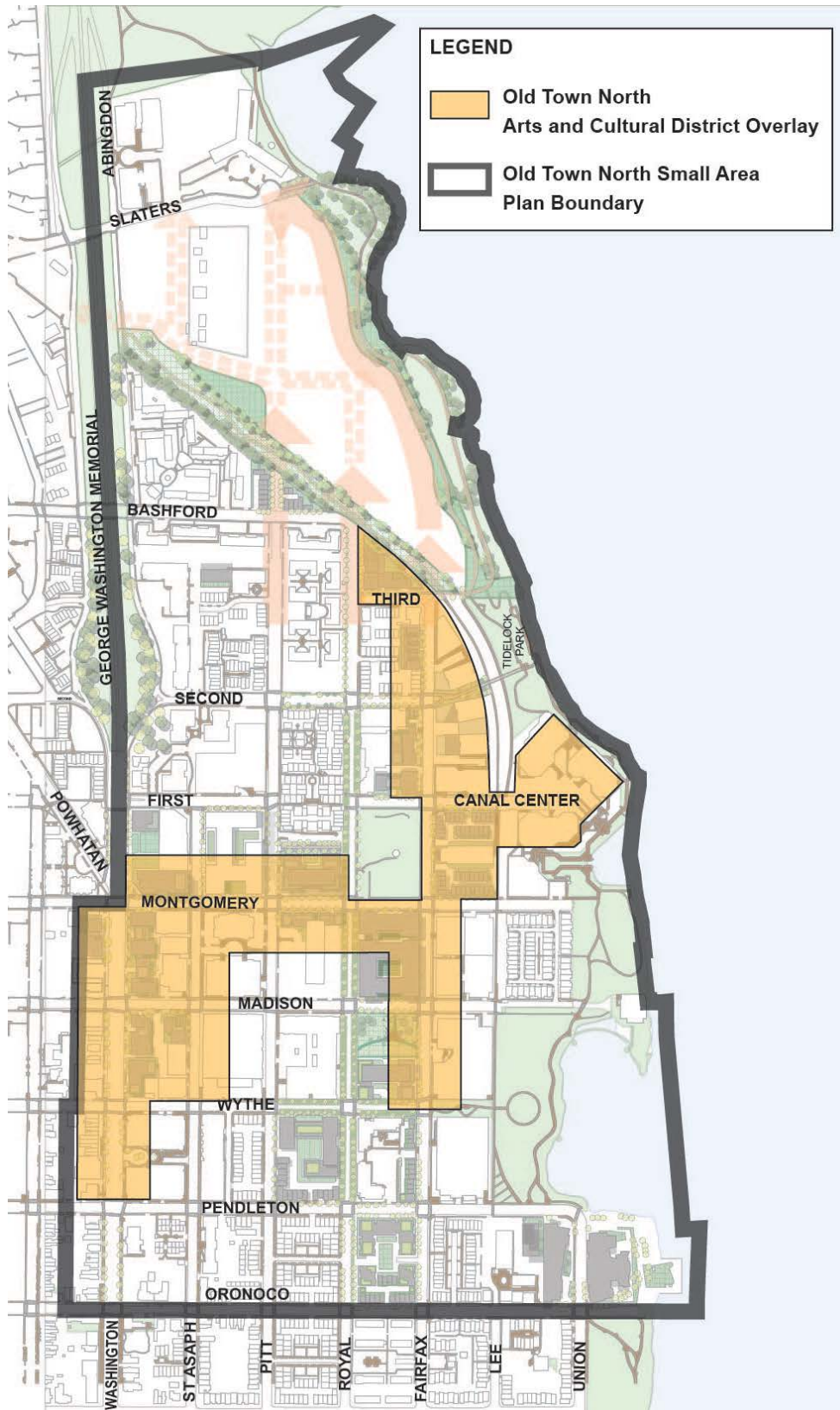
Notwithstanding any contrary provision of the Zoning Ordinance, the uses as defined in Section 6-902 (B) for Arts and Cultural Anchor may be allowed by special use permit. The use of this incentive will be subject to the following:

- (A) Approval as part of a special use permit in accordance with the procedures and requirements set forth in Section 11-500.
- (B) The entire Arts and Cultural Anchor space will be limited to the uses defined in Section 6-902(B).
- (C) To qualify for the 30% floor area ratio increase, the space provided for the Arts and Cultural Anchor will be a minimum consolidated size of 5,000 square feet. The final size, use, and amount of floor area ratio increase for the provision of Arts and Cultural Anchor space will be based on the type and character of the use and on achieving the intent and objectives of the Old Town North Small Area Plan as part of the special use permit process.
- (D) The Arts and Cultural Anchor space may be located below grade provided that it has a minimum area of 2,000 square feet of ground floor space, primarily accessed from the street frontages located within the Old Town North Arts and Cultural District Overlay Map and with a floor to ceiling height of no less than 15 feet.

