

EXHIBIT NO. 1

5  
3-17-01

Docket Item # 5  
SPECIAL USE PERMIT #2001-0003

Planning Commission Meeting  
March 6, 2001

**ISSUE:** Consideration of a review of a special use permit for a restaurant.

**APPLICANT:** LNR Alexandria Limited Partnership  
by Harry P. Hart, attorney

**LOCATION:** 1767 King Street  
Seagar's Restaurant  
King Street MetroPlace Hilton Hotel

**ZONE:** OCH/Office Commercial High

---

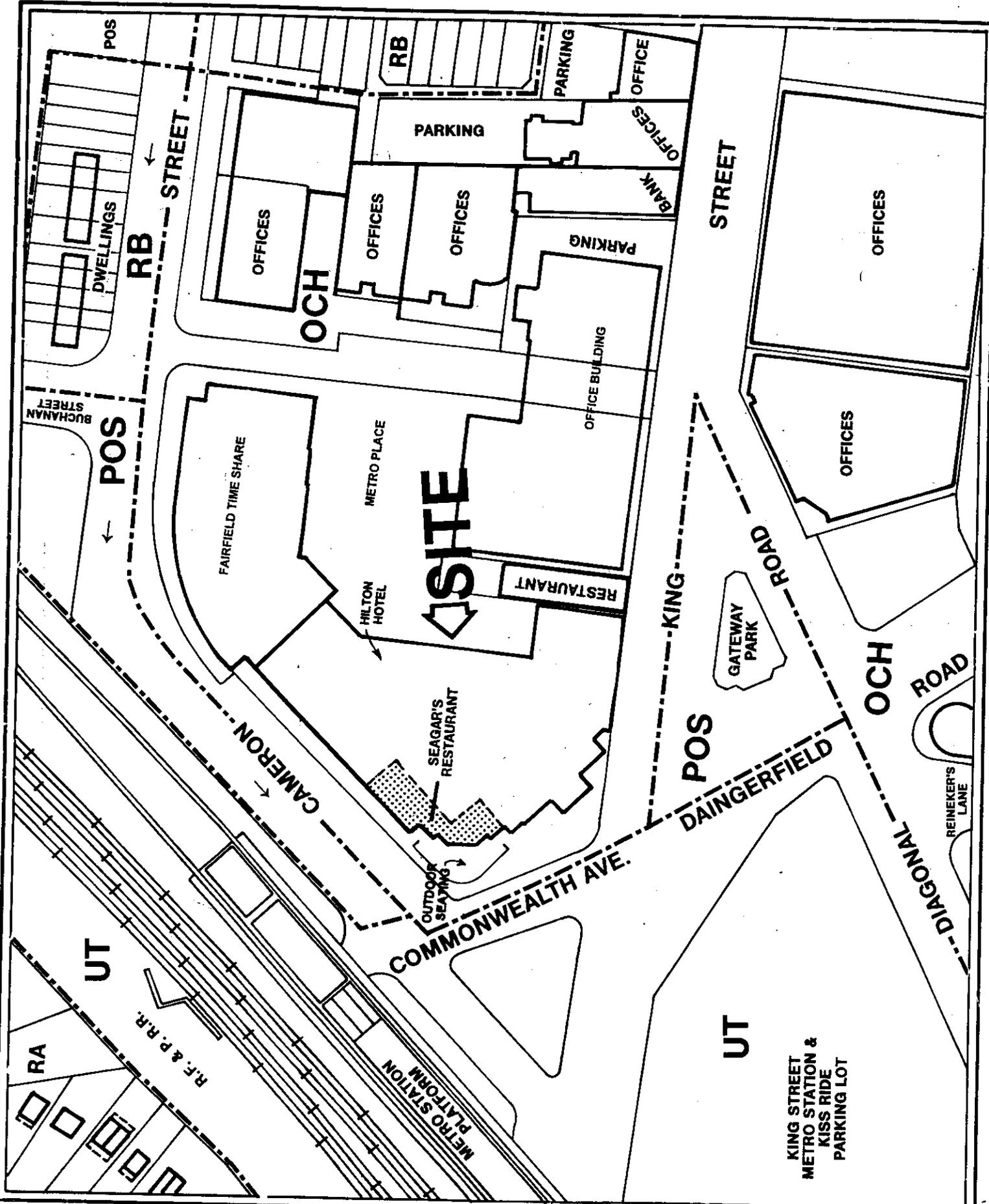
**PLANNING COMMISSION ACTION, MARCH 6, 2001:** On a motion by Mr. Leibach, seconded by Mr. Gaines, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations and to add Condition #17. The motion carried on a vote of 7 to 0.

