

ORDINANCE NO. 3350

AN ORDINANCE to amend and reordain Article R (TRANSPORTATION MANAGEMENT SPECIAL USE PERMITS) of Chapter 6 (ZONING), Title 7 (PLANNING AND COMMUNITY DEVELOPMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended, by designating the existing provisions of Article R as Division 1 (TRANSPORTATION MANAGEMENT SPECIAL USE PERMITS), by adding a new Division 2 (TRANSITION SPECIAL USE PERMITS AND RELATED MATTERS) and by redesignating the Title of Article R (TRANSPORTATION MANAGEMENT AND TRANSITION SPECIAL USE PERMITS AND RELATED MATTERS), and to amend and reordain Sections 7-6-17 through 7-6-36, inclusive, of the said Chapter 6, Title 7 to incorporate such amendments to Article R and to incorporate related transition regulations.

WHEREAS, the City Council of Alexandria finds and determines that:

1. In April 1987, City Council directed that the city's Master Plan be updated and revised, and that the city's Zoning Code be comprehensively amended in light of the updated Master Plan.

2. On November 10, 1987, the City Council appointed a Master Plan Task Force and a Zoning Code Task Force to assist the Department of Planning and Community Development, the Planning Commission and the City Council in these endeavors.

3. The City Council has directed the Department of Planning and Community Development to prepare and bring forth for public comment and consideration 14 Small Area Plans covering all sections of the city which Small Area Plans will be incorporated into the updated Master Plan.

4. These endeavors of the Department of Planning and Community Development, the Master Plan Task Force and the Zoning Task Force have resulted in the preparation of, and will continue to result in, discrete goals, objectives and implementation strategies for the Small Area Plans, the updated Master Plan and the new Zoning Code.

5. The comprehensive revision to the Zoning Code will, at the earliest, be finally adopted before the Summer of 1990.

6. As described in the report, Growth Trends and Issues, prepared for the city by Hammer, Siler, George Associates:

(a) The Washington Metropolitan Area regional office market is now the highest in the nation in terms of new absorption, and absorption is likely to run between 7 and 8 million square feet annually through 1995 and between 5.5 and 7 million square feet annually from 1995 through 2005.

(b) Alexandria's share of regional office development is projected to increase over these periods.

(c) The characteristics of office development in Alexandria are projected to shift from predominantly smaller single-tenant buildings to larger multi-tenant buildings.

(d) Under projected regional market conditions, the city's existing zoning regulations provide a disincentive to the construction of residential housing units in the city, to the extent that the latent demand for new housing in the city will not be satisfied.

7. The city's present Zoning Code, which was adopted in 1951, includes provisions that would permit the construction of almost 300 million square feet of commercial development in the city, most of it at high densities.

8. The city's present Zoning Code permits the construction of high-density and large-scale commercial office development projects in many parts of the city, including in or near residential neighborhoods.

9. Such commercial development can alter the low-scale and predominantly residential nature of many parts of the city, and the impacts of such development can harm or disrupt established residential neighborhoods.

10. Without proper regulation, such development presents a clear and present danger to the public health, safety and general welfare of the residents of Alexandria.

11. Applications for approval of proposed new developments in the city encompassing 12.6 million square feet of office space are pending at the present time, or are anticipated to be filed in the immediate future.

12. The office space encompassed in such new developments exceeds the city's existing stock of office space and would equal or exceed the market demand for office space in Alexandria through the year 2005, as projected in the Hammer, Siler, George Associates report.

13. Larger-scale development projects, especially those in proximity to residential neighborhoods, have the potential to cause irreversible adverse impacts that differ, in both a quantitative and qualitative sense, from those of smaller size projects.

14. Immediate adoption of special use permit review for all larger-scale development proposals for compatibility with

uses and properties in the environs, for consistency with the general welfare of city residents, and for compatibility with the goals, objectives and implementation strategies for the location of the project which have been framed within the ongoing Master Plan and Zoning Code revision process is required in order to ensure that implementation of the goals and objectives of the updated Master Plan and the provisions of the new Zoning Code will not have been hindered or precluded because inconsistent development projects have been approved or constructed prior to adoption of the new Zoning Code.

15. Requiring a special use permit for all larger scale development projects is required at the present time to assure that projects with adverse impacts will be avoided, that the ultimate product of the Master Plan and Zoning Code revision process will be of genuine effect, and that the city will be able to determine the form and extent of the development which will take place into the 21st century.

16. Approval of a proposed development project as compatible with uses and properties in the environs, as consistent with the general welfare of the residents of the city, and as compatible with the goals, objectives and implementation strategies for the project's location which have been framed within the Master Plan and Zoning Code revision process should afford the project developer a legitimate assurance that the proposed development may be completed as approved, notwithstanding any change in the final regulations which may be adopted in the new Zoning Code.

