



ARLINGTON COUNTY, VIRGINIA
ARLINGTON COUNTY PLANNING COMMISSION

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CLERK

February 17, 2015

Arlington County Board
2100 Clarendon Boulevard
Suite 300
Arlington, Virginia 22201

SUBJECT: 8. **ZOA-15-01**, Amendments to the Arlington County Zoning Ordinance, Articles 1-18 and Appendices A and B, to incorporate a use classification system; update use tables and definitions; update use standards, including new standards for short term uses and accessory uses; and incorporate other minor updates throughout the Ordinance to codify administrative practices, increase clarity and consistency, and correct errors.

RECOMMENDATIONS: **Adopt the attached ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance to incorporate Articles 1-18 and Appendices A and B as shown in Attachment C to incorporate a use classification system; update use tables and definitions; update use standards, including new standards for short term uses and accessory uses; allow off-site parking for daycare uses; allow by right interior repairs and alterations to non-conforming structures in R Districts and incorporate other minor updates throughout the Ordinance to codify administrative practices, increase clarity and consistency, and correct errors with the following amendments:**

- 1. Defer adoption of the zoning ordinance amendment related to indoor and outdoor events under the short term use standards section to allow consideration of ways to extend short term uses in economically distressed site plan areas.**
- 2. The time limits for temporary storage pods be increased from 90 to 180 days.**

Dear County Board Members:

The Planning Commission heard these items at its February 11, 2015 public hearing. Deborah Albert gave a presentation and highlighted that this is the final phase of the Zoning Ordinance update and the amendments authorized for advertisement by the County Board focusing on short term use

P.C. #24.

standards, off-site parking for day care uses and by-right repairs and alterations to nonconforming houses. Arlova Vonhm, CPHD Planning, was also present.

Public Speakers

Robert Mandle, COO, Crystal City Business Improvement District (CC BID), said that the language for short term uses as currently drafted eliminates a key tool that has facilitated great success in Crystal City. He highlighted four changes to make prior to any formal approvals by the County Board: 1) keep the existing CC overlay that keeps the short-term uses intact and grandfather them until the regulatory process can replicate its functioning; 2) remove the time limits related to short term uses; 3) codify all Arlington BID special services districts in the zoning ordinance to allow and replicate the existing overlay permissions in other areas; and 4) Enhance the special services overlay as a tool to enhance economic competitiveness by adding capacity for creative expressive branding and flexible retail provisions. The proposed short-term use standards compromise the goal of promoting temporary uses as a placemaking tool by embracing overly burdensome regulations and the timing restrictions related to the Community Service use classification specifically will result in the closure of the very successful Art Underground program. The prescriptive language related to outdoor cafes as currently drafted only allows outdoor cafes associated with an existing restaurant or café with a CO within 2,000 feet. Additionally, the timeframe eliminates the opportunity for consecutive day festivals. Overall, these provisions limit the universe of future opportunities and fails to understand that vacant space does not meet site plan intent, property owners have little to gain from temporary events, and the site plan amendment process is too time consuming to pursue and the prospect of opening a conversation about site plan conditions is a nonstarter in almost all circumstances. Preserving and enhancing the special services district as a tool to address the challenges facing Crystal City offers the best and most immediate means to ensure continued success.

Planning Commission Committee Reports

Commissioner Gutshall referred to the Zoning Committee (ZOCO) report he distributed and mentioned he neglected to include a discussion of the temporary storage devices and the length of time allowed. The Board advertised up to 180 days, and staff is continuing to recommend 90 days. Members of ZOCO had varying viewpoints on whether 90 days or 180 days was the best approach.

Planning Commission Discussion

1. Permits for Short Term Use

There was no discussion of this item.

2. Short Term Indoor and Outdoor Activities and Events

Commissioner Forinash asked if the Art Underground and related studios would be forced to close immediately if this change were to take effect and what the process would be to get something like the Art Underground approved under the new zoning regime after these amendments are passed.

