

EXHIBIT NO. 1

7
11-13-04

Docket Item #8
SPECIAL USE PERMIT #2004-0086

Planning Commission Meeting
November 4, 2004

ISSUE: Consideration of a request for a special use permit to add seats and extend the hours of operation at the existing restaurant.

APPLICANT: Firehook of Union Street, Inc., a Virginia Corporation
by Duncan Blair

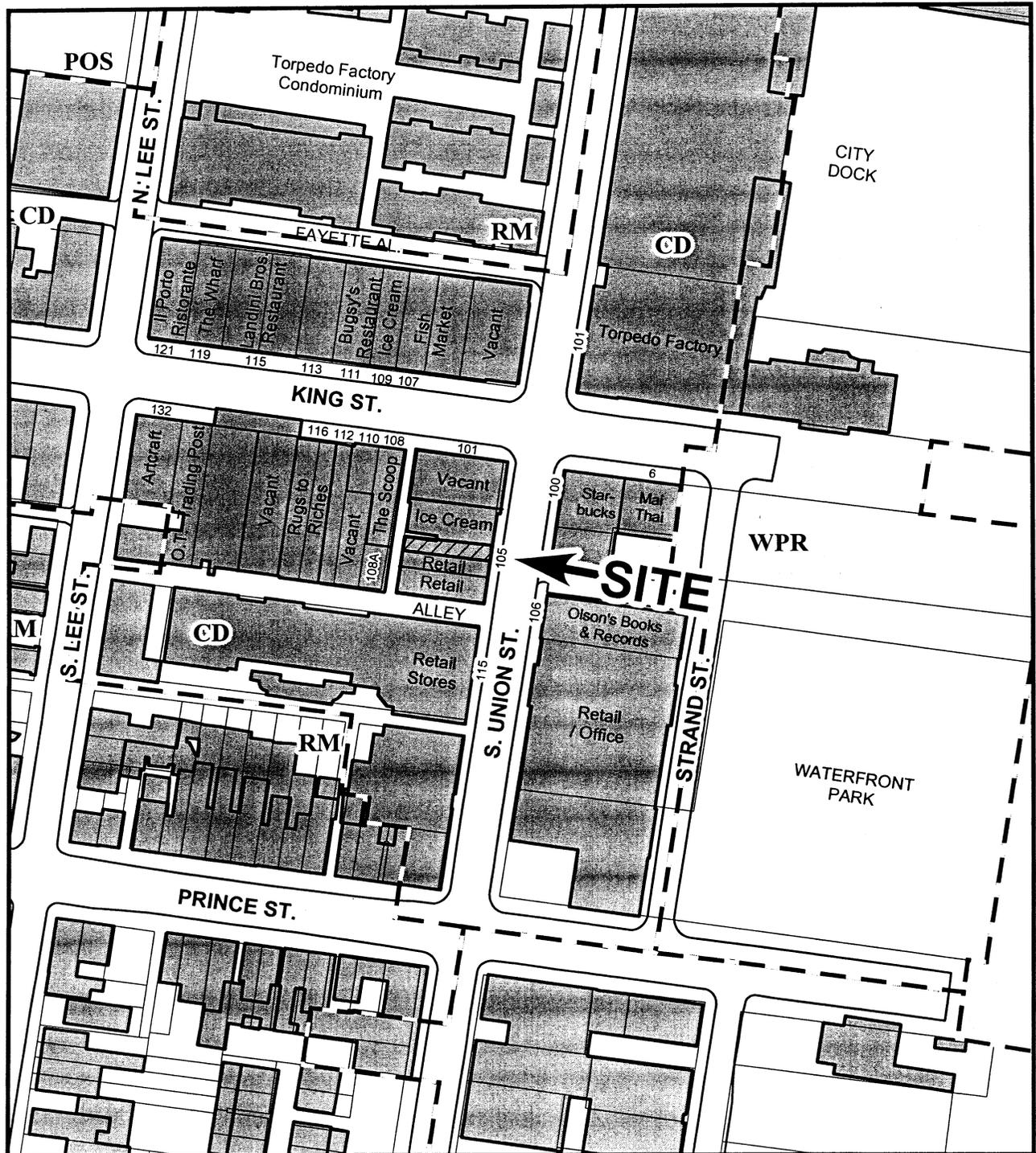
LOCATION: 105 South Union Street
Firehook Bakery

ZONE: CD/Commercial Downtown

PLANNING COMMISSION ACTION, NOVEMBER 4, 2004: 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 permit conditions found in Section III of this report.