17. Based upon the foregoing findings and all other facts and circumstances of which the City Council may properly take notice in its capacity as the legislative body of the City of Alexandria, adoption of this ordinance is necessary and desirable to protect the public health, safety and general welfare; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the catchline of Article R of Chapter 6, Title 7 of The Code of the City of Alexandria, Virginia, 1981, as amended, be amended and reordained to read as follows:

ARTICLE R

Transportation Management and Transition  
Special Use Permits and Related Matters

Section 2. That the existing provisions of Sections 7-6-320 through 7-6-329, inclusive, be designated as Division 1 (Transportation Management Special Use Permits) of Article R, Chapter 6, Title 7 of The Code of the City of Alexandria, Virginia, 1981, as amended.

Section 3. That any reference in Sections 7-6-320 through 7-6-329, inclusive, to "this article" or "article," intended to refer to the existing provisions of Article R of Chapter 6, Title 7 of The Code of the City of Alexandria, Virginia, 1981, as amended, be amended and reordained to read "this division" or "division," such reference being to Division 1 of Article R, Chapter 6, Title 7 of The Code of the City of Alexandria, Virginia, 1981, as herein amended.

Section 4. That Article R of Chapter 6, Title 7 of The Code of the City of Alexandria, Virginia, 1981, as amended, be amended and reordained by adding a new Division 2 to read as follows:

#### DIVISION 2

##### Transition Special Use Permits And Related Matters

Sec. 7-6-350 Intent of division.

The purpose of this division is to protect and preserve the public health, safety and general welfare of the residents of the City of Alexandria by providing for an orderly, effective and equitable transition between the land use and development regulations in effect under this code prior to December 17, 1988, and the regulations which will be adopted as part of the revision of the city's Master Plan and Comprehensive Zoning Plan, as mandated by the city charter and commenced by directive of city council.

Sec. 7-6-351 Scope of division.

(a) The following uses, when required by the use regulations applicable in the zone in which located shall require a transition special use permit pursuant to the provisions of this division:

- (1) Any individual building or structure which contains:
  - a. 50,000 or more usable square feet of commercial and/or professional office space;
  - b. 40,000 or more usable square feet of retail sales space;
  - c. 150,000 or more usable square feet of industrial space;
  - d. 250 or more residential units; or

e. any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.

(2) Any project, complex or development which is or becomes the subject of common ownership or control, which is or becomes the subject of a common, concerted, coordinated or phased plan of development irrespective of ownership or control, or which is or becomes the subject of a common, concerted, coordinated or phased plan of lease, sale, marketing or operation irrespective of ownership or control, and which when completed or assembled involves two or more buildings or structures containing in the aggregate:

a. 50,000 or more usable square feet of commercial and/or professional office space;

b. 40,000 or more usable square feet of retail sales space;

c. 150,000 or more usable square feet of industrial space;

d. 250 or more residential units; or

e. any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.

(b) All other uses shall be exempt from the requirements of this division.

#### Sec. 7-6-352 Definitions.

The following words and phrases, shall, for purposes of this division, have the following meanings:

(a) **Commission.** The Planning Commission of the City of Alexandria.

(b) **Director.** The Director of Planning and Community Development.

(c) **Due diligence.** Characterized by the steady, earnest, attentive, energetic and successful or productive marshaling and application of all necessary resources and efforts in order to construct and operate, lease or sell a proposed use.

(d) **Proposed use.** A use which is described in an application for a special use permit filed under this division.

(e) **Retail sales.** The sale of goods or the provision of business or personal services of any nature.

(f) **Usable square feet.** The floor area of a proposed use, which shall be the sum of all gross horizontal areas under a roof or roofs of all buildings or structures comprising the proposed use, computed by measuring from the exterior faces of walls and from the eaves of all roofs where they extend beyond the wall line, or from the space with a headroom of seven feet six inches or more, whether or not provided with a finished floor or ceiling. Excluded shall be elevator and stair bulkheads. No deduction shall be made for columns and projections necessary to the building or structure.

**Sec. 7-6-353 Application for special use permit--filing and review by planning commission and city council.**

(a) An application for a special use permit under this division shall be made in writing, on such forms as the director shall provide, and shall be filed with the director. The application shall be filed concurrently with the application for approval of a transportation management special use permit for the same use.

(b) The owner, contract purchaser or lessee of real property on or in which a use subject to this division is or may be located, or any authorized agent of such party in interest (hereafter referred to as the applicant) may file the application for a special use permit under this division.

(c) The city manager shall docket the special use permit application for public hearing and consideration by the city council and shall give notice of the hearing pursuant to article P of this chapter. The city manager shall refer the application to the planning commission for public hearing and consideration prior to consideration of the application by city council.

(d) Prior to the time the planning commission first considers the application, the director shall review the application and immediately after he determines that the application is complete, he shall submit it to the other departments and offices of the city concerned therewith for their review. The director shall transmit their comments and recommendations, together with his own, to the commission within 60 days after determining that the application is complete.

(e) At the conclusion of its public hearing on the application, the commission may recommend approval or denial of the application, or may defer recommendation for no more than 30

days in order to receive such additional information as it may require. Not later than five days prior to the public hearing before city council, the planning commission shall submit to council its recommendation on the application, together with its reasons therefor.