Ms. Albert clarified that staff is continuing to look into what would happen with existing uses that already have existing Certificates of Occupancy (CO's) under the administrative change ("Overlay") that had been approved for Crystal City. Staff anticipates those existing uses would continue to be able to operate; however, staff is still looking at the timeframe. They would not be immediately shut down. The basis for the Crystal City administrative change would no longer be in the ordinance if this is adopted. Assuming something like the Art Underground came in as a brand new use, being an art use it would be allowed for 360 days. The applicant would apply for a CO and the Zoning Administrator (ZA) would be able to approve it assuming it was within a building approved for commercial, commercial service, retail, or industrial uses. Commissioner Forinash asked how long that process takes and Ms. Albert responded that in the past in order to issue a CO for a short term use, the ZA had to research all of the site plan conditions. Under these Amendments, any use allowed under the Zoning Ordinance (ZO) would be allowed as a short term use, so the review could be faster.

Commissioner Siegel asked if there is a potential for the Art Underground to be grandfathered or for it to exist until the property owner finds a paying tenant. Ms. Albert responded staff is still investigating and she is not prepared to answer that question.

Commissioner Siegel asked how long it would take to get a minor site plan amendment versus a major site plan amendment. Ms. Albert stated that from filing deadline until it can be heard is about 60 days.

Commissioner Gutshall referenced the CC BID letter and asked if the Overlay is a formal designation. Ms. Albert said it is formal and it is an administrative change by the ZA which involves a map of the boundary of the CC BID service district and allows temporary uses within that district. It is not technically an overlay because an overlay is actually a rezoning. The CC BID overlay derives its authority from the ZA who believed she had the authority to make this decision. The County Attorney stated it is something he is continuing to research. The ZA does not approve things that she does not believe she has the authority to approve. Commissioner Gutshall stated he is trying to understand the ramifications if the Planning Commission (PC) is to recommend approval of amendments that undo or undermine something that currently exists.

Ms. Albert responded it is an administrative change under which the CC BID has been operating for roughly a year. The ZA has approved a number of short term events under that overlay. It is not something any of the other BIDs or other property owners in the County have, and it is not something staff would be comfortable perpetuating. Even if the basis did not go away, it would not likely occur again. The ZA was trying to be creative with a stopgap measure until regulations were created to give her the authority to approve short term uses. The current regulations put the ZA in a difficult position because she is being asked to approve things that the zoning ordinance does not allow. The ZA does not have the authority to override site plan conditions. These are events that the County supports and encourages and she is under pressure to make the events happen. Commissioner Gutshall asked if it would be staff's position that the proposed amendments are actually more permissive than the existing zoning ordinance. Ms. Albert responded yes.

Commissioner Cole asked about the CC BID letter regarding the removal of time limits. He stated this makes sense for occupiable space, but what about the parking garage for example, and events

such as the bike race, which requires a permit. Should this apply only to occupiable space and is this an end run around site plan conditions.

Ms. Albert responded that time limitations are proposed exactly so as not to undermine the enforcement of site plan conditions. The proposed short term uses are not designed solely for the BIDs. When she spoke with the Economic Development Commission, she heard similar comments from property managers who wanted to fill empty storefronts with other uses that are not consistent with the site plan. The time limits give the Zoning Administrator some authority over a site plan, but do not allow her to approve longer term uses inconsistent with County Board approvals.

Commissioner Ciotti asked if these Amendments are adopted, is there anything that would prevent the CC BID from doing what they were doing in the past. Ms. Albert responded that what this will allow is any use allowed in the zoning district. So the ZA for a limited period of time either 90 or 360 days can approve any use allowed in the zoning district, however there is a time limitation associated with those events. Staff did attempt to address the time frames based on events the CC BID has done in the past. If the Art Underground has been there more than a year, it would not accommodate that event for example. But staff would posit that if that space has been empty for a very long period of time, perhaps it is appropriate for the property owner to come in and ask the Board to modify that site plan to allow a wider range of uses in that location.