**Reason:** The Planning Commission agreed with the staff analysis; however, members of the Commission expressed concern about the flow of traffic in and exiting the underground parking garage and requested that the applicant install signage and other measures as necessary.

**Speakers:**

Mary Catherine Gibbs, attorney representing the applicant, stated that the applicant will contact the Police Department as required by Condition #15.

Mike Chouri, general manager of the Hilton Hotel, stated that the parking garage is shared by three parties and that all parties have agreed to post signs in the garage. He represented that additional signs will be installed by April 15, 2001.



SUP #2001-0003

03/06/01



STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP #99-0155)
2. Seating indoors, within the restaurant and the hotel lounge, shall be provided for no more than 165 patrons. (P&Z) (SUP #99-0155)
3. Outside dining facilities shall be provided for no more than 25 patrons as depicted on the attached plan. (P&Z) (SUP #99-0155)
4. The hours of operation shall be limited from 6:30 a.m. to midnight Sunday through Thursday, and from 6:30 a.m. to 1:00 a.m. on Fridays and Saturdays. The outdoor dining area shall be cleaned and washed at the close of each day of operation. (P&Z) (SUP #99-0155)
5. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #99-0155)
6. Live entertainment may be provided at the indoor restaurant as requested by the applicant. (P&Z) (SUP #99-0155)
7. No music or amplified sound shall be audible at the property line. (P&Z) (SUP #99-0155)
8. On site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z) (SUP #99-0155)
9. The applicant shall require that its employees who drive to work use off-street parking. (P&Z) (SUP #99-0155)
10. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #99-0155)
11. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of these containers. (P&Z) (SUP #99-0155)

12. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z) (SUP #99-0155)
13. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES) (SUP #99-0155)
14. The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the Health Department. (Health) (SUP #99-0155)
15. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey for the business and a robbery awareness program for the employees. (Police) (SUP#99-0155)
16. CONDITION AMENDED BY STAFF: The Director of Planning and Zoning shall review the special use permit ~~after it has been operational for one year after approval,~~ and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director received a request from any person to docket the permit for review or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. ~~(P&Z) (SUP #99-0155)~~ (P&Z)
17. CONDITION ADDED BY PLANNING COMMISSION: Signage shall be posted to assist traffic flow in the garage to the satisfaction of the Directors of Planning and Zoning and Transportation and Environmental Services. (PC)

---

Staff Note:

Meals ordered before the closing hour may be served, but no new patrons may be admitted and no alcoholic beverages may be served after the closing hour, and all patrons must leave by one hour after the closing hour.

DISCUSSION:

1. The applicant, LNR Alexandria Limited Partnership, is before the Planning Commission for a review of the special use permit for a restaurant.
2. On September 13, 1997, City Council granted Special Use Permit #97-0092, with site plan, for the development of a hotel and a reduction of off-street parking to allow tandem parking spaces. The approval anticipated that the hotel would include a restaurant with outdoor dining and that a specific application to cover the restaurant would be filed at a later date. The hotel is operational and consists of 145,760 net square feet, with 137,330 square feet of hotel space, 6,100 square feet of meeting rooms and 9,515 square feet of restaurant space. On January 22, 2000, City Council granted Special Use Permit #99-0155 to the applicant to operate a restaurant within the hotel.
3. As approved by Council, the restaurant consists of a total of 190 seats; of this number 25 seats is permitted outdoors. Carry-out service is available. No delivery service was proposed or approved. Live entertainment consisting of piano music is provided every evening at the indoor restaurant. No entertainment was proposed or approved for the outdoor dining area.
4. The approved hours of operation are from 6:30 a.m. to midnight Sunday through Thursday, and from 6:30 a.m. to 1:00 a.m. on Fridays and Saturdays.
5. According to the applicant, nine employees operate the restaurant from 6:30 a.m. to 4:00 p.m., and ten employees from 4:00 p.m. to 1:00 a.m.
6. On January 3, 2001, staff made an inspection of the subject property to determine if the applicant was in compliance with the conditions of the special use permit and observed two violations. Specifically, staff observed that the hours of operation were not posted as required by Condition #5. Staff also observed an illegal banner hanging outside the restaurant in the outdoor dining area. Staff issued a citation and docketed the permit for review by the Planning Commission. The Police Department also advises us that the applicant has not contacted them regarding the security survey or robbery awareness program required by Condition #15.
7. In addition to those violations, staff is aware of a concern raised by nearby residents regarding hotel employees parking on the surrounding streets rather than in the hotel parking garage. The development special use permit approval for the hotel does not include a condition requiring the hotel management to require employees to park off-street. Condition #9 of the special use permit for the restaurant requires the applicant to require that its employees who drive to work use off-street parking.

