

ALEXANDRIA WATERFRONT PLAN WORK GROUP

Wednesday, October 12, 2011

5:30 – 8:30 PM

Cameron Station Great Room

200 Cameron Station Boulevard

MEMBERS - Present

Bert Ely, At-Large Member. Head, Ely and Company; Board member, Citizens for an Alternative Alexandria Waterfront Plan (CAAWP) and Old Town Civic Association.

Mindy Lyle, At-Large Member. Vice President Client Development, Haley & Aldrich, Inc.; and President, Cameron Station Homeowners Association.

Nathan Macek, Waterfront Committee Chair and Representative, and Transportation Consultant.

David Olinger, Old Town Civic Association Representative. Realtor; and Senior Foreign Service Officer (Ret.) with a background in urban planning.

Elliot Rhodeside, At-Large Member. Principal, Rhodeside & Harwell, a firm offering urban planning and landscape design with a focus on revitalization and sustainability.

Lt. Gen. Bob Wood, (Ret.). At-Large Member. Alexandria Resident and Business Owner.

Excused Absences:

Christopher Ballard, At-Large Member. Principal at McWilliams/Ballard.

Councilman Paul Smedberg, Non-voting City Council representative and Work Group Convener.

CITY STAFF:

Faroll Hamer, Director, Planning and Zoning Department (P&Z); **James Spengler**, Director, Recreation, Parks, and Cultural Affairs Department; **James Banks**, City Attorney; **Christopher Spera**, Deputy City Attorney; **Joanna Anderson**, Assistant City Attorney; **Karl Moritz**, Deputy Director, P&Z; **Barbara Ross**, Deputy Director, P&Z; **Al Cox**, Historic Preservation Manager, P&Z; **Tom Canfield**, City Architect, P&Z; **Nancy Williams**, Principal Planner, P&Z; **Benjamin Aiken**, Urban Planner, P&Z; **Emily Baker**, City Engineer, Transportation & Environmental Services Department (T&ES); **Nancy LaValle Perkins**, City Council Aide; **Sharon Annear**, City Council Aide.

PUBLIC ATTENDEES (list of those who signed in):

Gina **Baum**, Tatyana **Brown**, Don **Buch**, Katy **Cannady**, Susan **Cohen**, Deena **de Montigny**, Paul **Goger**, Linda **Hafer** (Art League), Matthew **Harwood**, Ronald R. **Holder**, Nancy **Jennings**, Brad **Langmaid**, H. **Maginnis**, K. **McVicker**, David **Miller** (Pillsbury-Winthrop), Pat **Miller**, Courtney **Nolan**, R. **Sennewald**, Robert **Taylor**, Hugh **Van Horn**, Eric **Weisz**, John **Whitstone**, Matthew **Whitstone**, Margaret **Wood**, Christa **Watters**, Julie **Van Fleet**, Van **Van Fleet**, Hugh **Van Horn**.

Media

Sharon **McLoone**, Old Town Alexandria Patch

I. Opening

A. Welcome - Faroll Hamer convened the meeting at 5:30 p.m. and explained that due to the unavoidable absence of Councilman Smedberg and facilitator Sherry Schiller, she is volunteering to serve in the role of facilitator and will put on her Planning Director hat as needed throughout the evening. The Work Group concurred.

B. Meeting Overview - The two main agenda items of the meeting: (1) agreement upon the Work Group's plan statements for the public realm, and (2) overview and discussion of the waterfront's baseline regulatory framework and the Plan's proposed zoning, design guidelines and community benefits.

II. Organizational Items

A. Approval of September 28th Meeting Notes – On a motion moved by Macek and seconded by Lyle, the meeting notes were approved by unanimous voice vote with several revisions requested by Macek and Wood.

- Macek: page 3, line 6 - change “10” to “91”; and page 6, line 3, change “We” to “Staff.”
- Wood: page 3, move the first bulleted circle starting with “Several members noted...” to the report section directly above; and page 3, under “Follow-Up”, delete the last two sentences beginning with “While . . .”

B. Comment Board Summary – It was noted that the Comment Board summary for the period September 28 – October 7 is in the day's meeting packet.

