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10-18-03

Docket Item #8
SPECIAL USE PERMIT #2003-0087

Planning Commission Meeting
October 7, 2003

ISSUE: Consideration of a request for a special use permit to operate a restaurant.

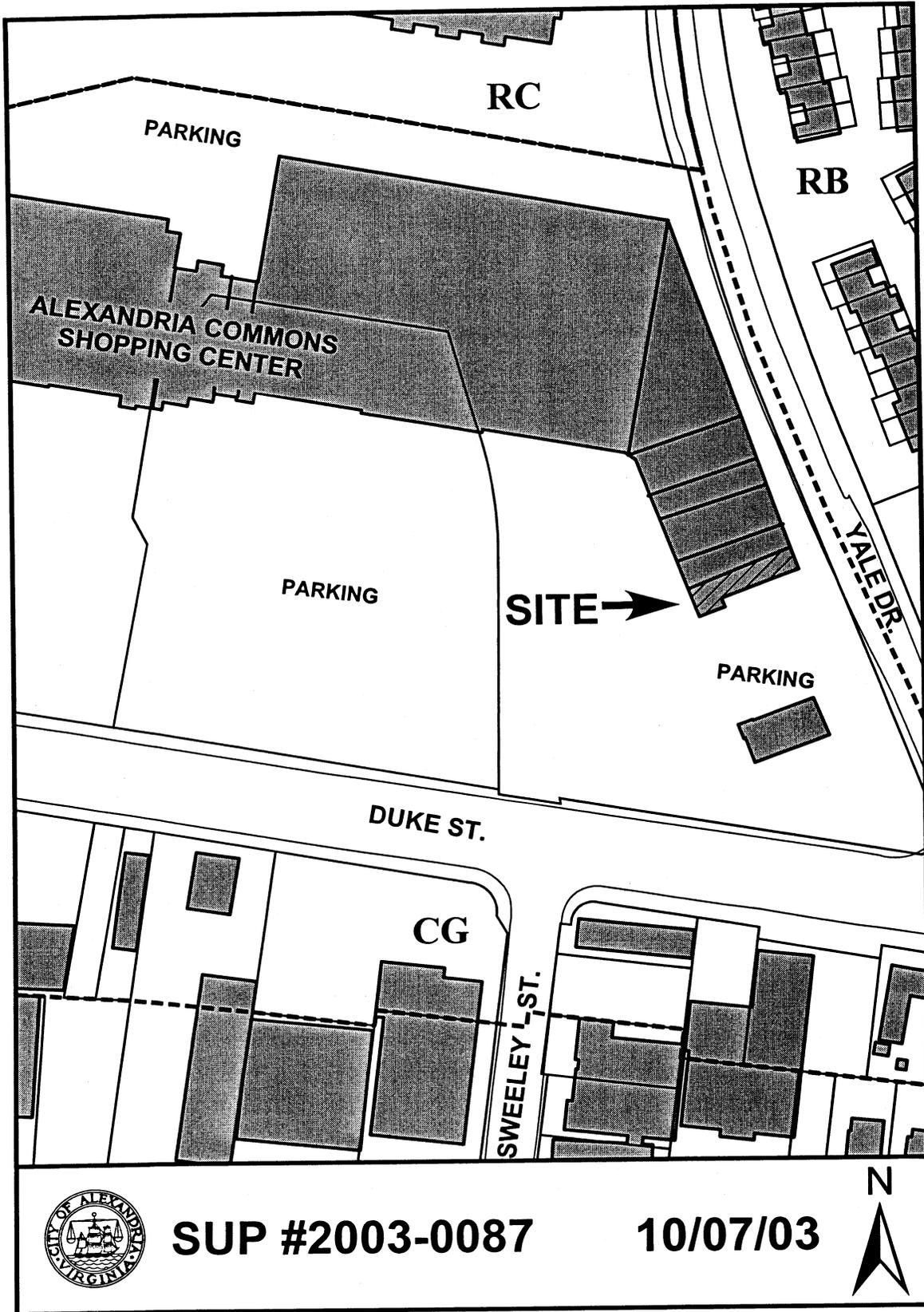
APPLICANT: Noodles & Company
by Jonathan Rak, attorney

LOCATION: 3105 Duke Street
Alexandria Commons Shopping Center

ZONE: CG/Commercial General

PLANNING COMMISSION ACTION, OCTOBER 7, 2003: 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.



