

EXHIBIT NO. 1

6
1-26-02

Docket Item # 5
SPECIAL USE PERMIT #2001-0128

Planning Commission Meeting
January 3, 2002

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

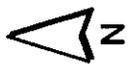
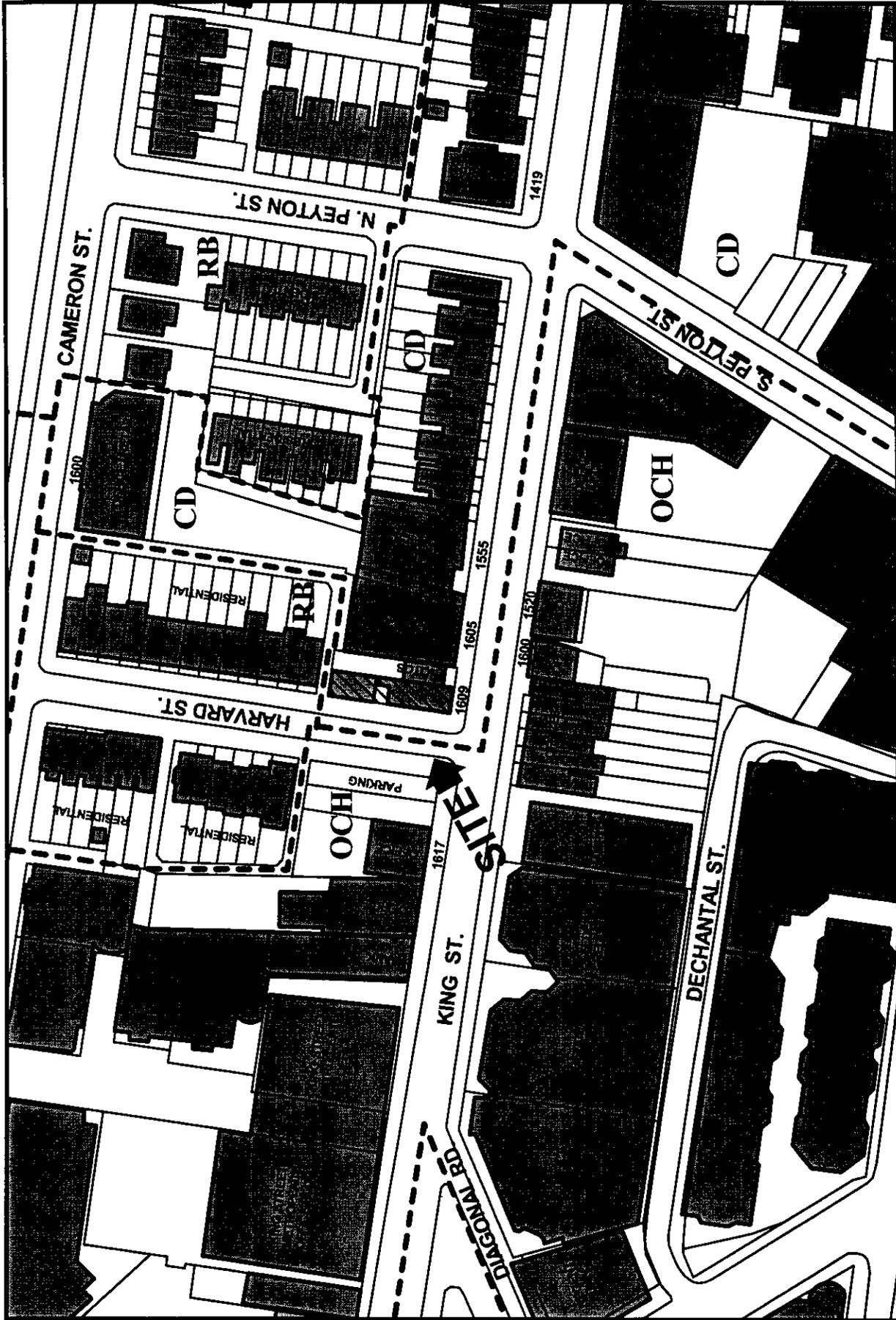
APPLICANT: Moon Ock Cho

LOCATION: 1609 King Street
Uptowner Cafe

ZONE: CD/Commercial Downtown

PLANNING COMMISSION ACTION, JANUARY 3, 2002: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.



01/03/02

SUP #2001-0128



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 corporation in which the applicant has a controlling interest. (P&Z) (SUP #96-0159)
2. Indoor seating shall be provided for no more than a total of 30 patrons. Outdoor seating may be provided for no more than a total of 14 patrons as depicted on the applicant's plan. (P&Z) (SUP #2000-0116)
3. Live entertainment shall be limited to acoustic, non-amplified music. Microphones shall not be used. Advertising that features entertainment as a destination is prohibited. No admission or cover fee shall be charged. (P&Z) (SUP #96-0159)
4. The hours of operation shall be limited to: 6:00 A.M. to 10:00 P.M. on Sundays; 6:00 A.M. to 11:00 P.M. Monday through Friday; and 6:00 A.M. to 11:00 P.M. on Saturdays. The hours of operation for the outdoor dining area shall be limited to 8:00 A.M. to 9:00 P.M. daily. The outdoor dining area shall be cleared of all diners by 9:00 P.M. and shall be cleaned and washed by 10:00 P.M. (P&Z) (SUP #2000-0116)
5. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #96-0159)
6. No alcoholic beverages shall be sold. (P&Z) (SUP #96-0159)
7. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #96-0159)
8. 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 and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP #96-0159)
9. 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 #96-0159)

10. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #96-0159)
11. No amplified sound shall be audible at the property line. (P&Z) (SUP #96-0159)
12. The applicant shall require that his employees who drive to work use off-street parking. (P&Z) (SUP #99-0156)
13. Condition deleted. (P&Z) (SUP #99-0159)
14. The new applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program. (Police) (SUP #99-0156)
15. **CONDITION RETAINED BY STAFF:** The Director of Planning and Zoning shall review the special use permit 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 has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, 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 #2000-0116)
16. 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 Department of Health. (Health) (SUP #99-0156)
17. The applicant may prepare the following food items and other similar items the collection of which create an equivalent zoning intensity: sandwiches, salads, soups, bagels, breakfast items, including eggs, precooked bacon and sausage. (P&Z) (SUP #2000-0116)
18. A minimum six foot wide unobstructed pathway for pedestrian access shall be maintained on the public sidewalk along Harvard Street and a ten foot wide pathway shall be maintained on the public sidewalk along King Street. (T&ES) (P&Z) (SUP #2000-0116)

19. The applicant shall replace, at its expense, the existing King Street trash container with a model SD-42 receptacle. (T&ES) (SUP #2000-0116)
20. **CONDITION ADDED BY STAFF: Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour. (P&Z)**
21. **CONDITION ADDED BY STAFF: The applicant shall contribute \$250 to the City for the City's installation of one street tree along the west side of the subject building on Harvard Street to the satisfaction of the Director of Planning and Zoning and the City Arborist. (P&Z)**

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

DISCUSSION:

1. The applicant, Moon Ock Cho, is before the Planning Commission for a review of the special use permit for a restaurant.
2. The subject property is one lot of record with 23 feet of frontage along King Street, 109.5 feet of frontage along Harvard Street, and an estimated area of 2,518 square feet. The property is developed with a two-story building with a commercial storefront and apartments in the rear and on the upper level. The surrounding land uses include mixed commercial and residential uses along King Street, and residential uses to the north.
3. On November 16, 1996, City Council granted Special Use Permit #96-0159 to Scott Mitchell to operate a restaurant (coffee shop) known as St. Elmo's. On February 12, 2000, City Council granted Special Use Permit #99-0156 allowing a change of ownership of the restaurant from Mr. Mitchell to Ms. Cho. On November 18, 2001, City Council granted Special Use Permit #2000-0116 to allow limited on-site food preparation and to add outdoor seating.
4. The existing restaurant is permitted to have 30 seats indoors and 14 seats outdoors. The hours of operation for the indoor seating are 6:00 a.m. to 11:00 p.m. Monday through Saturday, and 6:00 a.m. to 10:00 p.m. on Sundays. The hours allowed for outdoor seating are limited to 8:00 a.m. to 9:00 p.m. daily. The restaurant is limited in the amount of food it may prepare on-site. Limited acoustical entertainment is permitted.
5. On September 11, 2001, as part of the restaurant's one year review, the zoning staff made an inspection of the subject property to determine if the applicant was in compliance with the conditions of the special use permit. Staff found the applicant in violation of Condition #5 (posting of hours of operation), Condition #12 (requiring employees to use off-street parking), and Condition #19 (replacing the existing trash container on King Street). The applicant told staff that she has posted the hours of operation and has instructed her staff not to use on-street parking. The Solid Waste Division reports that the applicant has contacted them to purchase a new City trash can.

STAFF ANALYSIS:

Staff supports the continued operation of the restaurant use. Since receiving a ticket, the applicant has complied with all of the three conditions of which she was in violation. The applicant has posted her hours of operation, instructed her staff to use only off-street parking, and is willing to take the necessary steps to see that a new City trash can is purchased. Staff does recommend one site improvement, the addition of a street tree along the side of the subject building that fronts Harvard Street. The subject building stands at the corner of Harvard and King Streets.

Staff also recommends maintaining Condition #15 to require a review of the restaurant one year after approval so if there are any problems with its operation, additional conditions may be imposed. Staff supports approval of the application subject to the conditions proposed under Staff Recommendations.

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

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

F-1 No comments.

Code Enforcement:

F-1 No comments.

Health Department:

F-1 No comments.

Police Department:

F-1 No further comments.

APPLICATION for SPECIAL USE PERMIT # 2001-0128

[must use black ink or type]

PROPERTY LOCATION: 1609 KING ST

TAX MAP REFERENCE: 63.04-07-14 ZONE: CD

APPLICANT Name: MOON OCK CHO

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.

MOON OCK CHO
Print Name of Applicant or Agent

Signature

Mailing/Street Address

w. 703.836.3162
Telephone # Fax #
h. 703.847.5952

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

September 11, 2001 Tues
Date ticket served Day of Week Time AM/PM

Location of Violation: 1609 King Street

Ord. Section: 11-505

Description of Violation: Condition # 5 (applicant shall post hours of operation), Condition # 12 (applicant shall require employees to use off street parking); # 19. the applicant shall replace the existing King Street trash container

Penalty \$: 50.00
 1st 2nd 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY
Sept. 21, 2001 AN ADDITIONAL MONETARY
PENALTY WILL BE ASSESSED.

Mark S. [Signature] 102
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 2000-0116 } Z-02

TICKET NO. **2295**

NOTICE SERVED ON:
Chen Aaron Qut
NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY Uptowner Cafe
NAME

Owner
POSITION

1609 King Street
ADDRESS
Alexandria Va
CITY/TOWN STATE ZIP

Mark Chen
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 2001-0128

APPLICATION for SPECIAL USE PERMIT # 2001-0128 ⁶

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City and State Zip Code

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

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ACTION - PLANNING COMMISSION: 01/03/02 Recommended Approval UC

ACTION - CITY COUNCIL: 01/26/2002PH -- CC approved the Planning Commission recommendation.