SUP #2004-0086

11/04/04



I. DISCUSSION

REQUEST

The applicant, Firehook of Union Street, Inc., a Virginia Corporation, requests special use permit approval for the expansion of a restaurant located at 105 South Union Street.

SITE DESCRIPTION

The subject property is one lot of record with 26 feet of frontage on South Union Street, 70 feet of depth and a total lot area of 1,820 square feet. The site is developed with a two story commercial building.

BACKGROUND

On September 12, 1998, City Council granted Special Use Permit #98-0101 to the applicant to permit the operation of a restaurant/bakery. Since that time, the bakery was reviewed for minor violations and approved to continue operating.

PROPOSAL

The applicant proposes to add 19 seats to the existing ten, and to extend the hours of operation. After the bakery was flooded last year, it was remodeled and reconfigured in a way that creates more space for patron seating. The hours are proposed to change as follows:

	<u>Existing Hours</u>	<u>Proposed Hours</u>
Sunday-Thursday	7:00 a.m.–7:00 p.m.	6:00 a.m.–10:00 p.m.
Friday-Saturday	7:00 a.m.–9:00 p.m.	6:00 a.m.–11:00 p.m.

PARKING

The bakery is located in the Central Business District where parking is not required for restaurants. Employees are currently required to park off street.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CD/Commercial Downtown zone. Section 4-503(W) of the zoning ordinance allows a restaurant in the CD zone only with a special use permit. The proposed use is consistent with the Old Town Small Area Plan chapter of the Master Plan which designates the property for commercial use.

II. STAFF ANALYSIS

Staff does not object to the increase in seats and hours at Firehook. The bakery is not a destination restaurant, therefore will attract little vehicular traffic. The bakery serves mostly local residents, workers, and others visiting Old Town. The extended hours are reasonable, and earlier than many of the late night hours of restaurants in the surrounding area. Staff finds that the added seats and extended hours will have very little impact on the nearby residential area. Staff maintains the condition that employees must park off the street.

In order for the applicant to implement the requested number of seats, it must comply with Code Enforcement requirements as discussed at the back of this report. Staff included a condition that approval of this permit is contingent upon the applicant complying with all Code requirements.

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

III. RECOMMENDED CONDITIONS

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 #98-0101)
2. **CONDITION AMENDED BY STAFF:** Seating shall be provided for no more than ~~ten~~ 29 patrons. (P&Z) (~~SUP #98-0101~~)
3. No outside dining facilities shall be located on the premises. (P&Z) (SUP #98-0101)
4. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #98-0101)
5. **CONDITION AMENDED BY STAFF:** The closing hour shall be no later than 11:00 p.m. daily. (P&Z) ~~The hours of operation shall be limited to 7:00 a.m. to 7:00 p.m. Sunday through Thursday, and to 7:00 a.m. to 9:00 Friday and Saturday. (P&Z)~~ (~~SUP #98-0101~~)
6. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #98-0101)
7. Alcoholic beverages are not permitted. (P&Z) (SUP #98-0101)

8. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #98-0101)
9. 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 #98-0101)
10. 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 #98-0101)
11. The applicant shall install at least one trash container within the restaurant for customers' use. (P&Z) (SUP #98-0101)
12. One standard City trash container shall be furnished to the City of Alexandria for installation on the adjacent public right-of-way. (P&Z) (SUP #98-0101)
13. All disposable paper goods or drink containers shall be clearly marked so that the source of any litter can be identified. (P&Z) (SUP #98-0101)
14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #98-0101)
15. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors, and smoke and any other air pollution from operations at the site the property and to 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) ~~Health Department.~~ (Health) (SUP #98-0101)
16. The applicant will require its employees who drive to work to use off-street parking. (City Council) (SUP #98-0101)
17. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey of the business and a robbery awareness program for employees. (Police) (SUP #98-0101)
18. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval after it has been operational for one year, 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 which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding

community; (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 of the permit conditions, 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)