Commissioner Ciotti asked if that is too big of a burden to ask the property owner to go through a process to allow such a thing as the Art Underground. Ms. Albert responded that a site plan is a contract with the Board and once there is a site plan approved on a property that is what the property owner is permitted to do. Once that site plan is adopted, that property is regulated by that site plan. There are many conditions that require minor site plan amendments. It is a contract and staff believes it reasonable that the ZA would not have the authority to override the Board's approval.

Commissioner Gutshall asked for clarification on how the “community service” use is defined especially as it applies to cultural events, which refers to the 360 day lifetime limit as opposed to the yearly limit of 90 days.

Ms. Albert responded that is correct but staff has added clarification that says the community service can be 360 days and after that expires, the options are to go to the Board to ask for a modification of that site plan condition or the property owner can use the 90 days of the next year to continue that community service use or any other use. After that, the property would continue to be eligible for 90 days per year for any use allowed under the zoning ordinance including community service uses, which is defined in the proposed use classification Section 12.2.4.B with examples such as libraries, museum, art galleries, studios, cultural exhibits, recreation centers, etc. The ZA can make similar use interpretations as necessary.

Commissioner Gutshall asked staff to confirm that it is staff's perspective that community services is appropriately defined for what the intent of this additional time is and this is partly in response to the CC BID's request for the ability to do some of things they have already been doing under the overlay district. Commissioner Gutshall said that he is trying to ascertain if the definition of community service uses is the appropriate use category for this designation. Ms. Albert responded the Board advertised this specific language and it was not staff's interpretation of what the Board said.

Commissioner Gutshall asked who keeps track of the duration of short term uses. Ms. Albert responded the CO would indicate how long the use is allowed. If the applicant says they want to do the use for a certain amount of time, the ZA would have to keep track of how many days were used. Commissioner Gutshall asked if a CO was issued for 90 days but the holder of the CO packs up and closes down at Day 45, whether the CO is cancelled. Ms. Albert responded there might be a process for withdrawing a CO when a use closes, but staff is unsure. Commissioner Gutshall responded that is not a common practice, so if that is the method for tracking the time clock, it would be wise to consider it further.

Commissioner Siegel asked if the community services use category is new and supplied for this reform. Ms. Albert responded it is a new category with the zoning ordinance amendment. It was not specifically created for the short term use provisions. It is part of the broader use classification that is one of the major pieces of this amendment.

Commissioner Forinash asked for the rationale behind the provision of within the 90 days per year per property for outdoor cafes accessory to a nearby restaurant, it cannot be for consecutive days. Ms. Albert responded that outdoor cafes are currently only allowed as an accessory use on the same property as the restaurant. Staff wanted to test this provision and if it is successful, it could be expanded in the future. Commissioner Forinash responded that in terms of weekend festivals, non-consecutive days seems to be very limiting and wondered if the RTA would allow for an expansion to two or three consecutive days. Ms. Albert responded the RTA would not allow that, but if the festival is a type of event happening on public property, that is not considered an outdoor cafe. It would be on public property and for the most part would be approved through the special event process and not the zoning ordinance. This would not impact the types of festivals that we have seen so far in Arlington. If they are on private property and defined as an outdoor café, it would limit it to one day. This was added to address event type of uses and staff wanted to be careful in allowing it at first.

3. Short Term Pop-up Parks

Commissioner Gutshall asked if there was any further information of the administrative review since the ZOCO meeting. Ms. Albert responded that if there were an administrative review, one would need to codify standards within the ordinance for what the ZA would be looking for in doing the review. When the Board does an administrative review, they have discretion. If the ZA has administrative review, there needs to be specific standards. The general standards for short term uses are the types of things that already allow the ZA to pull a CO if there is an issue. Commissioner Gutshall clarified that wouldn't it be adequate to say that the standards for the administrative review are the same standards already enumerated in the ZO. Ms. Albert responded it could be drafted that way. Commissioner Gutshall said the Board was being responsive to requests to extend the period of the CO to three years but ZOCO talked about having a review that is a lower threshold perhaps than a renewal which would come up at three years but yet provides some opportunity for a check-in to make sure that the mitigating conditions are being adhered to.