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)
2. Seating shall be provided for no more than 66 patrons indoors. (P&Z)
3. Outside dining may be provided for up to 10 patrons, subject to a plan that is reviewed and approved by the Directors of Planning and Zoning and Code Enforcement. The applicant shall ensure that pedestrian access is provided past the outdoor seating. The outdoor seating area shall be cleaned and washed at the close of each day of operation. No seating shall encroach on a public right-of-way. (P&Z)
4. The hours of operation shall be limited from 11:00 a.m. to 10:00 p.m. daily. (P&Z)
5. On-site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z)
6. No food, beverages, or other material shall be stored outside. (P&Z)
7. 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)
8. 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)
9. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)
10. The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES)

11. All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line. (T&ES)
12. No live entertainment shall be provided at the restaurant. (P&Z)
13. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)
14. No amplified sound shall be audible at the property line. (P&Z)
15. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey for the business and a robbery awareness program for all employees. (Police)
16. 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)

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, Noodles & Company, c/o David M. Gladstone, requests special use permit approval for the operation of a restaurant located at 3105 Duke Street.
2. The subject property is two lots of record with a combined frontage of approximately 1,138 feet on Duke Street and a total lot area of 12.6 acres. The site is developed with the Alexandria Commons Shopping Center. Access to the property is from Duke Street.

Alexandria Commons, located on the north side of Duke Street just south of the intersection of Duke and Quaker Lane, is a shopping center comprised of 146,133 square feet of retail, office, and personal service space, and 635 parking spaces.

3. On June 17, 1995, City Council granted Special Use Permit #95-0056 to Hanbur Enterprises, Inc. trading as Bagel Place for operation of a 40-seat restaurant with carry-out service located at 3105 Duke Street within the then Hechinger Commons Shopping Center. On October 13, 1999, staff approved Special Use Permit #99-0111 to change the ownership of the Bagel Place to Alessandro Ciaccio. The current request is for a new restaurant called "Noodles & Company."
4. The restaurant is proposed to have 66 indoor seats. The hours of operation will be 11:00 a.m. to 10:00 p.m. daily. On-premise beer and wine service is proposed. There will be no live entertainment.
5. According to Section 8-200 (8) of the zoning ordinance, a restaurant with 66 seats is required to provide 17 parking spaces. In this case, the shopping center has 635 parking spaces. The applicant provided a list of tenants, square footage, and required parking spaces which indicates that the total parking requirement of the shopping center, with the proposed restaurant, is 609 spaces (see attached tenant list). Therefore, the applicant meets the parking requirement. The calculation includes a parking reduction issued to Panera Bread that was necessitated because a commercial school with a large parking requirement was a tenant of the center at the time of approval(SUP#98-0138). The school is no longer located at the center.
6. Trash will be collected daily by the Alexandria Commons Shopping Center's management company. Litter will also be controlled by the management company.

7. Staff is aware of two violations at the property from the previous restaurant that occupied the premises since 1995. One violation was in 1997 for posting illegal signs, which were removed after staff informed the owner of the requirements. The other violation was in 2000 for providing outdoor seating when the SUP did not allow it. The seats were removed when the owner was reminded of the requirement.
8. Zoning: The subject property is located in the CG/Commercial General zone. According to Section 4-403, a restaurant is allowed in CG only with a special use permit.
9. Master Plan: The proposed use is consistent with the Taylor Run/Duke Street small area plan chapter of the Master Plan which designates the property for commercial use.

STAFF ANALYSIS:

Staff does not object to the proposed restaurant located at 3105 Duke Street. A restaurant has occupied this space since the Bagel Place was first approved in 1995. Other than the two violations that were promptly corrected, staff is not aware of any major issues associated with a restaurant use at this location. The restaurant has adequate on-site parking for the 66 seats that are proposed. Although the applicant did not request outdoor dining, staff included a condition allowing it because it would enhance the pedestrian environment at the center, and provides flexibility for the applicant. Staff also included the standard restaurant conditions, and a one year review to ensure the applicant is in compliance.

With these conditions, staff recommends approval of the special use permit.

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers.
- R-2 The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- R-3 All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line.
- 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.

Code Enforcement:

- F-1 The proposed occupant load is 66 persons. The proposed plan has only one exit from the assembly area which limits the occupancy load to 50 persons including staff. The rear exit through the kitchen cannot be considered a second exit for restaurant patrons.
- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 A fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-3 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Four sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.

