

EXHIBIT NO. 1

6  
4-12-03

Docket Item # 2  
ENCROACHMENT #2003-0001

Planning Commission Meeting  
April 1, 2003

**ISSUE:** Consideration of a request for encroachment into the public sidewalk right-of-way for outdoor restaurant seating.

**APPLICANT:** Starbucks Coffee Company  
Shanna N. Ruhl

**LOCATION:** 6 King Street  
Starbucks Coffee Company  
(Previously Seaport Inn Restaurant)

**ZONE:** CD/Commercial Downtown

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**PLANNING COMMISSION ACTION, APRIL 1, 2003:** On a motion by Mr. Dunn, seconded by Mr. Komoroske, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendation. The motion carried on a vote of 7 to 0.

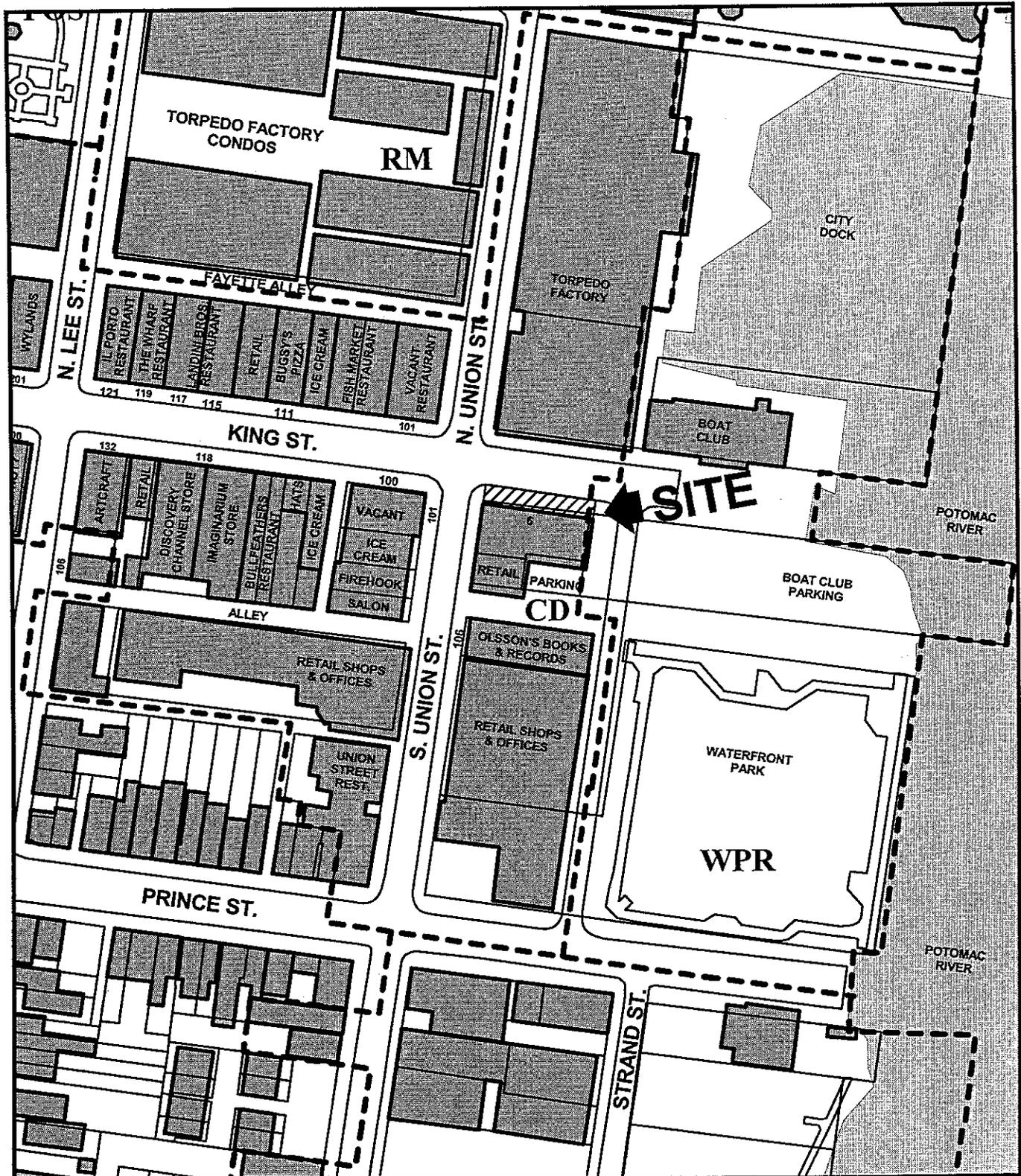
Reason: The Planning Commission agreed with the staff analysis, emphasizing the benefit of outdoor seating to a vital business district.