C. Updated Meeting Schedule

- It was noted that the updated meeting schedule in the day's meeting packet includes a November 2nd 8:00 – 11:00 AM Work Group meeting at City Hall to prepare for the status report that will be provided to City Council at one of two legislative meetings scheduled for November (November 9th and November 22nd), with November 9th being the likely date.
- It was agreed that the Work Group should also discuss the need for meetings beyond November 2 at that time.

III. Road Map – Public Realm II (Complete Public Realm Plan Statements)

A. Marina, Piers and Shoreline Plan Statements

The Work Group approved, with an understanding they can be fine-tuned at a later time, the following statements as principles it recommends be reflected in a plan.

1. **A plan should include options for expanding docking locations for commercial boats (water taxis and tour boats) as well as permanent or visiting ships of character.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

Note: Ely said he agrees in general but has serious concerns about the specifics and wants to consider in greater depth issues such as the types of activities appropriate for the waterfront when the Work Group returns to the topic at a later meeting.

2. **A plan should include the option of a new pleasure boat marina in the Waterfront Plan area. Consideration should be given to a variety of options for operation (public, public-private, private or other).**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

Note: Wood would like to discuss– at a later time –possibilities for using the current City Marina as an option B for the Plan’s proposed new marina at Robinson Terminal South.

3. **Conceptually, pleasure and commercial boat activities should be separated. Commercial boat activities should generally be north of King Street (primarily the Torpedo Factory/Chart House area).**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

Notes:

- Ely supported the idea of separating commercial boats from pleasure boats, but has serious doubts about the feasibility of a marina at Robinson Terminal South.
- Hamer explained the primary rationale for this proposed location is to encourage activity at the foot of King Street, and having water taxis and commercial tour boats as close to King Street as possible would facilitate this.

4. **Environmental issues should be addressed in the design and engineering of shoreline improvements.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

5. **Where possible, rip-rap should be replaced with a more natural shoreline treatment.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

Notes:

- Members distinguished between an ‘environmentally friendly’ and a ‘natural shoreline’ and questioned whether in some instances a natural shoreline would accommodate rising tide levels over time.
- Referencing a March 7, 2011 letter from the District of Columbia, a question was raised regarding the feasibility of expanding piers beyond the Alexandria-DC jurisdictional line. Hamer indicated the letter references a 1945 Act of Congress which states the District boundary ends at the mean high mark along the Virginia shoreline except along the Alexandria waterfront, where the boundary ends at the pierhead line, and, if the pierhead line is altered then the

boundary is altered accordingly. Hamer also acknowledged that there would still be regulatory requirements that Alexandria would have to meet. A request was made to further discuss the jurisdictional matter later and Hamer indicated that further discussion can occur including with the City Attorney.

6. **In principle, a plan should incorporate the concepts embodied in the Waterfront Committee’s Marina Vision Statement and Briefing Paper.**

Agreed: Lyle, Macek, Olinger, Rhodeside, Wood.

Disagreed: Ely

7. **A public boat ramp for trailered vessels is incompatible with the center of Old Town; trailered boat ramp activity should be accommodated elsewhere in the Waterfront study area or nearby.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

8. **The plan should include locations for launching non-trailered watercraft, such as canoes and kayaks.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

9. **Proposed statement that was not agreed to - Pier:
New public piers should not impinge on legally existing private piers.**

Agreed: Ely, Wood.

Disagreed: Lyle, Macek, Olinger, Rhodeside.

Note: Those opposing this statement indicated either they do not have sufficient information to consider it, or, because it may apply to the Old Dominion Boat Club and, therefore, it is not appropriate to include it as a Work Group plan statement.

B. Art and History for the Public Realm

1. **In principle, the plan should incorporate the concepts set forth in the document “Alexandria Waterfront History Plan: Alexandria, A Living History.”**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

2. **Alexandria history should be incorporated in the design process of the public spaces and private redevelopment.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

3. **All historic buildings in the plan area should be preserved and adaptively reused. Redevelopment programs should allow public access to and promote active use of the ground floor.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodeside, Wood.