- C-4 When a change of use requires a greater degree of structural strength, fire protection, exit facilities or sanitary provisions, a construction permit is required.
- C-5 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC ^[313.0.
- C-6 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-7 The following code requirements apply where food preparation results in the development of grease laden vapors:
 - (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
 - (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.
- C-8 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
 - (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
 - (b) How food stuffs will be stored on site.
 - (c) Rodent baiting plan.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Five sets of plans are to 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-3 Permits must be obtained prior to operation.
- C-4 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.

- C-5 Certified Food Managers must be on duty during all hours of operation.
- C-6 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- R-3 Recommend "A.B.C. On" license only. If "A.B.C. Off" is approved we recommend the following conditions:
 - 1. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
 - 2. That the SUP is reviewed after one year.

APPLICATION for SPECIAL USE PERMIT # 20030087

[must use black ink or type]

PROPERTY LOCATION: 3105 ~~5125~~ Duke Street

TAX MAP REFERENCE: 061.04-03-02 ZONE: CG

APPLICANT Name: Noodles & Company, c/o David M. Gladstone

Address: 2590 Pearl St., Boulder, CO 80302

PROPERTY OWNER Name: Stewart-Hechinger Commons Shopping Center LLC

Address: 7101 Wisconsin Ave., Suite 1111
~~Bethesda, MD 20814~~

PROPOSED USE: 66 Seat 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.

Jonathan P. Rak
Print Name of Applicant or Agent


Signature

McGuireWoods LLP
Mailing/Street Address
1750 Tysons Blvd., Ste. 1800
McLean, VA 22102
City and State Zip Code

703-712-5000 Telephone #
703-712-5050 Fax #

August 5, 2003
Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (check one) the Owner Contract Purchaser
 Lessee or Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes. Provide proof of current City business license
 No. The agent shall obtain a business license prior to filing application, if required by the City Code.
2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.

NARRATIVE DESCRIPTION

3. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

The SUP application is to allow a 66 seat restaurant in the
Alexandria Commons Shopping Center. The location of the
restaurant is in the vacant space formerly occupied by the
Bagel Place. The hours of operation are Monday-Sunday,
11:00 am to 10:00 pm. There will be no live entertainment.
In addition to food, beer and wine will be served.

USE CHARACTERISTICS

4. The proposed special use permit request is for: *(check one)*

- a new use requiring a special use permit,
- a development special use permit,
- an expansion or change to an existing use without a special use permit,
- expansion or change to an existing use with a special use permit,
- other. Please describe: _____

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

66 patrons maximum during hours of operation M-S, 11:00 am - 10:00 pm

B. How many employees, staff and other personnel do you expect? Specify time period (i.e., day, hour, or shift).

6 - 8 personnel per shift

6. Please describe the proposed hours and days of operation of the proposed use:

Day:

Monday - Sunday

Hours:

11:00 am - 10:00 pm

7. Please describe any potential noise emanating from the proposed use:

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

Noise level will be consistent with restaurant use.

B. How will the noise from patrons be controlled?

Noise levels are not expected to exceed levels consistent
with 66-seat restaurant use.

8. Describe any potential odors emanating from the proposed use and plans to control them:

Orders will be consistent with restaurant use.

9. Please provide information regarding trash and litter generated by the use:

A. What type of trash and garbage will be generated by the use?

Trash and garbage will be consistent with restaurant use.

B. How much trash and garbage will be generated by the use?

Amount of trash and garbage generated will be consistent
with 66-seat restaurant.

C. How often will trash be collected?

Trash is collected daily by Alexandria Commons

Shopping Center's management company.

D. How will you prevent littering on the property, streets and nearby properties?

Exterior of property is maintained by Alexandria Commons

Shopping Center's management company

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of residents, employees and patrons?

Facility will be designed and built in compliance with
applicable safety standards and regulations.

ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes. No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

ABC license is for on-premise sales of beer and wine.

D. During what hours of the day do you expect loading/unloading operations to occur?

Mornings from 8:00 am - 10:00 am.

E. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?

daily.

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

access is existing and adequate.

SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building? Yes No

Do you propose to construct an addition to the building? Yes No

How large will the addition be? _____ square feet.

18. What will the total area occupied by the proposed use be?

2250 sq. ft. (existing) + -- sq. ft. (addition if any) = 2250 sq. ft. (total)

19. The proposed use is located in: (check one)

a stand alone building a house located in a residential zone a warehouse

a shopping center. Please provide name of the center: Alexandria Commons Shopping Center

an office building. Please provide name of the building: _____

other, please describe: _____

RESTAURANT SUPPLEMENTAL APPLICATION

All applicants requesting special use permit approval for restaurants shall complete the following section. Applicants requesting approval of a special use permit for a restaurant in Old Town shall complete the SUPPLEMENTAL INFORMATION FOR RESTAURANTS IN OLD TOWN section and submit the required parking management plan and litter reduction plan.