4. By-right interior repairs and alterations of nonconforming buildings and structures

Commissioner Gutshall asked if staff had reviewed the definition of non-conforming buildings, which refers to a non-conforming use, which is a different construct. Ms. Albert responded staff has made changes to clarify the definition.

Commissioner Gutshall asked about the threshold of interior versus exterior alterations and the example of how enlarging or moving a window in an exterior wall would be classified. Ms. Albert responded that staff discussed it with the ZA and it would be allowed under the confines of an interior alteration. If the wall were to come down and be turned into a window, it would be different. But to be enlarged, it would be an interior alteration.

5. Offsite parking for day care uses

Commissioner Gutshall said the RTA language was unclear on the availability of parking versus mandated parking requirements. Ms. Albert responded that the language used in the staff summary was not clear, but that there is nothing in the ordinance that says you cannot use required parking. You just cannot use parking that is needed for the use. For example, it would allow the Board to allow a church to rent out some of their spaces to the daycare across the street when the church is not using those spaces even though those spaces are required for the church use.

6. Storage Pods

There was no discussion on this item.

7. Other Concerns

There was no discussion on this item.

Planning Commission Motion

Commissioner Gutshall made a motion that the Planning Commission recommend to the County Board that they adopt the attached ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance to incorporate Articles 1-18 and Appendices A and B as shown in Attachment C to incorporate a use classification system; update use tables and definitions; update use standards, including new standards for short term uses and accessory uses; allow off-site parking for daycare uses; allow by right interior repairs and alterations to non-conforming structures in R Districts and incorporate other minor updates throughout the Ordinance to codify administrative practices, increase clarity and consistency, and correct errors. Commissioner Sockwell seconded the motion.

Commissioner Siegel said she has been thinking about the vacancy rate in Crystal City and how to create the balance between creating comprehensive rules through the staff proposed zoning amendment that could also cover as many vacancy problems the various BIDs might be having. We need a zoning ordinance that is predictable and consistent and applicable everywhere; but there remains the particular problem of the CC BID that has been raised in the discussion.

Commissioner Siegel made a motion to propose an amendment to the proposed draft on Short Term Use Standards, attachment C, page 1 of 2, section 12.10.5 C. The existing text reads: “community services uses are proposed to be allowed for up to a total of 360 days (renewable for a single annual additional 90 day renewal),” unless it is found that a 25% or greater vacancy rate exists within the Special Services District Business Improvement District where the property is located. In that case, the building/property would be available for an additional 360 day renewals, until the vacancy rate falls below 25%. Commissioner Gutshall seconded the motion.

Commissioner Forinash asked if the motion is outside of the scope of the RTA. Ms. Albert responded it would have to be re-advertised. Commissioner Forinash asked if we can express that we recommend that the County Board explore ways to give additional flexibility in areas with persistently high vacancy rates. Commissioner Siegel responded the point is the persistent vacancy rates and clarified that the flexibility language would not be outside of the scope. Commissioner Forinash responded PC can recommend the Board not adopt the short term use changes.

Commissioner Gutshall expressed a similar sentiment and is looking for the right way to suggest to the Board that there is some merit to the concern that this is not flexible enough. Staff feels it is plenty flexible, and if this is adopted, he would like to see a quarterly report of how many CO applications are denied in order to garner whether the fears are born out and so we can react quickly.