Speakers:

Paul Gaiser, represented the applicant and requested approval of the encroachment permit.

Philip Matyas, resident, 219 North Pitt Street, voiced aesthetic and safety concerns, and requested that an overall outdoor seating plan be added to the Old Town Small Area Plan.

Poul Hertel, resident, 1217 Michigan Court, requested that adequate sidewalk be maintained for pedestrians.



**ENC #2003-0001**

**04/01/03**



STAFF RECOMMENDATION:

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

1. The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his /her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (T&ES)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any obstruction encroaching into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
3. Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
4. The applicant shall define the area of proposed encroachment to include the anchored umbrella canopies. (T&ES)
5. A minimum clear pedestrian pathway of 6 feet shall be maintained. (T&ES)
6. Applicant shall obtain, at their expense, one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (Union Street). Contact T&ES Engineering Division (703/838-4318) for information. (T&ES)
7. The applicant shall implement and maintain a landscaped planter plan, to include four seasons of plants in at least two black containers of a style and at a location approved by the Department of Recreation, Parks and Cultural Activities. (RP&CA)

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Staff Note:

For commercial properties, the applicant and/or his successors are responsible for payment of an annual charge for such encroachment pursuant to Section 3-2-85 of the City Code.

DISCUSSION:

1. The applicant, Starbucks Coffee Company, represented by Shanna Ruhl, requests approval of an encroachment permit to locate outdoor restaurant seating in the public sidewalk right-of-way on King Street in front of 6 King Street, the location of the prior Seaport Inn.
2. The subject property is one lot of record that is located on the southeast corner of King and Union Streets. The lot is approximately 94.3 feet by 48.6 feet, and is 4,302 square feet. The lot is occupied by a three and half story building. Commercial and office uses surround the lot on all sides. Residential uses are nearby.

The applicant is currently retrofitting approximately 1,670 square feet of the ground floor of the subject building for a coffee shop with seating. The space is in the historic part of the building along Union Street.

3. The coffee shop is considered a restaurant under the zoning ordinance and is allowed to occupy the space without a special use permit because its predecessor restaurant, the Seaport Inn, occupied the site since prior to the special use permit requirement. The scope of the proposed restaurant is well within the grandfathered restaurant rights that attach to the site. The coffee shop will use 18 seats for the interior and 15 seats for the outdoor seating.
4. The applicant requests approval to place outdoor seating in front of the coffee shop along the front building wall on King Street (see attached plans). The outdoor seating will occupy approximately 125 square feet of the public sidewalk. The area of encroachment is approximately 25 feet long and 5 feet wide. These measurements include the boundaries of the proposed table umbrellas, as requested by the Department of Transportation and Environmental Services in Condition #4.
5. The proposed encroachment is 5 feet wide and the existing sidewalk is 14 feet 3 3/4 inches wide. The proposed encroachment will leave a minimum of 6 feet of clear sidewalk for pedestrian passage, including where there are sidewalk features, such as a light post, a City trash can and a tree well. Otherwise the pedestrian passage is greater than 6 feet. Staff should note that the City has agreed to move the existing City trash can towards the street to aid in providing the six foot clear pedestrian pathway.
6. Master Plan/Zoning: The subject property is zoned CD (Commercial Downtown), and is included in the Old Town Small Area Plan.