Please provide the following information:

1. How many seats are proposed?

At tables: 66 At a bar: na Total number proposed: 66

2. Will the restaurant offer any of the following?

 alcoholic beverages X beer and wine (on-premises)

 beer and wine (off-premises)

3. Please describe the type of food that will be served:

lunch and dinner fare with a focus on noodles.

4. The restaurant will offer the following service (check items that apply):

 X table service bar X carry-out delivery

5. If delivery service is proposed, how many vehicles do you anticipate? na

Will delivery drivers use their own vehicles? Yes. No.

6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)? Yes. X No.

If yes, please describe: _____

SUPPLEMENTAL INFORMATION FOR RESTAURANTS IN OLD TOWN

**CRITERIA TO BE USED TO EVALUATE NEW OR EXPANDED RESTAURANTS
ADOPTED BY CITY COUNCIL BY RESOLUTION, NOVEMBER 13, 1993**

Parking

1. The applicant must submit a parking management plan (PMP), which specifically addresses the following issues:

- A. The parking demand generated by the proposed restaurant.
- B.. The availability of off-street parking for patrons. For the purpose of this policy, availability shall be measured in terms of the number of vacant off-street parking spaces within 500 feet from the entrance to the restaurant.
- C. How employees who drive will be accommodated off the street at least in the evenings and on weekends.
- D. The predicted impact of the restaurant on the parking supply at the evening peak, weekend peak, and daytime peak.
- E. A proposal to reduce the impact of parking created by the restaurant on nearby areas. Acceptable alternatives for reducing parking impacts include, but are not limited to, the following: validated parking or valet parking for patrons, and off-street parking or transit subsidies for employees.

2. Additionally, please answer the following:

A. What percent of patron parking can be accommodated off-street?
(check one)

- 100%
- 75-99%
- 50-74%
- 1-49%
- No parking can be accommodated off-street

B. What percentage of employees who drive can be accommodated off the street at least in the evenings and on weekends?
(check one)

- All
- 75-99%
- 50-74%
- 1-49%
- None

C. What is the estimated peak evening impact upon neighborhoods?
(check one)

- No parking impact predicted
- Less than 20 additional cars in neighborhood
- 20-40 additional cars
- More than 40 additional cars

19

Litter

The applicant for a restaurant featuring carry-out service for immediate consumption must submit a plan which indicates those steps it will take to eliminate litter generated by sales in that restaurant.

Alcohol Consumption and Late Night Hours

1. Maximum number of patrons shall be determined by adding the following:

	66	Maximum number of patron dining seats
	--	Maximum number of patron bar seats
+	00	Maximum number of standing patrons
	66	Maximum number of patrons