Commissioner Forinash responded he is not comfortable moving the indoor and outdoor activities and vacant buildings and properties forward given there is no answer on whether the existing studio spaces would be allowed to continue after these changes. He is inclined to defer that part until there is additional clarity, and PC could add in this desire to extend beyond 360 days in certain economic circumstances.

Commissioner Harner expressed he is not comfortable with the restrictiveness of this provision. Given the BID's testimony and some of the conditions, he does not understand why this is so restrictive.

Commissioner Iacomini stated she is not as persuaded by the CC BID's points. The site plans are contracts and when there are site plan amendments to change uses, citizens have protested. To include all the BIDs as has been suggested hasn't been vetted with the residents in Ballston. She is supportive of the notion of deferring this one for more study because perhaps there are other ways to address some of the issues.

Commissioner Cole supports the idea of an expanded opportunity to locate temporary uses in occupiable space and is reluctant to define what the right solution is at this point. He agrees that a study seems to be in order and that we are rushing to a conclusion that the community is not aware of and for which the potential of downsides have not been adequately considered.

Commissioner Siegel withdrew the motion because the sense of the commission supports the spirit in which she advanced it, but had concerns about the motion being outside the scope of the advertisement. Commissioner Gutshall seconded the withdrawal.

Commissioner Forinash made a motion to recommend that the County Board defer adoption of the zoning ordinance amendment related to indoor and outdoor events under the short term use standards section to allow consideration of ways to extend short term uses in economically distressed site plans. Commissioner Siegel seconded the motion.

The Planning Commission supported the motion 8-0 with Commissioners Siegel, Ciotti, Iacomini, Forinash, Cole, Sockwell, Gutshall, and Harner in support.

Commissioner Cole made a motion that the Planning Commission recommend to the County Board that the time limits for temporary storage pods be increased from 90 to 180 days. Commissioner Siegel seconded the motion.

Commissioner Cole said that as a person who used a short-term storage pod during a renovation, he has found 90 days is not long enough.

The Planning Commission supported the motion 6-1 with Commissioners Siegel, Ciotti, Iacomini, Forinash, Cole, Sockwell, and Gutshall in support. Commissioner Harner was opposed and Commissioner Ciotti was absent.

Commissioner Gutshall commented for the record that portable storage regulations are a setup for failure because there are a vast number of residents in Arlington who have an expectation they can put a pod in their driveway, and even if these new regulations are more permissible than the current regulations, as interpreted by the ZA, the fact that we are codifying these regulations makes enforcement by the County more likely, increasing angst by residents who learn of these regulations the hard way. Commissioner Harner stated that at one point in time storage pods were not needed for renovation.

The Planning Commission supported the motion 7-0 with Commissioners Siegel, Iacomini, Forinash, Cole, Sockwell, Gutshall, and Harner in support and Commissioner Ciotti absent.

Respectfully Submitted,
Arlington County Planning Commission

A handwritten signature in black ink, appearing to read "Chris Forinash", written in a cursive style.

Christopher Forinash
Planning Commission Chair

February 11, 2015



Chairman Chris Forinash
Arlington County Planning Commission
2100 Clarendon Boulevard, Suite 300
Arlington, Virginia 22201

Re: Zoning Ordinance Update – Short-term Uses

Dear Mr. Chairman and Members of the Arlington County Planning Commission:

The Crystal City Business Improvement District (BID) and its stakeholders have been closely following, listening, and participating in the latest phase of the update to the Arlington County Zoning Ordinance. Of particular interest are the provisions for short-term use standards intended to support efforts to activate vacant spaces and encourage place-making. As drafted, however, the language does exactly the opposite – it eliminates a key tool that has helped facilitate an amazing, if not shocking, level of success in Crystal City despite horrific market realities that are only getting worse. In order to prevent that from happening, the following four changes need to be made before any formal approvals or recommendations to and by the County Board:

- Keep the existing Crystal City Temporary Overlay that permits short-term uses intact (at a minimum grandfather it until the regulatory update process can replicate its functioning);
- Remove the time limits associated with short-term uses; they should be permitted until such time as a use complying with site plan conditions can be identified;
- Codify all Arlington BID special services districts in the zoning ordinance to allow and replicate the existing overlay permissions in other areas and using BID work plans and contracts to ensure administrative oversight;
- Enhance the special services overlay as a tool to enhance economic competitiveness by adding capacity for creative expressive branding, flexible retail provisions and more.