STAFF ANALYSIS:

Staff strongly supports this request to add outdoor seating at the foot of King Street. The proposed outdoor seating will add vitality to the street, thereby attracting more visitors and customers for area businesses. Its location, with seats and umbrellas and people, will be seen from a distance from King and Union Streets, and creates a visible symbol of activity and economic health where recent vacancies have been problematic. The encroachment shall not obstruct pedestrian use of the public sidewalk since there will be ample public right-of-way remaining for pedestrian use after the outdoor seating is installed.

Staff does recommend two site improvements, including the addition of City trash can on Union Street and planters filled with seasonal plants.

Staff recommends approval of the encroachment permit subject to the recommended conditions.

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:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 The applicant shall define the area of proposed encroachment to include the anchored umbrella canopies.
- R-2 A minimum clear pedestrian pathway of 6 feet shall be maintained.
- R-3 Applicant shall obtain, at their expense, one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way. Contact T&ES Engineering Division (703/838-4318) for information.
- R-4 The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his/her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment.
- R-5 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment.
- R-6 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any obstruction encroaching into the public right-of-way, within 60 days, upon notification by the City.

Code Enforcement:

- F-1 No comments

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. This facility is not currently operating.
- C-2 Food must be protected to the point of service.
- C-3 If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-4 Permits or approval must be obtained prior to use of the new area(s).
- C-5 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions both indoors and at the outside dining areas.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- C-7 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- F-1 No objections.

Department of Recreation, Parks and Cultural Activities:

- R-1 The applicant shall implement and maintain a landscaped planter plan, to include four seasons of plants in at least two black containers of a style and at a location approved by the Department of Recreation, Parks and Cultural Activities.

# APPLICATION for ENCROACHMENT

ENC # 2003-0001

[must use black ink or type]

PROPERTY LOCATION: 6 King street, Alexandria, VA 22314

TAX MAP REFERENCE: 75.01-05-01 ZONE: CD

APPLICANT'S NAME: Starbucks Coffee Company

ADDRESS: 4963 Elm. street, Bethesda MD 20814.

PROPERTY OWNER NAME: Starwood Urban VIII, LC

ADDRESS: 1320 19th st. NW. Washington DC 20036

ENCROACHMENT DESCRIPTION: outdoor seating. 9 seats on King street w/ 10' clearance. (PROPOSED STARBUCKS COFFEE Co)

INSURANCE CARRIER (copy attached) \_\_\_\_\_ POLICY # \_\_\_\_\_

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code 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 also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

Shanna N. Ruhl  
Print Name of Applicant or Agent

[Signature]  
Signature

4963 Elm st.  
Mailing/Street Address

301-657-3020 301-657-3050  
Telephone # Fax #

Bethesda MD. 20814  
City and State Zip Code

1-21-03  
Date

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

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

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

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

ENG 2003-0001

**ACORD™ CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YY)  
02/19/2003

PRODUCER  
Serial # B1668  
Marsh USA Inc. 2 Tyrisco, Inc.  
1215 Fourth Avenue P.O. Box 55219  
Seattle, WA 98161 Seattle, WA 98155

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

INSURED  
Starbucks Corporation et al  
Attn: Cathy Wilson  
P.O. Box 34067  
Seattle, WA 98124-1067  
(206) 318-8085

**RECEIVED**  
**MAR - 3 2003**

INSURER A: Zurich American Insurance Company  
INSURER B: American Guarantee & Liability Insurance Company  
INSURER C: Zurich Insurance Company  
INSURER D: American Zurich Insurance Company  
INSURER E: St. Paul Fire and Marine Insurance Company