2. 6-8 Maximum number of employees by hour at any one time

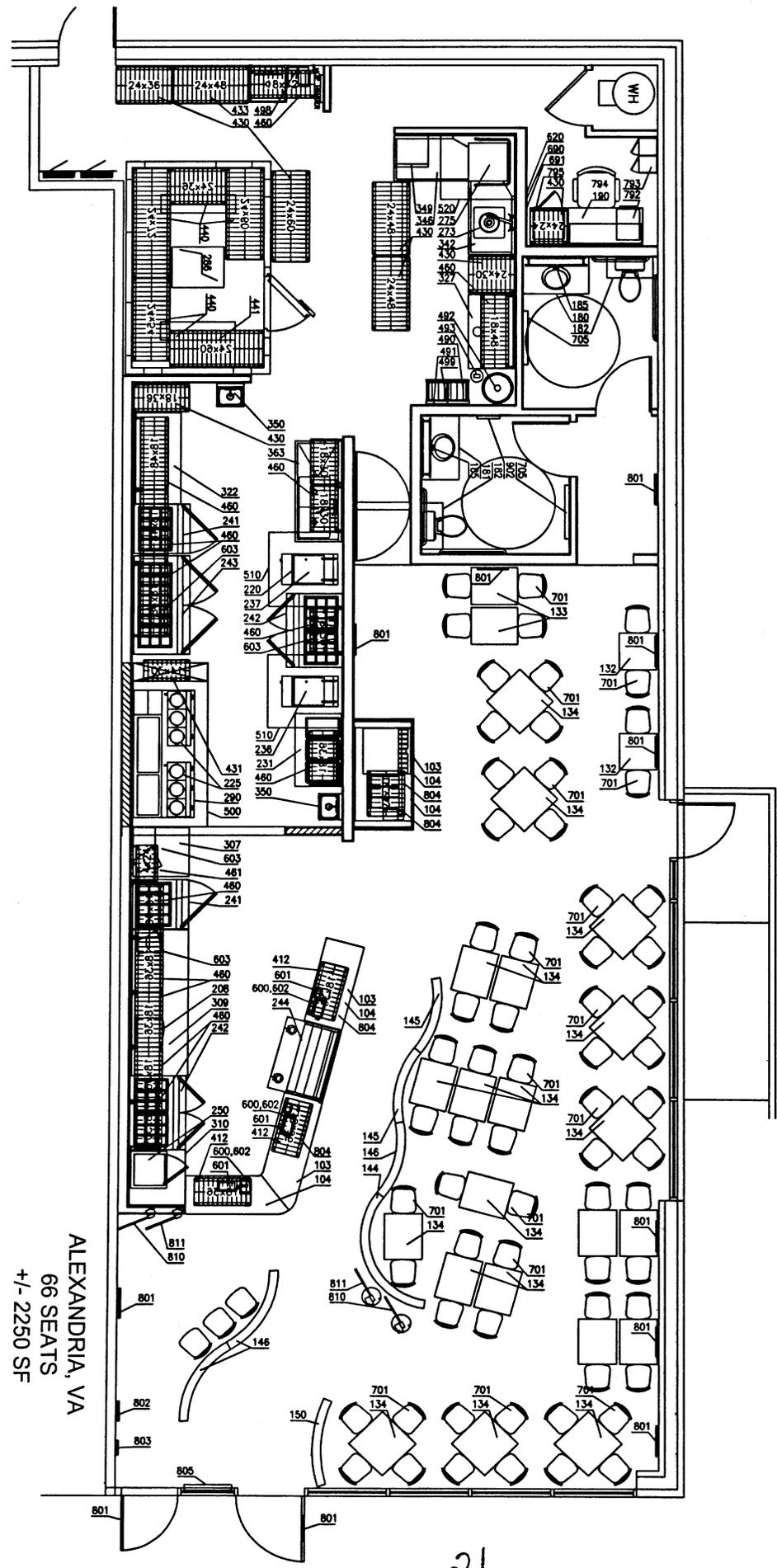
3. Hours of operation:
(check one)

- | | |
|---|--|
| | Closes by 8:00 P.M. |
| x | Closes after 8:00 P.M. but by 10:00 P.M. |
| | Closes after 10:00 P.M. but by Midnight |
| | Closes after Midnight |

