

BACKGROUND: The City has been approached by attorneys representing one of the landowners in the Alexandria Industrial Park with a request to support the dissolution of the Alexandria Industrial Park Covenants, which impact one current City-owned parcel (Attachment 2) within the covenant area. The Alexandria Industrial Park Covenants are a set of private agreements that cover 17 tax parcels, generally located along South Pickett Street, between Van Dorn Street and the Fairfax County border. The Covenants are dated September 1, 1961 and were recorded with the City on September 25, 1961. Among other things, the Covenants restrict the associated properties to by-right uses as permitted in the City's I-1 Industrial Zone district, as such restrictions existed in the Zoning Ordinance on the date of recordation. See Covenants, Clause III, § B attached.

The original term of the Covenants was 25 years from September 1, 1961, the Effective Date, and the Covenants automatically renew for subsequent 20-year periods. However, affected owners may “release all or any part of the land so restricted” from the Covenants or “may change or modify” the Covenants by recording a document in the land records at least five (5) years before the next renewal period, with 75% of ownership agreeing. An owner's percentage interest is established based upon the number of square feet owned as compared to the total area restricted.

At present, three (3) entities control a majority of the fee simple ownership subject to the Covenants. The City owns one parcel within the area, located at 731 S. Pickett St. The City-owned parcel is 19,906 SF, which accounts for 0.97% of the total Covenant area. This parcel was deeded to the City in 1968 by the Cafritz Limited Partnership as part of the approval for the South Port Apartments which fronts on Edsall Road and is owned by the Cafritz Limited Partnership. This City-owned parcel is almost completely covered by an unnamed tributary to Backlick Run. Because of this, it is within the floodplain and the associated Resource Protection Area (RPA), and so has virtually no development potential or economic value. It does have environmental value.

There is a second parcel (Attachment 3) within the covenant area that the City will ultimately own that is located at 620 Burnside Place. The parcel is entirely within the Backlick Run RPA and floodplain and had been serving as a parking lot. As part of DSUP#2018-0006, Public Storage, the applicant agreed to remove the paving, remediate the parcel and convey the land to the City. Staff has confirmed that the applicant will not be conveying the property to the City until later this year, so for purposes of the Covenant vote, Public Storage has the authority to vote on the Covenant at this time. This future conveyance does not affect the City's percentage of ownership for purposes of this request.

Based on the Effective Date, the Covenants will renew again on September 1, 2026. Therefore, any document intending to terminate the Covenants must be recorded on or before September 1, 2021.

DISCUSSION: The Eisenhower West Small Area Plan (SAP) was adopted by Ordinance 4980 in December 2015, with this area reimagined as “Neighborhood #1 - Van Dorn Innovation District”. It was anticipated to be primarily residential, with office, retail and mixed-use also permitted. The Covenants as currently written restrict the associated properties to by-right uses as permitted in the City's I-1 Industrial Zone district, circa 1961. Therefore, a number of uses anticipated in the SAP would not be permitted, including residential and PWR.

Staff support the dissolution of the Alexandria Industrial Park Covenants and recommend that the Section 9.06 process be utilized to confirm that the dissolution of the Covenant is consistent with the City's Master Plan, including specifically the Eisenhower West Small Area Plan. Section 9.06 of the City's Charter requires that the Planning Commission review any acquisition or sale of public land. The Planning Commission is charged with ensuring that any such acquisition, sale or change is consistent with the City's Master Plan. In this instance, the

City Attorney has determined that removal of the Covenant limitations results in a change that requires review and that the Planning Commission would determine if the proposed change is consistent with the City's Master Plan, including specifically the Eisenhower West Small Area Plan.

Support of the dissolution of the Covenants does not impact the City's ownership of the City-owned parcel within the Covenant area and use of the 9.06 process would not result in the surplus or sale of the parcel. If the three entities that control the majority of the fee simple ownership subject to the Covenants agree to dissolution of the Covenants, the City's support would not be required. However, the 75% majority agreement has not yet been reached to dissolve the Covenants. As existing Covenants would impede the development as envisioned by the Eisenhower West Small Area Plan, it would be consistent for the City to be on record as supporting dissolution to uphold the goals and intent of the City Council adopted Eisenhower West Small Area Plan.

If City Council concurs with the recommendation to support the dissolution of the Covenants and the Planning Commission finds that the proposed change is consistent with the City's Master Plan pursuant to Section 9.06 of the City Charter, upon receipt of the Planning Commission finding by City Council, the City Manager would issue a letter to the concerned parties reflecting the City's support of the dissolution of the Covenants.

FISCAL IMPACT: There is no immediate fiscal impact resulting from support of the dissolution of the Alexandria Industrial Park Covenants. However, if the Covenants are not dissolved, there may be developmental and negative tax revenue impacts in the future because the Covenants will prevent the execution of the primarily residential, office, retail and mixed-use development envisioned in the Eisenhower West Small Area Plan.

ATTACHMENTS:

1. Alexandria Industrial Park Covenants
2. City-owned Parcel at 731 S. Pickett Street
3. Future City-owned Parcel at 620 Burnside Place

STAFF:

Laura B. Triggs, Deputy City Manager
Emily A. Baker, Deputy City Manager
Joanna Anderson, City Attorney
Jeremy McPike, Director, General Services
Karl Moritz, Director, Planning and Zoning
Maya Contreras, Principal Planner, Planning and Zoning
Alfred Coleman, Deputy Director, General Services