**COVERAGES**

**PLANNING & ZONING**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A C	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> *\$850,000 SIR	GL08378867-03 8828386	10/1/2002 10/1/2002	10/1/2003 10/1/2003	EACH OCCURRENCE \$ 1,000,000*
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				FIRE DAMAGE (Any one fire) \$ 1,000,000*
					MED EXP (Any one person) \$
					PERSONAL & ADV INJURY \$ 1,000,000*
					GENERAL AGGREGATE \$ 5,000,000
					PRODUCTS - COMP/OP AGG \$ 2,000,000
E E E E	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	CK00214990 CA00200812 MA00200173 UXFLT00151	10/1/2002 10/1/2002 10/1/2002 10/1/2002	10/1/2003 10/1/2003 10/1/2003 10/1/2003	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$	AUC3781148-00	10/1/2002	10/1/2003	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WC8378817-03 WC8378865-03 WC8378870-03 WC8298255-00 WC8298256-00	10/1/2002 10/1/2002 10/1/2002 10/1/2002 10/1/2002	10/1/2003 10/1/2003 10/1/2003 10/1/2003 10/1/2003	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
OTHER					

\*Company A and C - General Liability: The limits are \$150,000 in excess of a \$850,000 self-insured retention.

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

RE: (#TBD), 6 King Street, Alexandria, VA 22314  
Certificate holder is included as an additional insured as respects outdoor seating.

**CERTIFICATE HOLDER**

ADDITIONAL INSURED; INSURER LETTER:

**CANCELLATION**

City of Alexandria, Planning and Zoning  
Attn: Mary Hashemi  
301 King Street, Room 2100  
PO Box 178  
Alexandria, Virginia 22313.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