(f) At the conclusion of its public hearing on the application, city council may approve or deny the application, as provided in section 7-6-355, or may defer decision on the application for no more than 30 days in order to receive such additional information as it may require.

Sec. 7-6-354 Same--content of application.

Each such application for a special use permit under this division shall contain the following information:

(a) A clear and concise statement identifying the applicant, including the name and address of each person or entity owning an interest in the applicant and the extent of the ownership interest. If the applicant itself or any of the entities holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of 10% in such corporation shall be identified by name and address, and the extent of his interest shall be described. For purposes of this section, the term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

(b) A development plan which shall consist of a narrative description of the proposed use and a preliminary site plan subject to approval as provided in this division.

(c) Architectural massing studies, and, if required by the director, preliminary architectural elevations, renderings or sketches sufficient fairly to depict any proposed building or buildings.

(d) Such additional information as the director may require, or the applicant may desire to submit, in order to facilitate review of the application for a special use permit hereunder.

Sec. 7-6-355 Same--city council action on transition special use permit.

(a) In reviewing an application for a transition special use permit under this division, the city council shall consider the following and such additional land use or land development factors as are found by the council to be appropriate under the facts and circumstances of each application:

(1) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing character of the environs and of the city as a whole.

(2) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing master plan; provided, however, that if the director, at the request of city council, shall have prepared and circulated for public comment and consideration any proposed amendment or revision to the existing master plan applicable to the area in which the proposed use is located and if the planning commission, after notice and public hearing, determines that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare, then the city council shall consider such proposed use for compatibility with such proposed amendment or revision, if the council also determines after notice and public hearing that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare.

(3) The effects of traffic generated by the proposed use on nearby streets, highways or other public rights-of-way; and on the environs and the city as a whole, to the extent not mitigated under division 1 of this article.

(b) The city council will approve the application for a special use permit under this division if it determines, in light of the applicable factors, that the proposed use will not adversely affect the public health, safety and general welfare of the residents of the City of Alexandria and will be in general accord with the existing master plan or any proposed amendment or revision thereto determined to be applicable pursuant to subsection (a)(2) of this section, as the case may be.

(c) In approving an application for a special use permit under the provisions of this division, city council may place such reasonable conditions and requirements in the permit as the council deems necessary to ensure that the proposed development will not adversely affect the health, safety and general welfare of the residents of the city and will be in general accord with the master plan or an amendment or revision thereto determined to be applicable pursuant to subsection (a)(2) of this section, and will continue to do so throughout the life of the proposed use.

(d) Any special use permit granted under the provisions of this division shall be granted to the applicant and his successors in interest.

(e) Any use authorized by a special use permit granted under this division shall be constructed and operated in conformity

with such permit, and failure to so construct and operate shall be deemed grounds for revocation of such permit, after notice and public hearing, by city council.

Sec. 7-6-356 Special use permit validity and modification.

(a)(1) Each special use permit issued pursuant to the provisions of this division shall expire and become null and void as to uncommenced or uncompleted construction, as the case may be, unless substantial construction of the proposed use is commenced within 18 months after permit approval, or such longer period of time as city council may specify when approving such permit, and such construction is thereafter pursued with due diligence; provided, that upon petition by the applicant or any successor in interest, filed with the city clerk prior to the expiration of the validity of the permit, and after notice and public hearing, the city council may, for good cause shown, enlarge the period in which construction must be commenced or amend the requirement for due diligence in the pursuit of construction.

(2) Evidence that substantial construction activity is proceeding on a building without any interruption of six or more consecutive months or, in the case of a project, complex or development, is proceeding without interruption of 18 or more consecutive months between the substantial completion of one building and the commencement of substantial construction of another building, shall constitute prima facie evidence of due diligence. Evidence that substantial construction activity on a building has been interrupted for more than six consecutive months or, in the case of a project, complex or development, has been interrupted for more than 18 consecutive months between the substantial completion of one building and the commencement of substantial construction of another building, shall constitute prima facie evidence of a failure to maintain due diligence. Evidence of such failure may be rebutted by evidence that the interruption in substantial construction activity is proximately caused by factors beyond the control of the applicant or any successor in interest, such as a change in circumstances or mistake. Such change in circumstances shall be limited to a changed condition which substantially affects the ability of the applicant or any successor in interest to maintain due diligence and which could not reasonably have been anticipated at the time of permit approval. Such mistake shall be limited to an error or omission in the material facts or assumptions relied upon by the applicant at the time of permit approval, which mistake substantially affects the ability of the applicant or any successor in interest to maintain due diligence. Mistake shall not encompass errors in judgment, and the applicant and any successor in interest are charged with all knowledge reasonably attainable at the time of permit approval.

(3) If the director proposes to determine that any special use permit issued under the provisions of this division has become null and void under the provisions of this subsection, he shall notify the applicant by mail at his last known address, and likewise notify any successor in interest known to the director as determined from the real estate assessment records of the city. The applicant or any successor in interest who desires to contest such proposed determination shall file a petition with the city clerk specifying the grounds of such contest within 30 days after mailing of such notice. Thereafter, city council shall proceed to determine, after notice and public hearing, whether the permit has become null and void under the provisions of this subsection. In any such proceeding, the petitioner shall have the burden of proving the continuing validity of the special use permit. In the event no such petition is timely filed, the director's proposed determination shall become final and shall not be subject to further review.