Note: Hamer explained that planners’ intent relative this concept was to make it possible for the public to view the historic interiors of buildings as well as their

exteriors, noting that many such buildings have unique interior design work which the public would otherwise be unable to see when those historic buildings are used for offices and other private purposes.

4. **In principle, the plan should incorporate the concepts set forth in the “Alexandria Waterfront Public Art Proposal” and include the public art plan recommendations.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodside, Wood.

5. **A plan should adopt the Art Walk concept and public art should be a distinguishing feature of the public realm.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodside, Wood.

6. **The plan should support multiple, flexible venues for performing arts, activities and programming along the waterfront.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodside, Wood.

Note: Hamer explained that this idea came out of the Art Plan where a box car in Oronoco Bay could be utilized for puppet shows or something else or lawn space could be utilized as performing arts space or for kids play.

7. **A plan should support the retention, expansion and/or establishment of museums, cultural and educational institutions, and related elements (such as historic ships and the history/cultural anchors).**

Agreed: Ely, Lyle, Macek, Olinger, Rhodside, Wood.

Note: It was noted that this is the first statement that specifically references cultural anchors and educational institutions, with the latter including organizations such as the Art League.

8. **Artists and historians should be included in the design and implementation processes of public spaces.**

Agreed: Ely, Lyle, Macek, Olinger, Rhodside, Wood.

Note: Moritz noted that this statement responds to a comment from the arts community following a plan statement revision by the Work Group at the October 12, 2011 meeting. The art community had concern that the intent of the original statement may have been lost as a result of the revision.

9. **A plan should address a range of sources for the funding of art and history elements.**

Agreed: Ely, Macek, Rhodside, Wood.

Disagreed: Lyle

Abstained: Olinger

Notes:

Macek agreed with the caveat that this statement should be in the funding section.

Lyle disagreed because she thought the statement should be in the funding section.

Olinger abstained because he thought the statement should be in the funding section.

IV. Road Map – Private Realm

Baseline Regulatory Framework for Waterfront Area – Chris Spera, Deputy City Attorney, was introduced by James Banks, City Attorney, and provided this overview:

- Settlement Agreements are a product of litigation taken by the federal government starting in 1972 and resolved in 2010.
- The agreements are based on the federal government’s position that it owns the land along the Alexandria shoreline which has been filled in by Alexandria property owners or by accretion since 1789 when the nation’s capital was established through land ceded by Maryland.
- The legal action was instituted by the Department of Interior at the behest of the National Park Service because the National Park Service did not like some of the proposed development that was to take place.
- In 1981, the City entered into a Settlement Agreement to resolve ownership of certain parcels which it owned (the “1981 Settlement Agreement”). In that agreement, the federal government gave up its claims to ownership of those specific City-owned parcels in exchange for certain easements being placed on that property to foster public use and physical and visual access to the waterfront.
- In 1983, a separate settlement agreement occurred between the federal government and Robinson Terminal owners that set what they could do there. It basically allows more uses than the park and public uses allowed in the 1981 City Settlement Agreement.
- There are certain density numbers and uses that are specified in the 1983 Robinson Terminal Settlement Agreement, and it is the City’s view that those are maximums or caps and, as long as the City’s zoning for the Robinson Terminal parcels does not exceed those maximums, the federal government would consider the City in compliance with the 1981 Settlement Agreement. Robinson Terminal doesn’t view those numbers in the 1983 Settlement Agreement as maximums, but rather actual density that they are guaranteed. That issue cannot be resolved here; but to the extent there is a dispute, that is it. The City and Robinson Terminal hope that through this plan both sides can come to an agreement as to what the 1983 Settlement Agreement means in terms of their parcels.
- There were several other parcels that were not the subject of a settlement agreement, with the Old Town Yacht Basin parcel, owned by the City, being the largest; obviously the Old Dominion Boat Club (ODBC) parcel did not settle with the federal government; and the Beachcomber which has been acquired by the City, along with a portion of the adjacent parking lot and a number of other city-owned parcels are not the subject of an agreement with the federal government. The case involving those properties reached its conclusion in 2010 when the DC Federal Court and DC Circuit

Court ruled that the property owners, not the federal government, owned the land. However, with respect to the riverbed it was made clear that it is owned by the federal government and anything that touches the riverbed is subject to a permit that is separate and apart from other permits such as those required by the Corps of Engineers.