Business Improvement Districts (BIDs) are formed to solve both big-picture and micro-level problems for their respective areas. Historically, the goal has been to revitalize downtowns by making them “clean and safe.” For Crystal City, the charge was to transform perception and dramatically reposition this critical Arlington asset in the face of pending record-level vacancy due to Base Realignment and Closure legislation. To reverse a long-standing view of Crystal City as a stale, soulless, government enclave where “no one would go without an appointment,” the Crystal City BID worked wonders in an environment where the major physical assets of Crystal City – of which there are many – were not physically attractive, did not function well together and desperately needed a serious facelift. To complicate matters, the multi-year Crystal City Sector Plan process, which promised to lay the groundwork for major physical infrastructure updates (both public and private) took three and a half years longer to complete than anticipated. Now, nearly five years after its passage, very little from the plan has been implemented.

However, because the Crystal City BID lives, breathes and understands the daily Crystal City experience, it holds a breadth of perspective and awareness that individual private property owners and the County government, as a whole, cannot attain. Through this uniquely informed approach, this incredibly “small-in-size though large in efficiency, energy and ideas” organization has been masterful in transforming the image and reality of Crystal City. By viewing area vacancies through the lens of possibility and opportunity, the Crystal City BID has utilized compelling temporary events to activate vacant spaces with people and energy while creating a more receptive climate for economic development. People want to live, work, play and stay in areas where interesting, energetic, and unique things are happening. These are not activities that are manufactured or prescribed. They move around, popping-up seemingly randomly, though they are not random in the rules followed to bring them to life. The Crystal City BID is governed by a special service (overlay) agreement with the County, an associated annually-approved County Board work plan, external audit, and also follows all county and state rules and regulations for occupancy, safety, ABC, and more.

County staff has said that the Crystal City BID wants 100% flexibility. This could not be further from the truth. Again, the Crystal City BID follows all requirements for life-safety as set forth by the Chief Building Official, adheres to state ABC regulations, partners with ACPD and ACFD to ensure safety and responsiveness in the event of emergency, and so much more. There is nothing “willy-nilly” or amateur in the Crystal City BID’s execution process – only extreme focus on staying ahead of the competition and implementing programs faster, better, and with more of a draw and success rate than any other BID in the country. This is a competitive edge that the County desperately needs in this market. Again, this is not about further prescribing a regulatory process or shoving this success into a half-built box. It’s about rethinking that box and innovating the process to unleash creativity and open the door to manageable unknowns rather than prescribing a detailed, unwieldy process out of fear.

The Crystal City BID’s largest investments have been the most strategic and required the closest cooperation and partnership with property owners and the County. The first such collaboration was the opening of Artomatic in 2007, and again in 2012. These two 6-week events together brought over 100,000 visitors, and area businesses and restaurants enjoyed the busiest and highest grossing periods since opening their doors. The relocation of Arena Stage to a former hotel conference space in Crystal City, which brought more than 250,000 people to Crystal City during its three-year tenure, is another example of this kind of strategic collaboration and track record of success this partnership has yielded. The investment continues to be amortized through Synetic Theater’s relocation to the space – a partnership that maintains this incredible cultural asset within the boundaries of the County and brings more than 40,000 people annually to Crystal City. The County worked hand in hand with the Crystal City BID and the property owner to make this happen – all the way up to and including a formal vote by the County Board. Bikeshare, for which Crystal City and Arlington have received national and international acclaim, illustrates another cooperative investment. Working directly with County Transportation Staff, the Crystal City BID matched the County’s initial capital outlay to ensure that at launch, the system was sufficiently oriented and sized to be successful.