(b) During the period specified pursuant to subsection (a), the applicant or any successor in interest may commence and thereafter complete construction of the proposed use, as approved and subject to all applicable requirements of law in effect as of the time the special use permit is approved, notwithstanding any subsequent amendment, supplement, revision or change in the applicable requirements of this chapter and any such use, construction of which is so commenced and completed, shall not thereafter be deemed a nonconforming use notwithstanding any subsequent amendment, supplement, revision or change in the applicable provisions of this chapter.

(c) An applicant or any successor in interest thereof, or any authorized agent of such applicant or such successor in interest, who is subject to a special use permit issued pursuant to the provisions of this division, may petition city council for modifications of the permit after notice and public hearing, consistent with the provisions of this division. Such petition shall set forth with particularity the modifications desired and the reasons therefor and shall show that the permit as so modified will comply with the provisions of this division. Minor modifications of the permit may be approved by the city manager, upon the recommendation of the director and such other department heads as may be appropriate.

Sec. 7-6-357 Nonconforming use status and related matters.

(a) No individual building or structure, or project, complex or development, otherwise subject to the provisions of this division, which is in existence on December 17, 1988, or for which a preliminary or combination site plan approved on or before December 17, 1988, continues in force and effect, shall be deemed a nonconforming use by virtue of any provision of this division, nor shall any such building or structure or project,

complex or development be subject to the provisions of this division; provided, however, that no such building or structure, or project, complex or development, shall be extended or enlarged to a size or density in excess of that which existed on December 17, 1988, unless a transition special use permit is obtained as provided in this division for such extension or enlargement.

(b) Any other provision of law to the contrary notwithstanding, the owner, contract purchaser or lessee of any building or structure or any project, complex or development, or any authorized agent of such party in interest, may file an application for the issuance of a special use permit under the provisions of this division.

Sec. 7-6-358 Relationship with other provisions of law.

(a) Unless otherwise specifically provided, the provisions of this division shall apply in addition to all other requirements and provisions of this code, the city charter and general law, and compliance with the provisions of this division shall not excuse compliance with any other provision or requirement of this code, the charter and general law.

(b) (1) Any other provision of law to the contrary notwithstanding, from and after December 17, 1988, and except as may be provided pursuant to section 7-6-356, no variance, special use permit, site plan, plot plan, certificate of appropriateness, erosion control permit or other land use or land development permit shall be approved, issued or released for a use subject to the provisions of this division, except upon the express condition that the holder of such variance, special use permit, site plan, plot plan, certificate of appropriateness, erosion control permit or other land use or land development permit shall proceed at his own risk and with no assurance that a construction permit for any or all buildings contemplated by such land use or land development permit will be granted.

(2) Any variance, special use permit, site plan, plot plan, certificate of appropriateness, erosion control permit or other land use or land development permit shall expire and become null and void at the sooner to occur of the time otherwise limited by law absent construction, or the time at which any material amendment, supplement, revision or change in the regulations of this chapter applicable to any or all buildings or structures of such use becomes effective; provided, however, that the limitation provided by this subsection shall not apply to any building or structure if, at the time such amendment, supplement, revision or change becomes effective, there is, and thereafter continues, in force and effect a bona fide construction permit for the entire building or structure.

(3) The building official shall not grant any extension of the period of validity of a construction permit, limited by § 109.8 of Volume I - New Construction Code of the Uniform Statewide Building Code, if, at the time application for such extension is made, there has occurred any material amendment, supplement, revision or change in the regulations of this chapter applicable to such application.

(c) (1) Whenever a special use permit granted under authority of this division requires a greater width or size of yards, courts or other open spaces; requires a lower height of buildings, less number of stories or lower density, requires a greater percentage of lot to be left unoccupied, or imposes other higher standards than are required in any other statute, local ordinance or regulation, the provisions of the special use permit granted under authority of this division shall govern.

(2) Nothing in this division shall be deemed to authorize city council to approve a special use permit under the provisions of this division for a proposed use which would exceed the maximum floor-to-area ratio, density or height regulations of the zone or zones in which such use is located, or the maximum floor-to-area ratio, density or height regulations otherwise provided in this chapter.

(3) In approving a special use permit under the provisions of this division, the city council may vary the minimum area, frontage, yard, coverage, or other minimum requirements imposed by this chapter, for the zone or zones in which such use is located, or otherwise applicable to such use, if the council determines that such variance is necessary or desirable to develop the property in conformity with the approved special use permit, and that such variance will not be detrimental to the public health, safety and general welfare.

#### Sec. 7-6-359 Administration.

(a) The director shall administer the provisions of this division, and shall coordinate with such other departments of the city government as may be appropriate.

(b) The fee for filing and processing a special use permit application under this division shall be according to the following schedule, and such fee shall be in addition to any other fees required under this code:

(1) Application for a special use permit under the provisions of this division, unless otherwise provided: \$5.00 per 1,000 usable square feet or portion thereof of space in the proposed use.