Staff has spoken with the general manager of the hotel and the manager of the restaurant at length and explained that the language of that condition requires them to require their employees to park off-street. The managers advised staff that parking is made available for employees within the on-site parking garage for \$1 a day and that both managers have repeatedly informed the employees that they may not park on the streets. The managers represented to staff that most of their employees understand this prohibition and park in the garage and that many other employees commute to and from the property via public transportation.

8. Zoning: The subject property is located in the OCH/Office Commercial High zone. Section 4-1103(W) of the zoning ordinance allows a restaurant in the OCH zone only with a special use permit.
9. Master Plan: The proposed use is consistent with the King Street/Eisenhower Avenue Metro Station small area plan chapter of the Master Plan which designates the property for office and commercial high uses.

STAFF ANALYSIS:

Staff has no objection to the continued operation of a restaurant within the Hilton Hotel at 1767 King Street. However, in light of the violations it observed and the concerns about employees parking on the street, staff has amended the language of Condition #16 to require a review one year after this approval. With that condition, staff recommends approval of the special use permit.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;  
Barbara Ross, Deputy Director;  
Kathleen Beeton, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

F-1 No comment.

Code Enforcement:

F-1 No comments.

Health Department:

C-1 Permit #01-0086 (16F-649-1) is issued to LNR Alexandria-Limited Partnership as Hilton Hotel -Food Service.

F-1 No objection to continued use.

Police Department:

F-1 To date the applicant has not requested the security survey or robbery awareness program.

APPLICATION for SPECIAL USE PERMIT # 2001-0003

[must use black ink or type]

PROPERTY LOCATION: 1767 KING ST

TAX MAP REFERENCE: \_\_\_\_\_ ZONE: OCH

APPLICANT Name: LNR ALEXANDRIA LTD. PTN.

Address: \_\_\_\_\_

PROPERTY OWNER Name: \_\_\_\_\_

Address: \_\_\_\_\_

PROPOSED USE: REVIEW OF RESTAURANT.

**THE UNDERSIGNED** hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED** hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

\_\_\_\_\_  
*Print Name of Applicant or Agent*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Mailing/Street Address*

\_\_\_\_\_  
*Telephone #*

\_\_\_\_\_  
*Fax #*

\_\_\_\_\_  
*City and State*

\_\_\_\_\_  
*Zip Code*

\_\_\_\_\_  
*Date*

**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**

Application Received: \_\_\_\_\_ Date & Fee Paid: \_\_\_\_\_ \$ \_\_\_\_\_

ACTION - PLANNING COMMISSION: \_\_\_\_\_

ACTION - CITY COUNCIL: \_\_\_\_\_



ALEXANDRIA DEPARTMENT OF  
PLANNING AND ZONING  
301 King Street, Room 2100  
Alexandria, Virginia 22314

**NOTICE OF VIOLATION**

YOU ARE CHARGED WITH VIOLATING THE  
ALEXANDRIA, VIRGINIA ZONING ORDINANCE

1/13/01 Wednesday 11:39  
Date ticket served Day of Week Time AM/PM

Location of Violation: 1767 King St

Ord. Section: 9-104, 11-505

Description of Violation: Illegal Banner  
Hours of operation shall  
be posted at Entrance to  
Restaurant

Penalty \$: 50.00

1st  2nd  
 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY  
1/13/01 AN ADDITIONAL MONETARY  
PENALTY WILL BE ASSESSED.

[Signature] 117  
Inspector's Signature ID Number

I personally observed or investigated the commission of the  
violation noted above and/or violation was based upon signed  
affidavit.

- VIOLATORS COPY - WHITE
- CITY ATTORNEY COPY - YELLOW
- FINANCE COPY - PINK
- PLANNING AND ZONING COPY - ORANGE

SUP 99-0155

Z 01 TICKET NO. 2064

NOTICE SERVED ON:

NAME: LAST [Signature] FIRST [Signature] MIDDLE \_\_\_\_\_

PROPERTY OWNER  
 COMPANY [Signature]  
NAME \_\_\_\_\_  
POSITION \_\_\_\_\_

OTHER \_\_\_\_\_  
POSITION \_\_\_\_\_

ADDRESS \_\_\_\_\_  
CITY/TOWN \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

I hereby acknowledge receipt of this Notice of  
Violation. Signature is not an admission of guilt.