- (E) The total floor area for Arts and Cultural Anchor space utilizing the Arts and Cultural Anchor incentive within the Old Town North Arts and Cultural District will not exceed 50,000 square feet of floor area as defined by The Zoning Ordinance.
- (F) The public benefit of the Arts and Cultural Anchor space will be generally equivalent to the amount of additional density requested for each site.
- (G) The applicant for the special use permit shall provide a contract, deed, or other recorded instrument in a form approved by the City prior to the release of the final site plan, which will be recorded within the land records prior to the issuance of the first certificate of occupancy permit for the site. The instrument will at minimum include:
 - 1. Use of the space will be limited to an Arts and Cultural Anchor and as may be approved through the special use permit process for a minimum period of 30 years from the issuance of the certificate of occupancy for the Arts and Cultural Anchor space.
- (H) The Arts and Cultural Anchor space(s) will be subject to all applicable taxes, fees and other applicable City requirements and fees. Notwithstanding any other provisions of this ordinance, the Arts and Cultural Anchor operator may be subject to reciprocal easement agreements (REA) that provide for an allocation of shared operating expenses and capital expenditures between uses as reasonably determined by the mixed-use property owner. Property management of the exterior of the Arts and Cultural Anchor space will be provided by the property manager of the overall project and a pro rata fee for such management will be allocated to the Arts and Cultural Anchor. The Arts and Cultural Anchor operator will be responsible for the management and maintenance of the interior of the arts space.
- (I) Height may not be increased pursuant to this section by more than 25 feet beyond the height otherwise permitted by the zone for the site. However, no building located in any zone or height district where the maximum allowable height is 50 feet or less may be allowed to exceed such height limits.
- (J) The proposed operator of the Arts and Cultural space will ensure that the space is open to the public with regularly scheduled presentations, activities, classes, or performances that are open to the public for a significant number of days within the calendar year, commensurate with the type of use and operation. In the event the space is open to the public for a limited period of time within the calendar year, the space will be made available to the public and/or City for community events or City meetings for a nominal fee.
- (K) As part of the special use permit process, provisions such as hours of operation, public access to the space, and prospective agreement with the Arts and Cultural Anchor will be established.

- (L) To qualify as an Arts and Cultural Use Anchor, the proposed operator of the Arts and Cultural space will be an existing organization or establishment that can demonstrate fiscal and managerial capacity to successfully operate such space as part of the special use permit process.
- (M) In the event the Arts and Cultural Anchor space is vacated for a period of 90 calendar days, or the tenant is no longer able to operate within the space, the City shall have the right to first refusal to purchase the space.

Attachment 2 – Old Town North Arts and Cultural District Overlay Map



Attachment 3 – Alexandria Housing Affordability Advisory Committee Letter

February 20, 2018

Re: AHAAC Comments on the Proposed Arts District Text Amendment

The Alexandria Housing Affordability Advisory Committee (AHAAC) has been following the Old Town North (OTN) Small Area Plan (SAP) process for several years. In May of last year, AHAAC provided a letter of support for the OTN SAP in which we noted our support for the plan, especially given the plan's consistency with the goals of the Housing Master Plan. As City Staff has moved to implement the objectives in the plan they have continued to brief AHAAC on the use of a bonus density policy to encourage the construction of arts and entertainment facilities within the plan area.

AHAAC allocated a significant amount of time discussing this topic at both our January and February meetings. AHAAC members have expressed concern with the City's proposed amendment to the zoning ordinance that would allow bonus density in exchange for the construction of space for the arts. AHAAC members are not against policies that encourage arts in this area or elsewhere in Alexandria, but we are concerned about the regulatory method in which the City has decided to offer such an incentive.

Virginia's enabling legislation strictly limits local jurisdictions' ability to implement regulations that require the provision of affordable housing within new development. Due to these limitations, zoning tools such as inclusionary zoning cannot be used in Alexandria. The provision of bonus density is the one zoning tool that allows Alexandria and other Virginia local governments to require the provision of affordable housing. The Alexandria Housing Master Plan made several recommendations to further encourage developers to take advantage of this tool. City Council has approved all of these recommendations, the most recent of which increased the allowable density increase from 20 percent to 30 percent.

AHAAC's main concern is that allowing arts space to take advantage of the bonus density provision risks diluting the effectiveness of this tool for creating much needed affordable housing units. AHAAC is concerned that, if given the choice between creating arts space or affordable housing units, developers will choose arts space because it is cheaper to build, administer, and maintain, and will not face the type of neighborhood opposition often seen with the creation of affordable housing units. This concern was lessened somewhat as City Staff incorporated AHAAC's feedback between the January and February meetings by adding a provision that the costs incurred in the creation of arts space must be equivalent to the costs that would be incurred in creating affordable housing units. The idea here is that, if faced with a choice, it should be no more advantageous for a developer to create arts space than to create affordable housing. Some of our members continue to express considerable reservations about expanding uses of bonus density for any reason other than affordable housing, even with the economic parity requirement in place.

AHAAC appreciates the opportunity to provide our feedback and the openness and responsiveness to our concerns we've seen from City Staff to date. While AHAAC continues to have concerns, we appreciate that the City can learn a lot from a limited trial phase of the Arts District Text Amendment. We endorse the reduction of the trial phase from 250,000 square feet to 50,000 square feet, and feel that will provide enough experience for City Staff to study the practical effects of the Amendment.

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We encourage City Staff to thoroughly evaluate the outcomes of the trial phase before taking any efforts to expand or make permanent the allowance of bonus density for arts space. We especially hope City Staff will pay special attention to assessing whether true cost equivalence between affordable housing and the creation of arts space is being achieved.

Thank you again for the opportunity to provide comments and for your responsiveness to our concerns. We hope you will continue to seek our advice and guidance as you start to see results during the trial phase. Please feel free to contact me if AHAAC can assist you any further.

Sincerely,



Robyn J. Konkel
AHAAC Chair