Although the economic conditions are worse than originally anticipated, the Crystal City BID and its unique approach to innovatively using space has been credited with single-handedly keeping Crystal City afloat and preventing an even larger vacancy crisis than the one that exists today. Indeed, the main driver of the current zoning revision effort was the desire of the other Arlington BIDs to replicate and have access to the tools used successfully in Crystal City. This is a no-brainer.

Unfortunately, the current regulatory approach fails to understand the depth and impact of the current market crisis and instead intends to prescribe and manage the universe of short-term options temporally and by use type. However, thoughtfully crafted in partnership with the Zoning Administrator, the Crystal City BID developed an overlay policy to facilitate the very types of short-term uses the proposed regulation intends to encourage – Artomatic, Art Underground, Couture, etc. The proposed regulation, however, will undo this proven tool and replace it with a more burdensome regulatory gauntlet that will hinder such existing uses and squelch the creative process that would implement the next new cool thing not yet on the horizon.

Most concerning are the restrictions surrounding the length of a short-term use and the differentiation of Community Service Uses. Whereas the current Crystal City Temporary Overlay offers flexibility to program vacant spaces with short-term events until such time as a tenant with a site plan compliant use is available, the new regulations impose arbitrary caps on the length of such events. As currently proposed, short-term uses that the Zoning Administrator determines qualify as Community Service Uses are permitted only for up to 360 days – with other uses provided only 90 days – after which, the particular use must cease. In contrast, the existing overlay does not specify time limits nor does it differentiate between Communities Service Uses and other types of short-term uses.

The timing restrictions specifically would result in the closure of the incredibly successful Art Underground. The Crystal City BID launched this program in 2013 to activate the over 30,000 square feet of retail space that has been sitting vacant for nearly 10 years. By offering the Arlington Artists Alliance a location for a retail gallery and studios for 20+ artists on a temporary basis, a strategic partnership was forged that brought 32 individual events and more than 12,000 visitors last year alone to existing retail space that would otherwise have been empty, devoid of activity and an albatross discouraging and damaging other retailers in the area. The transformation in experience and perception that the Art Underground provides contributes greatly to creating a retail environment that was deemed attractive enough for TechShop to open their Washington Area facility across the hall. Had those spaces not been filled by the Art Underground, it is likely that TechShop would have located elsewhere, severely hindering Crystal City's recent rise as a recognized regional innovation hub.

Approved as short-term uses, staff has confirmed that the artist studios, which now have been in operation for almost two years, would be required to close under the proposed language's 360-day limit. Aside from the fact that had these new rules been in place the Art Underground would never have come into existence, it is also important to note the Art Underground is still a growing program, with pent-up demand for more studios. These changes squash that all together.

The Crystal City BID also takes issue with the differentiation between Community Service Uses and all other uses. Driving this zoning overhaul is the general recognition of the value of short-term uses to support the goals of economic development and as such this distinction is not relevant. Additionally, qualification as Community Service Use will be in the eye of the Zoning Administrator and open to interpretation. Despite the fact that BIDs are community-oriented by design, this provision injects uncertainty and risk into the ability to embrace short-term uses as an economic development tool.

Another area of concern is with the prescriptive language covering outdoor cafes. As currently drafted, the provision only allows outdoor cafes associated with an existing restaurant or café with a certificate of occupancy within 2,000 feet. Given the district-wide approach taken by the BIDs and the limited spaces within which such cafes can physically be located, this provision creates an uneven playing field for businesses that want to participate in activating the overall neighborhood. Further, the illogical restricted timeframes for these uses eliminates the opportunity for consecutive day festivals, which is sort of the point in the first place.