Permitting process beyond the pierhead line:

- The City had assumed that four levels of permitting would be required for anything extending beyond the pierhead line:
 - Army Corps of Engineers (for extending out into the water)
 - VA Marine Resources Commission (for impacting the shoreline)
 - U.S. Department of Interior (for anything that touches the riverbed)
 - District of Columbia (DC) (permits would be required based on an assumption that DC would claim the water beyond the pierhead line as theirs but, through a letter from their Planning Director, DC is saying that if the pierhead line changes the jurisdictional line also changes and they are OK with that; they do not want to expend their police powers as long as Alexandria gets permits from the other three entities).
- The plan cannot violate the 1981 Settlement Agreement. The 1981 Settlement Agreement includes a zoning commitment that made everything there basically parkland. Then, the federal government backed off from this requirement a little after the City passed its 1992 zoning ordinance and the federal government wrote a letter in support of the existing zoning change.
- The City Attorney's office would not support the notion of going back to the 1981 park concept, by taking away the current zoning. That would constitute a "spot downzoning." It would be a spot downzoning because it would affect so few parcels.
- In terms of how one uses the zoning process to get the types of improvements and amenities desired, you can get concessions and contributions from developers within the context of a Special Use Permit (SUP) but there must be a nexus between what they are doing and what you are asking in terms of impact and proportionality. There is no magic formula but there must be a sense of scale and scope of what you are asking relative what the developer is doing.
- **Discussion issues:**
 - Q: Did Robinson Terminal agree with the 1992 zoning revision? A: *I don't know if they did or did not but I think their view of the world is that they thought they did not have to do anything because of the 1983 Settlement Agreement.*
 - Q: What is the impact of the March 7, 2011 DC Planning letter to the Planning Department regarding development outside the pierhead line? A: *After a meeting with the Corps, Virginia regulatory authorities, and DC, DC said – by letter – that DC does not need to be part of the permitting process for development outside the pierhead line.*

- **Follow-up:** Spera offered to address this matter further if members have further questions which can be submitted to him by email. ⁱ
- Q: How does the pierhead line affect policing and fire jurisdictional responsibilities?
A: *The City views everything within the pierhead line as a City responsibility.*
- Macek advised that when the Waterfront Committee discussed security jurisdiction with law enforcement representatives last year and it was told that if a problem happens on a pier, the City responds as though it's in the City. If a crime is committed, and you need to figure out who has jurisdiction in terms of charging someone, that can be sorted out after-the-fact with the City Attorney's Office working with the US Attorney's Office in terms of whether it is a matter for the City, Federal Courts, or DC Courts. It can be confusing in terms of who has jurisdiction but it gives guidance on what should be done immediately. Further, Macek referenced Sec. 101 of the DC Code which defines all the points of boundary between Virginia and DC in some detail and says that when the pierhead line along the Virginia waterfront is altered then the boundary should follow the new location of the pierhead line. Therefore, he added, there is more than the letter from the DC Office of Planning that says this but there is the DC Code, the VA Code and the Federal Code.
- Wood indicated that the letter does state that the change was codified into DC law which begs the question as to how it can be altered. In this last case, he indicated it was by Congress in 1945 and then codified into DC law.

Proposed Zoning, Design Guidelines, and Community Benefits presentation by Karl Moritz, Deputy Director, P&Z:

- Moritz announced that at the next Work Group meeting representatives for the three development sites: (a) Carr Hospitality (new owner of southern half of the Cummings/Turner block), (b) the Brandts (new owners of northern third of Cummings/Turner block where the historic warehouses are located) and (c) Robinson Terminal owners (owners of Robinson Terminal North and South) have been invited to speak.
- An overview of current zoning and proposed zoning for the three sites was provided indicating that existing zoning allows 647,449 square feet of development and the proposed zoning would allow another 160,000 square feet. In addition, the allowable FAR would increase from 1.38 to 1.69, or 43,520 sq. ft., on Robinson Terminal North; 2.0 to 2.32, or 53,136 sq. ft., on Robinson Terminal South and 2.0 to 3.0, or 62,380 sq. ft., on the Cummings/Turner site.
- Examples of local developments within the current and proposed FAR ranges was provided.
- It was pointed out that the Plan strengthens the development review process, through development guidelines and more, to ensure that plan goals are met.