(2) Application for a special use permit under the provisions of this division, to replace, revise, amend or modify a previously approved and currently valid such special use permit, which is occasioned by new construction of additional usable space: 3/5 of the prevailing fee as established in subsection (1), for the aggregate floor area.

(3) Application for a special use permit under the provisions of this division, to replace, revise, amend or modify a previously approved and currently valid such special use permit, which is occasioned by other than new construction of additional usable space: 1/5 of the prevailing fee as established in subsection (1).

Sec. 7-6-360 Hardship; accelerated procedure.

(a) Subject to the provisions of this section, city council shall have the authority to grant exemptions from the requirements of this division.

(b) The owner of record of a specific parcel of land may apply for an exemption under this section from any of the requirements of this division by filing with the city clerk a petition, under oath, stating facts sufficient to show that he is entitled to relief under this section. Such petition shall include a specific description of the relief sought and, in particular, of the requirements of this division from which an exemption is requested. If the petitioner is seeking an exemption from one or more of the procedural requirements of section 7-6-353 or from one or more of the application requirements of section 7-6-354, he may file an application for a transition special use permit, in accordance with the exemptions requested in his petition, at the time the petition is filed. The fee for filing such petition shall be \$150, and such fee shall be in addition to all other fees required by law.

(c) In order to obtain relief under this section, the petitioner shall have the burden of showing by clear and convincing evidence that the strict application of the requirements of this division to the parcel which is the subject of the petition will result in extraordinary hardship, approaching confiscation, of a nature which is not self-induced, which is unique to the petitioner and which is not shared generally by those persons subject to the requirements of this division.

(d) The director shall review the petition and shall forward his recommendations thereon to city council. The city manager shall schedule a public hearing on the petition before city council within 15 days of the filing of the petition. Notice of such hearing shall be given pursuant to article P of this chapter.

(e) City council may grant, in whole or in part, the exemption from the requirements of this division sought by the petitioner if it determines, on specific written findings of fact and conclusions of law, that the strict application of such requirements to petitioner's parcel will result in extraordinary hardship, approaching confiscation, of a nature which is not self-induced, which is unique to the petitioner and which is not shared generally by those persons subject to the requirements of this division.

(f) In the event that city council determines to grant petitioner an exemption, it shall issue an appropriate order for relief, describing the requirements of this division from which petitioner shall be partially or fully exempt. Such order shall provide the minimum relief necessary to alleviate the hardship proved by petitioner. In all but the most extraordinary of circumstances, the relief awarded shall be limited to the procedural aspects of compliance with this division, and may include, if so requested in the petition, approval by council, under this section, of a transition special use permit based upon the materials submitted as part of the petition.

(g) City council may include such terms and conditions in the order for relief as it deems necessary and desirable to protect the public health, safety and general welfare and to assure that the parcel will be developed in harmony with the intended spirit and purpose of this division.

Section 5. That subsection 2, subsection (a), Section 7-6-17 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(2) Multi-family dwellings, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code.

Section 6. That subsection (6), subsection (a), Section 7-6-17 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(6) Offices for architects, attorneys-at-law, dentists, physicians, osteopaths, professional engineers, public accountants, ministers, teachers and such other professional occupations as are licensed by the state; provided, that special permission for such use shall have been granted by the city council under the provisions of sections 7-6-191 to 7-6-195 of this code, and subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code.

Section 7. That paragraph d, subsection (3), subsection (a), Section 7-6-19 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

d. The uses specified in paragraphs a., b. and c. above shall be permitted only with a special use permit as specified in sections 7-6-191 to 7-6-195 of this code, and shall be permitted only in multi-family dwellings four or more stories in height, provided that the total area devoted to such uses does not exceed the square foot area of the first story or any story below the first story, whichever is less, and subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code.

Section 8. That paragraph a, subsection (1), subsection (a) of Section 7-6-20 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

a. Multi-family dwellings, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code.

Section 9. That subsection (2), subsection (a), Section 7-6-20 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(2) Within the buildings constructed primarily for uses (1)a. and (1)b., the following additional uses shall be permitted, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 10. That subsection (3), subsection (a), Section 7-6-21 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(3) Apartments, in masonry buildings existing on February 10, 1953, only, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code.

Section 11. That subsection (a), Section 7-6-23 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) **Uses permitted.** The following uses only shall be permitted in the C-1 commercial zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 12. That subsection (a), Section 7-6-24 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) **Uses permitted.** The following uses only shall be permitted in the C-1-B commercial business zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 13. That subsection (a), Section 7-6-25 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) **Uses permitted.** The following uses only shall be permitted in the C-2 commercial zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code.