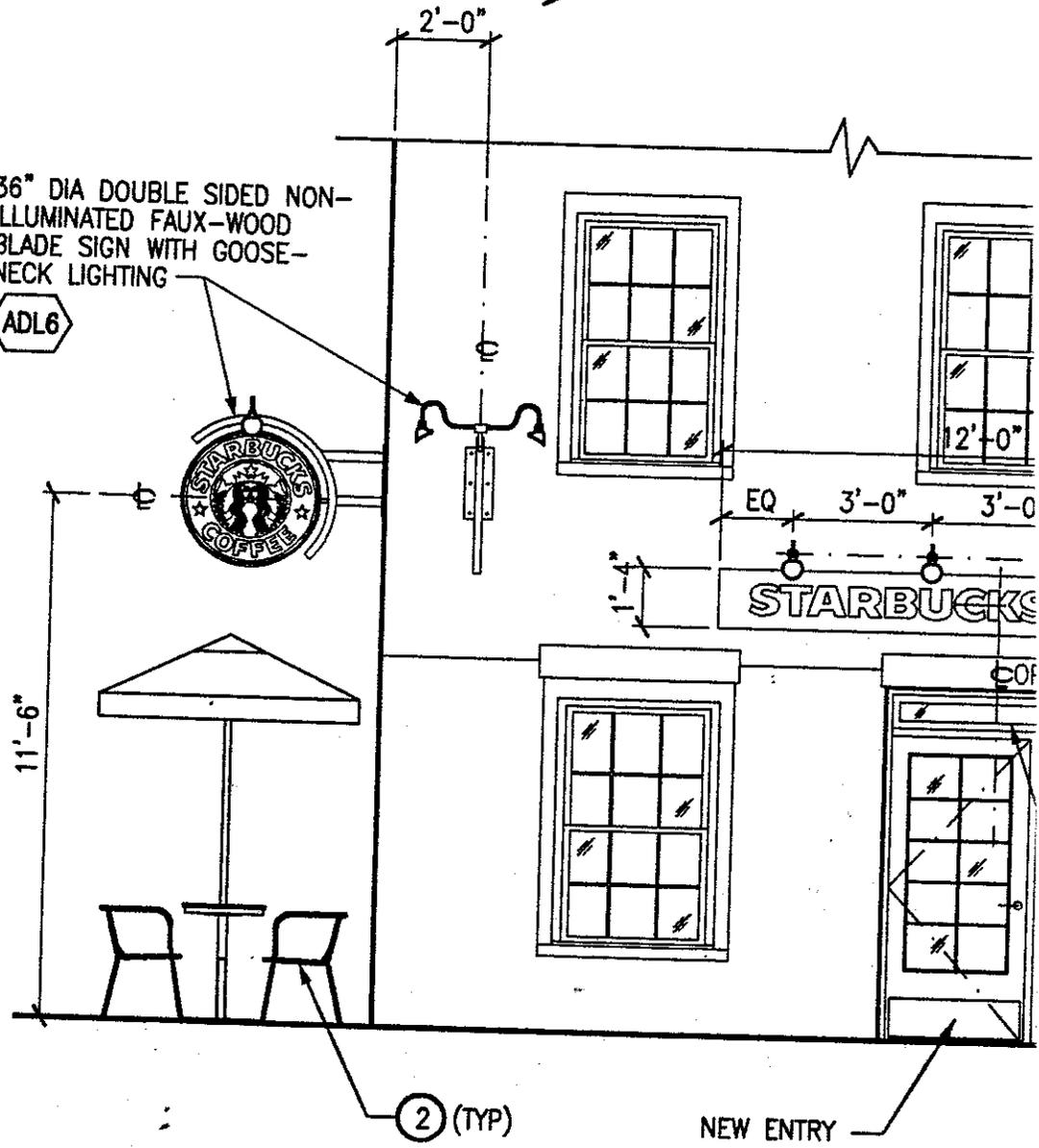
AUTHORIZED REPRESENTATIVE

*[Signature]*

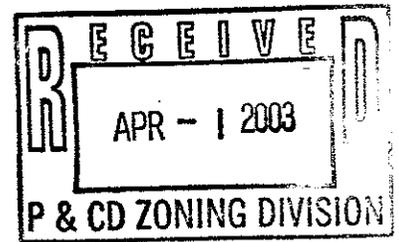
ENC. 2003-0001

36" DIA DOUBLE SIDED NON-ILLUMINATED FAUX-WOOD BLADE SIGN WITH GOOSE-NECK LIGHTING

ADL6



WEST ELEVATION (S. UNION ST.)



April 1, 2003

To: The Alexandria Planning Commission

From: Julie Crenshaw

Re: Item 2, the Old Seaport Inn Location being considered as a Starbucks

*ENC# 2003-0001  
Docket Item #2*

Starwood, now Urban Investment Advisor, is probably the best owner that property could have. However this item should not be on tonight's consent docket and should be removed for discussion for the following reasons.

- 1- Outdoor seating on the sidewalks of Old Town is not allowed anywhere in the Old Town Historic District and for very good reasons.
- 2- There are three local, not franchise, businesses that will be adversely impacted by Starbucks, especially if outdoor seating is allowed. These are, Firehook, the coffee shop on Olssons' second floor, and The Scoop. Old Town Coffee and Tea will be affected, but not as adversely as the other three. It would be illogical to put Starbucks in a vacant building and create business problems and thus vacancies in other nearby locations.
- 3- What kind of Starbucks is this one? One that has only coffee and pastries or cookies, or, one that also has sandwiches and salads?

We want UIA to continue to be the owner of the Old Seaport Inn, but we do not want to cause business problems for other small non-franchise local businesses.

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Shanna N. Ruhl  
Print Name of Applicant or Agent

[Signature]  
Signature

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Mailing/Street Address

301.657.3020 301.657.3050  
Telephone # Fax #

Bethesda MD. 20814  
City and State Zip Code

1.21.03  
Date

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

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

ACTION - PLANNING COMMISSION: 4/1/03 Recommend Approval 7-0

ACTION - CITY COUNCIL: 4/12/03PH--CC approved the Planning Commission recommendation.