- It was also noted that with each small area plan, the City has exacted more of the value created by additional density that was added. Several examples of developer contributions in small area plans were given:
 - Braddock – up to \$9/sf
 - Landmark/VanDorn – up to \$20/sf
 - North Potomac Yard – up to \$28/sf
- Heights under the Plan would not change except for a planned height modification on the west side of Robinson Terminal from 55 feet to 66 feet.
- Advantages of adding hotels as a use were reviewed:
 - Plan does not require a specific number of hotel rooms
 - Hotels are good neighbors
 - Hotel revenues could pay for planned improvements
 - A strong market for hotels exists in Alexandria
- The 100 year flood plain is at elevation 10, or 10 feet above sea level. There was concern that something at that level would be a problem for ground floor uses. It was explained that the street level at Robinson Terminal North is at elevation 11 and for Robinson Terminal South the street level is at elevation 8. In both cases the street elevations are close to or above the 100 year flood plain, thus facilitating the ability for the ground floors to be porous because you are at the right elevation. Any additional protection could be done through flood proofing.

V. Public Comment Period

Van VAN FLEET: (Old Town) - expressed concern relating to the proposed marina at Robinson Terminal South; suggested putting the boat ramp, slips and kayaks at the GenOn site; also indicated that the use of eminent domain should not be used on any property; and lastly indicated three hotels on 8 blocks would not be good.

Hugh VAN HORN. - (South Pitt Street, Old Town) – Indicated tourism is a significant component of Alexandria’s economy and history is the primary reason tourists come here. Noted the Plan lists opportunities that capitalize on the City’s historic past but the proposed rezoning would preclude the utilization of many waterfront venues for the articulation of the City’s history. Cited a 2010 Newport Rhode Island study and how it shows that water dependent land uses account for higher revenue than other waterfront land uses.

Julie VAN FLEET– Indicated the importance of communicating with the Coast Guard regarding the Plan, along with the Army Corps of Engineers, in terms of what they will and will not approve relative the piers. She mentioned facilities in the area that have launches for canoes, kayaks and/or sailboats and added that Bell Haven allows the launching of a range of vessels. Also noted the VA Marine Resources Commission has jurisdiction over marine related matters

along the coastline and should be contacted and suggested an art historian to bring together the arts and history elements of the Plan.

Katy CANNADY (Rosemont) - Indicated that she is speaking for herself and she said this Plan would not be based on commercial-residential mixed use zoning which is not a good thing. She also expressed opposition to giving developers flexibility and indicated that hotels were forbidden in 1992 by the National Park Service.

Deena DeMONTIGNY (Prince Street) – Said she did a zoning analysis for the sites and, according to her calculations, the maximum build out under the proposed zoning would be 162 percent more than what it is allowed now and the height at maximum build out would be 25 percent higher than what it is allowed now. She expressed concern that such density would cut off Old Town and also indicated that building in the flood plain is not appropriate. She doesn't believe SUPs would help.

VI. Meeting Summary – was not provided due to time constraints.

VII. Next Meetings

- Wednesday, October 19, 2011, 8:00 – 11:00 AM, City Council Work Room
- Wednesday, October 26, 2011, 8:00 – 11:00 AM, City Council Work Room
- Wednesday, November 2, 2011, 8:00 – 11:00 AM, City Council Work Room

The meeting was adjourned at 8:30 pm

ⁱ (Ref III) Deputy City Attorney Spera offered to answer any questions Gen. Wood emails to him re the implications of the DC Planning Department's March 7 letter re DC jurisdiction over building out beyond the current pierhead line.