19. **CONDITION ADDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
20. **CONDITION ADDED BY STAFF:** Approval of this special use permit is contingent upon the applicant's compliance with all Code requirements. (P&Z)

STAFF: Eileen Fogarty, Director, Planning and Zoning;
Valerie Peterson, Urban Planner.

Staff Note: 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.

IV. 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 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.(T&ES)
- R-2 The applicant shall control cooking 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 & Environmental Services.(T&ES)
- R-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.(T&ES)
- R-4 No amplified sounds shall be audible at the property line.(T&ES)

Code Enforcement:

- F-1 The applicant is requesting seating for 29 patrons. The current Certificate of Occupancy (OCC2003-00536) limits the maximum occupant load (patrons and staff) to 25 persons with a restriction of 10 seated patrons within the structure and the remaining 15 persons balanced between carry out patrons and staff. The proposed request for 29 patrons cannot be supported under the existing Certificate of Occupancy. The applicant shall request a new Certificate of Occupancy for the requested increase. At the time of application, the applicant shall submit building plans prepared by a licensed architect or licensed engineer which provides existing conditions and construction type data as well as a recent plot plan showing the existing lot lines for the property. In addition, the applicant shall provide plans which show proposed conditions and provide data by the design professional which reflects the support of this request in accordance with the current edition of the Virginia Uniform Statewide Building Code (USBC).

- F-2 The existing restroom facilities cannot support the requested increase in occupant load for this Assembly use group. The applicant shall consult with a licensed engineer or licensed architect to provide a means of meeting this requirement under the USBC.
- C-1 The existing fire prevention code permit shall be modified for the proposed operation to reflect the increase in occupant load upon approval of a new Certificate of Occupancy. A revised egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit revision application.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- F-1 This facility is currently operating as Firehook Bakery & Coffee House under Alexandria Health permit, issued to Firehook of Union, Inc.
- 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 Establishment. There is a \$135.00 fee for review of plans for food facilities.
- C-3 Approval must be obtained prior to use of the modified areas.
- C-4 The facility must comply with the Alexandria City Code, Title 11, Chapter 10 Smoking Prohibitions.
- C-5 A Certified Food Manager must be on duty during all hours of operation.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- F-1 The applicant has had the security survey and robbery awareness program completed.
- F-2 The applicant is not applying for an ABC permit. The Police Department concurs with this. If in the future the applicant does apply for an ABC permit the following would apply:

Recommend "ABC On" license only. If "ABC Off" is approved we recommend the following conditions:

SUP#2004-0086
105 South Union Street

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.

REVISED

Special Use Permit # 2004-0086

APPLICATION for SPECIAL USE PERMIT # _____

PROPERTY LOCATION: 105 South Union Street, Alexandria, Virginia 22314

TAX MAP REFERENCE: 075.01 06 12

ZONE: CD/Commercial Downtown

APPLICANT Name: Firehook of Union, Inc., a Virginia corporation

Address: 105 South Union Street, Alexandria, Virginia 22314

PROPERTY OWNER Name: Lindsey Derich Partnership

Address: P. O. Box 57, Alexandria, Virginia 22313

PROPOSED USE: Expansion of existing Firehook Bakery restaurant by adding additional seating in the rear of 105 South Union Street and amendment to existing Special Use Permit condition number 5 to expand the hours of operation.

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.

Land, Clark, Carroll, Mendelson & Blair, P.C.

Duncan W. Blair, Esquire

Print Name of Applicant or Agent

Revised application submitted electronically by Duncan Blair, RMA

Signature

524 King Street

Mailing/Street Address

(703) 836-1000

Telephone #

(703) 549-3335

Fax #

dblair@landclark.com

Alexandria, Virginia 22314

City and State Zip Code

August 23, 2004

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.