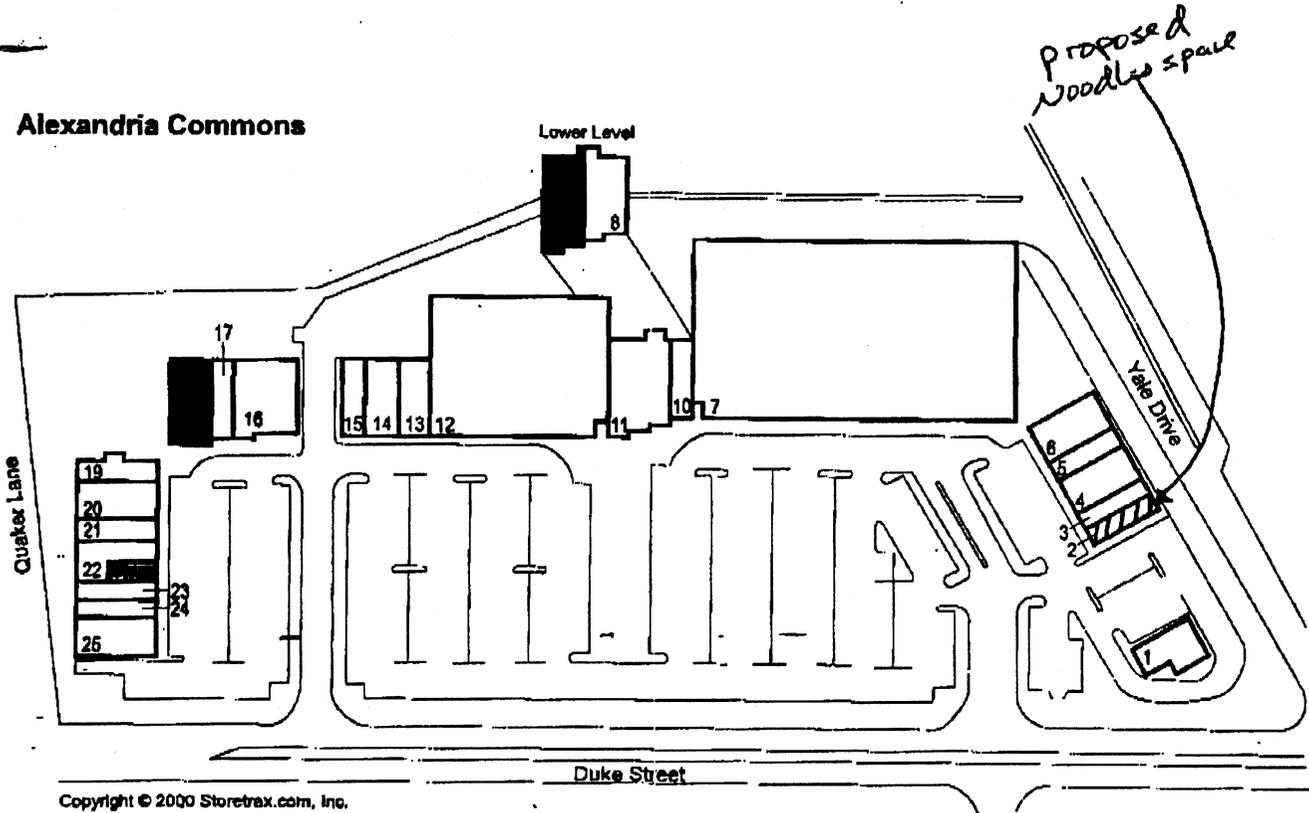
[Closing time means when the restaurant is empty of patrons.]

4. Alcohol Consumption:
(Check one)

- | | |
|---|----------------------------------|
| | High ratio of alcohol to food |
| | Balance between alcohol and food |
| x | Low ratio of alcohol to food |



ALEXANDRIA, VA
 66 SEATS
 +/- 2250 SF



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Commons Parking Tabulation (8/09/00)

Occupant	Address	GSF	NSF*	Parking Required
Urban Accents	3111	2,232	1,897	
Wild Bird Center	3113	1,666	1,416	
Rick's Wine & Gourmet	3115	3,070	2,610	
Giant Food	3131	50,778	43,161	
Davidson Beauty Supply	3133	3,337	2,836	
CVS/Pharmacy	3155	24,000	20,400	
Lynford Uniforms	3181	3,200	2,720	
Cellular One	3165	2,025	1,721	
Video City	3211	3,400	2,890	
Motophoto & Portrait	3218	1,600	1,360	
Jenny Craig	3215	2,000	1,700	
Timely Sentiments	3227	1,200	1,020	
Mail Boxes, Etc.		1,528	1,299	
Vacant - (Total Figure)		8,189	6,961	
Retail Sub-total	(1.1 sp./ 230 s.f.)	108,225	91,991	440
Marshall Insurance	3219	1,600	1,360	
Progressive Insurance	3223	6,569	5,584	
State Farm	3223	875	744	
Jerry A. Miles, DDS, PC	3223	1,915	1,628	
Connell Trimber, MD	3223	3,283	2,791	
Office Sub-total	(1 sp./ 450 s.f.)	14,242	12,107	27
Crestar Bank	3101	2,000	1,700	
Lee's Cleaners	3109	1,137	966	
PHD For Hair	3207	1,600	1,360	
Personal Service Sub-total	(1 sp./ 400 s.f.)	4,737	4,026	11
Noodles & Co Bagel Place SUP 95-0056	3105	2,400	66 seats 40 seats	17 10
Lone Star Steakhouse SUP 2809	3141	5,813	222 seats	56
Oriental Star SUP 2351	3221	2,368	60 seats	15
Panera Bread SUP 98-0138**	3201 & 3203	4,560	153 seats	18 + 23
Baja Fresh	3231	3,600	100 seats	25
Restaurant Sub-total	(1 sp./ 4 seats)	18,741	15,930	124
Total Required		145,945	124,054	602 609
Total Provided				635
Surplus/ (Deficit)				23 26

* Parking calculations based on 15% reduction for net square feet per approved Site Plan

** Parking Reduction per SUP # 98-0138