Section 14. That subsection (a), Section 7-6-26 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) **Uses permitted.** The following uses only shall be permitted in the C-2-B commercial business zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 15. That subsection (a), Section 7-6-27 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) **Uses permitted.** The following uses only shall be permitted in the C-3 commercial zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 16. That subsection (a), Section 7-6-28 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) **Uses permitted.** The following uses only shall be permitted in the C-0 commercial office zone, subject to the

issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 17. That subsection (3), subsection (i), Section 7-6-28 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(3) Uses authorized for a planned residential and/or commercial development. The following uses only shall be authorized in a planned residential and/or commercial development, subject to the issuance of a special use permit as specified in division 1 of article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 of this code:

Section 18. That subsection (i), Section 7-6-28 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new subsection (12) to read as follows:

(12) Transition regulations. In addition to the regulations of this subsection 7-6-28(i), the following provisions shall apply to an application for, or approval of, a special use permit for a planned residential and/or commercial development:

a. In reviewing an application for a special use permit under this subsection, the city council shall consider the following and such additional land use or land development factors as are found by the council to be appropriate under the facts and circumstances of each application:

(i) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing character of the environs and with the city as a whole.

(ii) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing master plan; provided, however, that if the director, at the request of city council, shall have prepared and circulated for public comment and consideration any proposed amendment or revision to the existing master plan applicable to the area in which the proposed use is located and if the planning commission, after notice and public hearing, determines that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare, then the city council shall consider such proposed development for compatibility with such proposed amendment or revision, if the council also

determines after notice and public hearing that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare of the residents of the city.

(iii) The effects of traffic generated by the proposed use on nearby streets, highways or other public rights-of-way; and on the environs and the city as a whole.

b. The city council may approve the application for a special use permit under this subsection if it determines, in light of the applicable factors, that the proposed use will not adversely affect the public health, safety and general welfare of the residents of the City of Alexandria and will be in general accord with the existing master plan or any proposed amendment or revision thereto determined to be applicable pursuant to subsection (12)a.(ii) of this subsection, as the case may be.

c. In approving a special use permit under the provisions of this subsection, the city council may vary the minimum area, frontage, yard, coverage or other minimum requirements imposed by this chapter, for the zone in which such use is located, or otherwise applicable to such use, if the council determines that such variance is necessary or desirable to develop the property in conformity with the approved special use permit, and that such variance will not be detrimental to the public health, safety and general welfare.

d. To the extent that any other provisions of this code are inconsistent with the provisions of this subsection, the provisions of this subsection shall be controlling.

Section 19. That subsection (a), Section 7-6-29 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) **Uses permitted.** The following uses only shall be permitted in the C-4 commercial park zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code, and shall be conducted wholly within a completely enclosed building, except for the on-site parking of vehicles. Uses outside the main buildings subordinate to the dominate use of the property may be permitted in compliance with the performance standards set forth herein.

Section 20. That subsection (b), Section 7-6-30 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(b) **Uses permitted.** The following uses only shall be permitted in the I-1 industrial/planned unit development zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 21. That subsection (c), Section 7-6-30 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(c) **Lawfully existing uses.** Any use of land or structures which was lawfully in existence on or for which a site plan has been approved by the planning commission prior to July 17, 1981, shall be subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code, and shall continue to be a lawful use unless otherwise provided in article R of this chapter, shall not be subject to the permitted use subsection of this section and shall not be deemed a nonconforming use as a result of amendments made to this chapter on July 17, 1981, but this subsection shall not be construed to authorize a like use of any other land or structure within this zone subsequent to said date without complying with the applicable provisions of this chapter.

Section 22. That subsection (l), subsection (k), Section 7-6-30 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(l) **Uses permitted.** A planned unit development shall contain the following uses only, subject to the issuance of a special use permit as specified in division 1 of article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 of this code:

Section 23. That subsection (k), Section 7-6-30 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding thereto a new subsection (9) to read as follows:

(9) **Transition regulations.** In addition to the regulations of this subsection 7-6-30(k), the following provisions shall apply to an application for, or approval of, a special use permit for a planned unit development:

a. In reviewing an application for a special use permit under this subsection, the city council shall consider the following and such additional land use or land development factors as are found by the council to be appropriate under the facts and circumstances of each application:

(i) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing character of the environs and with the city as a whole.

(ii) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing master plan; provided, however, that if the director, at the request of city council, shall have prepared and circulated for public comment and consideration any proposed amendment or revision to the existing master plan applicable to the area in which the proposed use is located and if the planning commission, after notice and public hearing, determines that such amendment or revision is necessary or desirable to protect the public health, safety or general welfare, then the city council shall consider such proposed development for compatibility with such proposed amendment or revision, if the council also determines after notice and public hearing that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare.

(iii) The effects of traffic generated by the proposed use on nearby streets, highways or other public rights-of-way; and on the environs and the city as a whole.

b. The city council may approve the application for a special use permit under this subsection if it determines, in light of the applicable factors, that the proposed use will not adversely affect the public health, safety and general welfare of the residents of the City of Alexandria and will be in general accord with the existing master plan or any proposed amendment or revision thereto determined to be applicable pursuant to subsection (9)a.(ii) of this subsection, as the case may be.

c. In approving a special use permit under the provisions of this subsection, the city council may vary the minimum area, frontage, yard, coverage, or other minimum requirements imposed by this chapter, for the zone or zones in which such use is located, or otherwise applicable to such use, if the council determines that such variance is necessary or desirable to develop the property in conformity with the approved special use permit, and that such variance will not be detrimental to the public health, safety and general welfare.

d. To the extent that any other provisions of this code are inconsistent with the provisions of this subsection, the provisions of this subsection shall be controlling.