Firehook of Union, Inc. is a Virginia corporation. KGP Holdings, Inc., a Delaware corporation, 214 North Fayette Street, Alexandria, Virginia 22314, owns one hundred (100%) percent of Firehook of Union, Inc.

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.

Floor plans are attached.

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)

Firehook of Union, a Virginia corporation (the "Applicant") is requesting a Special Use Permit to expand the number of seats permitted Firehook Bakery by adding nineteen (19) seats in the rear floor of 105 South Union Street pursuant to the City of Alexandria Zoning Ordinance, 1992, as amended (the "Ordinance") and to amend condition #5 of Special Use Permit 2000-0073 which governs the bakery/restaurant's hours of operation.

The Applicant is requesting the expansion of nineteen (19) new seats in the rear of 105 South Union Street to provide additional seating capacity in a casual setting for its patrons.

In addition, the Applicant is requesting the amendment of Special Use Permit 2000-0073, condition #5, governing the hours of operation of Firehook Bakery to open at 6:00 a.m. seven days a week and to close at 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday.

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).

No change from SUP 200-0073. It is the belief that the expansion will provide better

service to the Firehook Bakery's existing clientele.

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

No change from SUP 2000-0073.

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

Day:	Hours:
Sunday – Thursday	6:00 a.m. – 10:00 p.m.
Friday – Saturday	6:00 a.m. – 11:00 p.m.

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

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

No change from SUP 2000-0073.

- B. How will the noise from patrons be controlled?

No change from SUP 2000-0073.

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

No change from SUP 2000-0073.

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?

No change from SUP 2000-0073.

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

No change from SUP 2000-0073.

- C. How often will trash be collected?

No change from SUP 2000-0073.

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

No change from SUP 2000-0073.

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:

No change from SUP 2000-0073.

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:

No change from SUP 2000-0073.

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

No change from SUP 2000-0073.

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.

No change from SUP 2000-0073.

PARKING AND ACCESS REQUIREMENTS

14. Please provide information regarding the availability of off-street parking:

- A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

None. The Firehook Bakery is located within the Downtown Central Business District and is exempt from parking requirements.

- B. How many parking spaces of each type are provided for the proposed use:

 N/A Standard spaces
 Compact spaces
 Handicapped accessible spaces.
 Other.

- C. Where is required parking located? on-site off-site (check one)

If the required parking will be located off-site, where will it be located:

Not applicable.

Pursuant to Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

- D. If a reduction in the required parking is requested, pursuant to section 8-100 (A) (4) or (5) of the zoning ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

15. Please provide information regarding loading and unloading facilities for the use:

- A. How many loading spaces are required for the use, per section 8-200 (B) of the zoning ordinance? **NONE**
- B. How many loading spaces are available for the use? **No change from SUP 2000-0073.**
- C. Where are off-street loading facilities located? **No change from SUP 2000-0073.**

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

No change from SUP 2000-0073.

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

No change from SUP 2000-0073.

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?

No change from SUP 2000-0073.

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? N/A square feet.

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

_____ sq. ft. (existing) + _____ sq. ft. (addition if any) = _____ 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: _____

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

other, please describe: **Mixed use, downtown commercial structure.**

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: 29 At a bar: _____ Total number proposed: 29

2. Will the restaurant offer any of the following?

No alcoholic beverages No beer and wine (on-premises)

No beer and wine (off-premises)

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

No change from existing menu.

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

No table service No bar No carry-out Yes delivery

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

No change from SUP 2000-0073.

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

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

If yes, please describe:

No change from SUP 2000-0073.

~~SUPPLEMENTAL~~ 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

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.

No change from SUP 2000-0073.