Together these provisions also limit the universe of future opportunities that might be utilized to great effect. As discussed above, the Crystal City BID's success lies in its ability to see opportunity and possibility where others may not. There is no way to tell what the next big idea might be, but constructing arbitrary limits on short-term uses will certainly make them less likely to be realized in any competitive market.

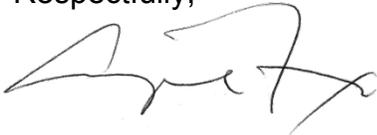
Staff has acknowledged that this prescriptive language has been added in an effort to preserve the intent of the County Board action to approve specific use conditions. This is a perfect example of legislating around the fear of the bad - that owners or BIDs will nefariously take advantage of short-term uses to circumvent specific site plan conditions - rather than the overwhelming opportunity for good - activated and occupied spaces that drive energy, excitement, and additional investment to Arlington's key business districts and provide funds that support community infrastructure, schools, and services.

This perspective also fails to understand several key details. First, vacant space does not meet site plan intent. An activated space, regardless of use, is preferable to vacancy, primarily because a busy, thriving retail environment begets more retail interest; a vacant, abandoned retail environment does not. Second, individual property owners have little to gain from temporary events: they don't generate profit and they cost a lot in staff time to administer. It is simply cheaper and easier to leave space vacant while marketing for a tenant. The influence of a BID-like entity is needed to convince owners of the value of such events in the first place. To ensure that temporary events don't hinder leasing efforts, license agreements between the Crystal City BID and property owners include language that retains their right to require the short-term use to be vacated within 30 days should a prospective tenant be identified. Finally, the suggestion that flexibility is preserved for short-term uses lasting longer than the allowed limit through the minor site plan amendment process is not a solution that will yield results. The site plan process is simply too time consuming, costly, and burdensome. Moreover, the uncertain ramifications of opening a conversation about site plan conditions causes great pause for area property owners and would be a nonstarter in virtually any circumstance – the Art Underground spaces included.

What is particularly alarming is that the experience of a well-intentioned policy overhaul heading in the wrong direction is not unique to the proposed revisions to the short-term use standards. All too often, policy reform efforts have fallen victim to the status quo and fear that creativity and flexibility are bad, dangerous, scary, and unpredictable. For example, the signage overhaul failed to address regulations covering properties under comprehensive sign plans, the area most in need of attention. Also, emerging promotional strategies offering a simple, temporary way to celebrate and retain the incredible companies that are already here are still not permitted. Crystal City's most recent Downton Abbey project earned a thrilled PBS, more than 120K plays on social media, international acclaim, and a signage violation from the County. As well, efforts to revise County Retail Policy fared no better, inhibiting creativity and flexibility by ignoring market realities and prescribing what types of retail can be located where. Thankfully, that proposed language is being revisited. The same must be done for the short-term use standards proposed in this ordinance revision.

As a 25-year Arlington resident, worker, and parent of a child in Arlington County Public Schools, I absolutely love the quality of life that Arlington offers. I am also well aware of the fact that we have what we have because Arlington has achieved an amazing and highly coveted balance of commercial and residential. But, far too many in our community hold the misguided perspective that "business takes care of business" and that this balance will continue. That is absolutely not the case. Our residential assessments are rising while our commercial values are going down. Unless we start working together, understanding that strong business makes for a strong residential community and that we are in this together, Arlington is only going to fall further behind. We have seen it in Montgomery County and the District, but they are also learning from their mistakes and are adapting quickly. We are not. In fact, this proposed approach of making things more prescriptive makes it clear that there is no awareness of market realities and the critical value of healthy business to our overall community. Preserving and enhancing the special services district as a tool to address these challenges facing Crystal City and Arlington offers the best and most immediate means to preserve Arlington's economic competitiveness, business districts, tax base, and quality of life.

Respectfully,

A handwritten signature in black ink, appearing to read 'Angela Fox', written in a cursive style.

Angela Fox
President / CEO
Crystal City Business Improvement District