Section 24. That subsection (b), Section 7-6-31 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(b) **Uses permitted.** The following uses only shall be permitted in the I-2 industrial/planned unit development zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 25. That subsection (c), Section 7-6-31 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(c) **Lawfully existing uses.** Any use of land or structures which was lawfully in existence on or for which a site plan has been approved by the planning commission prior to July 17, 1981, shall be subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code, and shall continue to be a lawful use unless otherwise provided in article R of this chapter, shall not be subject to the permitted use subsection of this section and shall not be deemed a nonconforming use as a result of amendments made to this chapter on July 17, 1981, but this subsection shall not be construed to authorize a like use of any other land or structure within this zone subsequent to said date without complying with the applicable provisions of this chapter.

Section 26. That subsection (l), subsection (k), Section 7-6-31 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(l) **Uses permitted.** A planned unit development shall contain the following uses only, subject to the issuance of a special use permit as specified in division 1 of article R of this chapter unless exempted therefrom pursuant to section 7-6-321 of this code:

Section 27. That subsection (k), Section 7-6-31 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new subsection (9) to read as follows:

(9) **Transition regulations.** In addition to the regulations of this subsection 7-6-31(k), the following provisions shall apply to an application for, or approval of, a special use permit for a planned unit development:

a. In reviewing an application for a special use permit under this subsection, the city council shall consider the

following and such additional land use or land development factors as are found by the council to be appropriate under the facts and circumstances of each application:

(i) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing character of the environs and with the city as a whole.

(ii) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing master plan; provided, however, that if the director, at the request of city council, shall have prepared and circulated for public comment and consideration any proposed amendment or revision to the existing master plan applicable to the area in which the proposed use is located and if the planning commission, after notice and public hearing, determines that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare, then the city council shall consider such proposed development for compatibility with such proposed amendment or revision, if the council also determines after notice and public hearing that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare.

(iii) The effects of traffic generated by the proposed use on nearby streets, highways or other public rights-of-way; and on the environs and the city as a whole.

b. The city council may approve the application for a special use permit under this subsection if it determines, in light of the applicable factors, that the proposed use will not adversely affect the public health, safety and general welfare of the residents of the City of Alexandria and will be in general accord with the existing master plan or any proposed amendment or revision thereto determined to be applicable pursuant to subsection (9)a.(ii) of this subsection, as the case may be.

c. In approving a special use permit under the provisions of this subsection, the city council may vary the minimum area, frontage, yard, coverage, or other minimum requirements imposed by this chapter, for the zone or zones in which such use is located, or otherwise applicable to such use, if the council determines that such variance is necessary or desirable to develop the property in conformity with the approved special use permit, and that such variance will not be detrimental to the public health, safety and general welfare.

d. To the extent that any other provisions of this code are inconsistent with the provisions of this subsection, the provisions of this subsection shall be controlling.

Section 28. That subsection (a), Section 7-6-33 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) Uses permitted. The following uses only shall be permitted in the W-1 waterfront (mixed use) zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 29. That subsection (a), Section 7-6-34 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(a) Uses permitted. The following uses only shall be permitted in the M-1 metro-King Street station area zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 30. That subsection (5), subsection (k), Section 7-6-34 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(5) No change in regulations or special use permit granted shall be construed to allow any use, other than those permitted in the M-1 metro zone, and any use permitted under a planned residential and/or commercial development pursuant to this subsection shall be subject to the issuance of a special use permit as specified in division 1 of article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 of this code, nor shall any such change or permit be construed to allow any increase in the total number of dwelling units, nor in the total floor area permitted in the M-1 metro zone.

Section 31. That subsection (k), Section 7-6-34 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding thereto a new subsection (10) to read as follows:

(10) Transition regulations. In addition to the regulations of this subsection 7-6-34(k), the following provisions shall apply to an application for, or approval of, a special use permit for a planned residential and/or commercial development:

a. In reviewing an application for a special use permit under this subsection, the city council shall consider the following and such additional land use or land development factors as are found by the council to be appropriate under the facts and circumstances of each application:

(i) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing character of the environs and with the city as a whole.

(ii) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing master plan; provided, however, that if the director, at the request of city council, shall have prepared and circulated for public comment and consideration any proposed amendment or revision to the existing master plan applicable to the area in which the proposed use is located and if the planning commission, after notice and public hearing, determines that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare, then the city council shall consider such proposed development for compatibility with such proposed amendment or revision, if the council also determines after notice and public hearing that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare.