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

 100 Maximum number of patron dining seats
 Maximum number of patron bar seats
 Maximum number of standing patrons
 Maximum number of patrons

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

3. Hours of operation:
(check one)

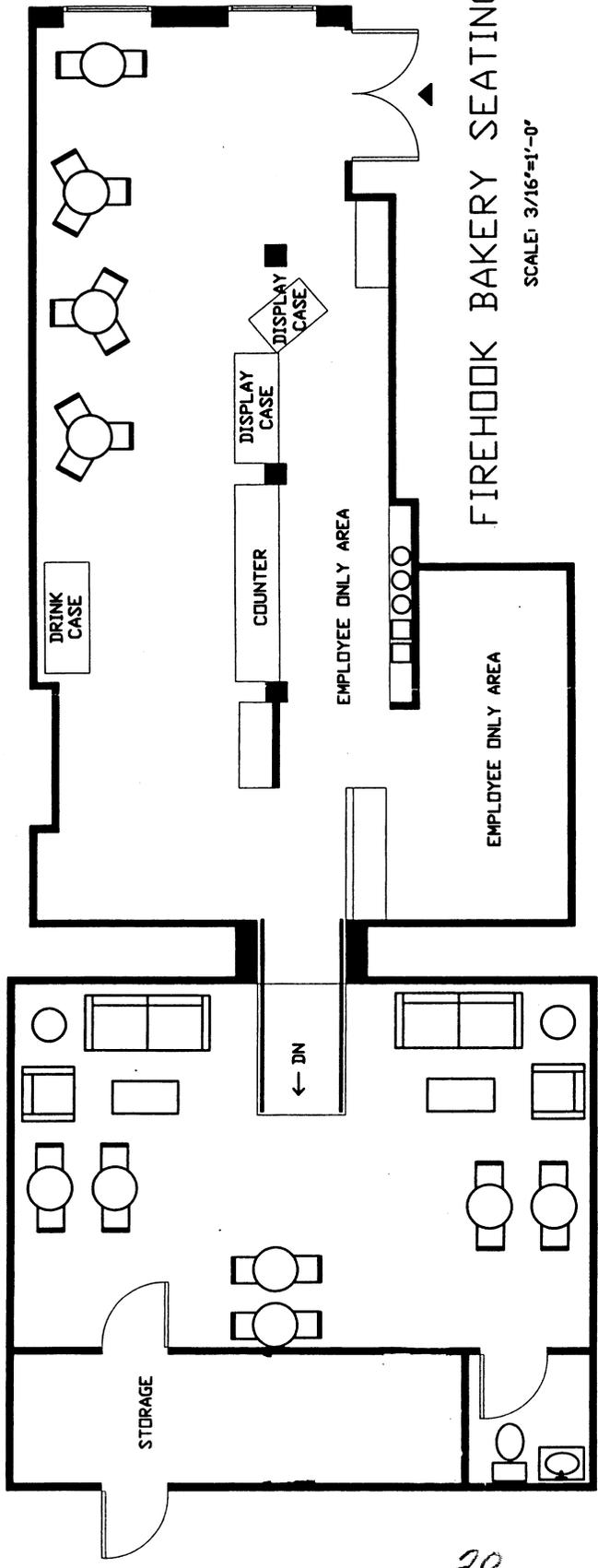
 Closes by 8:00 P.M.
 Closes after 8:00 P.M. but by 10:00 P.M.
 X Closes after 10:00 P.M. but by Midnight
 Closes after Midnight

[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

SHOWN AREA



FIREHOOK BAKERY SEATING PLAN

SCALE: 3/16"=1'-0"

4,6,7,8,11
11-13-04



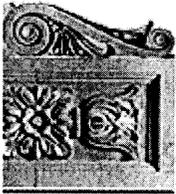
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To alexvamayor@aol.com, delpepper@aol.com,
council@joycewoodson.net, ahmacdonald@his.com,
rob@krupicka.com, PaulCSmedberg@aol.com,
cc Phil Sunderland/Alex@Alex, Ignacio Pessoa/Alex@Alex, Jackie
Henderson/Alex@Alex, Eileen Fogarty/Alex@Alex
bcc
Subject Responses to Questions About Items on the Saturday, November
13 Public Hearing Docket

Below for your information are responses from the Planning and Zoning Department to questions from Councilman Krupicka about November 13 docket items.