PERSON REFUSED TO SIGN DATE \_\_\_\_\_

**CERTIFICATE OF SERVICE**

Mailed/posted a true copy of this notice to the last  
known home or business address of the respondent  
or the respondent's agent

\_\_\_\_\_  
Name of Person or Business Served

\_\_\_\_\_  
Address of Service

\_\_\_\_\_  
City/State

Posted true copy of this notice at the site of the  
infraction

The undersigned states that he/she is an employee  
of the City of Alexandria Department of Planning  
and Zoning and knows this Certificate of Service to  
be true to the best of his/her knowledge.

Signature \_\_\_\_\_  
Print Name \_\_\_\_\_  
Date \_\_\_\_\_ Phone # \_\_\_\_\_

**WARNING**

YOU ARE REQUIRED TO RESPOND TO THIS NOTICE  
OF VIOLATION WITHIN 15 DAYS OF THE DATE OF  
SERVICE IN ONE OF THE FOLLOWING WAYS

1. TO PAY PENALTY AND WAIVE YOUR RIGHT TO A HEARING:

- Check the "Admit Violation" or "No Contest" box below;
- Make personal check, cashier's check, certified check or money order payable to City of Alexandria. Do not send cash through the mail;
- Print violation notice number on the check or money order;
- Payment may be made by mail, or in person, at the Treasury Office, City Hall, 301 King Street, Room 1510, Alexandria, Virginia, between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4949.

2. TO REQUEST A COURT HEARING:

- Check the "Contest in Court" box below and;
  - (a) Mail this completed notice to the Office of the City Attorney, City Hall, Suite 1300, 301 King Street, Alexandria, Virginia, 22314; or
  - (b) Appear in person or by an authorized representative, at the above address between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4433.
- If you wish to contest this violation a date will be set for trial in the General District Court of Alexandria, Virginia. Failure to appear in court on the date set for trial, unless prior approval has been granted by a judge of that court, will result in the entry of a default judgement against you.

3. TO CONTEST THE INTERPRETATION OF THE ORDINANCE:

- You have the right to appeal the interpretation of the zoning ordinance upon which this violation is based to the Board of Zoning Appeals within 30 days in accordance with 15.2-2311 of the Code of Virginia. The interpretation shall be final and unappealable if not appealed within 30 days.

FOR INFORMATION CONCERNING THIS TICKET CALL  
PLANNING AND ZONING AT 703-838-4688

**FAILURE TO RESPOND AS PROVIDED ABOVE WILL RESULT IN THE ISSUANCE OF A SUMMONS TO APPEAR IN COURT AND ANSWER TO THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED**

YOU MUST COMPLETE AND SIGN THIS  
CERTIFICATION:  
 ADMIT VIOLATION  NO CONTEST  CONTEST IN COURT

Name (print) \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

I hereby certify under penalty of law, that I have  
answered as indicated above, and corrected or made  
substantial efforts to correct the violation that I have  
admitted or for which I have pleaded no contest.

Signature \_\_\_\_\_ Date \_\_\_\_\_

SUP 2001-0005

APPLICATION for SPECIAL USE PERMIT # 2001-0003

[must use black ink or type]

PROPERTY LOCATION: 1767 KING ST

TAX MAP REFERENCE: \_\_\_\_\_ ZONE: OCH

APPLICANT Name: LNR ALEXANDRIA LTD. PTN.

Address: \_\_\_\_\_

PROPERTY OWNER Name: \_\_\_\_\_

Address: \_\_\_\_\_

PROPOSED USE: REVIEW OF RESTAURANT.

**THE UNDERSIGNED** hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED** hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

\_\_\_\_\_  
Print Name of Applicant or Agent

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Mailing/Street Address

\_\_\_\_\_  
Telephone #

\_\_\_\_\_  
Fax #

\_\_\_\_\_  
City and State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Date

**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**

Application Received: \_\_\_\_\_

Date & Fee Paid: \_\_\_\_\_ \$

ACTION - PLANNING COMMISSION: 3-6-2001 RECOMMEND APPROVAL 7-0

ACTION - CITY COUNCIL: 3/17/01PH -- CC approved the Planning Commission recommendation.