(iii) The effects of traffic generated by the proposed use on nearby streets, highways or other public rights-of-way; and on the environs and the city as a whole.

b. The city council may approve the application for a special use permit under this subsection if it determines, in light of the applicable factors, that the proposed use will not adversely affect the public health, safety and general welfare of the residents of the City of Alexandria and will be in general accord with the existing master plan or any proposed amendment or revision thereto determined to be applicable pursuant to subsection (10)a.(ii) of this subsection, as the case may be.

c. In approving a special use permit under the provisions of this subsection, the city council may vary the minimum area, frontage, yard, coverage, or other minimum requirements imposed by this chapter, for the zone or zones in which such use is located, or otherwise applicable to such use, if the council determines that such variance is necessary or desirable to develop the property in conformity with the approved special use permit, and that such variance will not be detrimental to the public health, safety and general welfare.

d. To the extent that any other provisions of this code are inconsistent with the provisions of this subsection, the provisions of this subsection shall be controlling.

Section 32. That subsection (c), Section 7-6-35 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(c) Uses permitted. The following uses only shall be permitted in the M-2 metro-Braddock Road station area zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 section 7-6-351 of this code:

Section 33. That subsection (5), subsection (m), Section 7-6-35 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(5) No change in regulations or special use permit granted shall be construed to allow any use, other than those permitted in the M-2 metro zone, and any use permitted under a planned residential and/or commercial development under the provisions of this subsection shall be subject to the issuance of a special use permit as specified in division 1 of article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 of this code, nor shall any such change or permit be construed to allow any increase in the total number of dwelling units, nor in the total floor area permitted in the M-2 metro zone.

Section 34. That subsection (m), section 7-6-35 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding thereto a new subsection (10) to read as follows:

(10) Transition regulations. In addition to the regulations of this subsection 7-6-35(m), the following provisions shall apply to an application for, or approval of, a special use permit for a planned residential and/or commercial development:

a. In reviewing an application for a special use permit under this subsection, the city council shall consider the following and such additional land use or land development factors as are found by the council to be appropriate under the facts and circumstances of each application:

(i) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character,

with the existing character of the environs and with the city as a whole.

(ii) The compatibility of the proposed use, including but not limited to location, height, mass, scale, density, use, site layout and general architectural character, with the existing master plan; provided, however, that if the director, at the request of city council, shall have prepared and circulated for public comment and consideration any proposed amendment or revision to the existing master plan applicable to the area in which the proposed use is located and if the planning commission, after notice and public hearing, determines that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare, then the city council shall consider such proposed development for compatibility with such proposed amendment or revision, if the council also determines after notice and public hearing that such amendment or revision is necessary or desirable to protect the public health, safety and general welfare.

(iii) The effects of traffic generated by the proposed use on nearby streets, highways or other public rights-of-way; and on the environs and the city as a whole.

b. The city council may approve the application for a special use permit under this subsection if it determines, in light of the applicable factors, that the proposed use will not adversely affect the public health, safety and general welfare of the residents of the City of Alexandria and will be in general accord with the existing master plan or any proposed amendment or revision thereto determined to be applicable pursuant to subsection (10)a.(ii) of this subsection, as the case may be.

c. In approving a special use permit under the provisions of this subsection, the city council may vary the minimum area, frontage, yard, coverage, or other minimum requirements imposed by this chapter, for the zone or zones in which such use is located, or otherwise applicable to such use, if the council determines that such variance is necessary or desirable to develop the property in conformity with the approved special use permit, and that such variance will not be detrimental to the public health, safety and general welfare.

d. To the extent that any other provisions of this code are inconsistent with the provisions of this subsection, the provisions of this subsection shall be controlling.

Section 35. That subsection (c), Section 7-6-36 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(c) **Uses permitted.** The following uses only shall be permitted in the M-3 metro-Eisenhower Avenue station area zone, subject to the issuance of special use permits as specified in article R of this chapter, unless exempted therefrom pursuant to section 7-6-321 or section 7-6-351 of this code:

Section 36. That this ordinance shall become effective upon the date and at the time of its final passage, and shall apply to all proposed uses subject to the provisions of this ordinance for which no preliminary or combination site plan has been approved by the Planning Commission of the City of Alexandria or by the City Council in the first instance, as the case may be, on the date and at the time of its final passage.

Section 37. That this ordinance shall cease to be effective at the earlier of the expiration of the period limited by section 15.1-493G of the Code of the Virginia (1950), as amended, following the adoption of the 6th Revised Zoning Map of the City of Alexandria, Virginia, or December 31, 1991, unless such date certain is sooner amended by the city council; provided, however, that this Section 37 shall not be applicable to any land within the city as to which there is pending on the date herein limited any action in a court of competent jurisdiction contesting the decision of the city council adopting the said map or regulations relative to such land; and provided, further, that the operative effect of this Section 37 shall not affect any act committed or done, or any right established, accrued or accruing before the day on which the operative effect of this Section 37 commences.

Section 38. That the provisions of sections 7-6-351 and 7-6-358(b) shall be taken and deemed to be separate and severable from all other provisions of this ordinance, and likewise all other provisions of this ordinance shall be taken and deemed to be separate and severable from the provisions of sections 7-6-351 and 7-6-358(b), and if any section, paragraph, subdivision, clause, phrase or provisions of this ordinance shall be judged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

JAMES P. MORAN, JR.  
Mayor

Final Passage: December 17, 1988