Michele

----- Forwarded by Michele Evans/Alex on 11/12/2004 06:48 PM -----



Hal Phipps/Alex
11/12/2004 04:38 PM

To Rob@Krupicka.com
cc Eileen Fogarty/Alex@Alex
Subject Restaurant Closing Hours and 7-11 Issues

This is the response that I promised to send you on restaurant closing hours for the four restaurant SUPs and the 7-11 issues. If there are any questions, please let me know.

Response to concerns on Docket Item #4, restaurant at 4551 Duke (Foxchase Center):

The applicant requested a closing hour of 12:00 midnight Monday through Saturday, and 10:00 p.m. on Sunday. Closing hours of restaurants within the Foxchase Shopping Center range from 10:00 p.m. to 12:00 midnight, depending on the night of the week. Staff recommends a closing hour of 12:00 midnight daily for two reasons: (1) to address Council's direction of providing more flexibility to applicants, and (2) because it does not anticipate any problems associated with late closing hours. The center is located on a busy and loud thoroughfare, has a variety of active uses with varying operating hours, and will be redeveloped with uses that most likely remain open and active during late night hours. Therefore staff finds that the 12:00 midnight closing hour is appropriate and compatible with the surrounding uses.

Response to concerns on Docket Item #6, restaurant at 820 S. Pickett:

The applicant requested a closing hour of 6:30 p.m. Monday through Friday, and 5:00 p.m. Saturday and Sunday. There are no restaurants in the immediate area to compare hours with, and because it is an industrial area, there would be few patrons during the evening hours that would

necessitate a late closing hour at this location. Staff recommended a closing hour of 9:00 p.m. daily to provide some flexibility in the event that the applicant may later choose to serve carryout patrons on their way home from work, and to be more consistent with the hours previously approved for a restaurant at this location.

Response to concerns on Docket Item #7, restaurant at 105 S. Union Street:

The applicant proposes extending the hours of operation to 11:00 p.m., which means that patrons may linger until 12:00 midnight, but not order more food and drink after 11:00 p.m. In the analysis section of the staff report, staff states that the requested hours are earlier than many of the restaurants in the area, many of which are 2:00 a.m. The Irish Restaurant was recently approved for a 1:00 a.m. closing hour. Staff found that the 11:00 p.m. closing hour provided enough flexibility to the applicant without causing negative impacts on the surrounding area.

Response to concerns on Docket Item #8, Los Tios restaurant at 2615 Mt. Vernon Ave:

In comparison to other restaurants in the area, staff found that the applicant's request for 10:00 p.m. closing hour was reasonable. Closing hours of restaurants in Del Ray generally range from 10:00 p.m. to 12:00 midnight, or earlier depending on the night of the week. In recent years, more restaurants have been approved for later closing hours, including Fireflies (12:00 midnight daily for indoor, 10:00 p.m. daily for outdoor) and Evening Star (11:00 p.m. Sunday through Thursday, 12:00 midnight Friday and Saturday, and 10:00 p.m. daily for the outdoor seating). Next month, you will see an application to extend the closing hours of the Caboose Bakery from 10:00 p.m. Monday through Saturday and 7:00 p.m. on Sunday, to 12:00 midnight daily.

At this point Los Tios is also requesting to double the number of indoor seats to 48 and to add 12 outdoor seats.

Response to concerns on Docket Item #11, the 7-Eleven:

Community Liaison

A condition requiring a neighborhood liaison has been required for other SUPs, and could be added. The applicant has agreed to such a condition. A condition has been written in other cases as follows:

“The applicant shall establish a community liaison and shall post at the entrance contact information for the liaison, and provide updated information as needed, so that neighbors can contact those individuals responsible for the facility to express concerns regarding facility operations.”

OR

“The applicant shall establish a community liaison to work with nearby neighbors on issues

related to the operation of the business.”

Litter, Public Urination, and Nuisance Activities

There are a number of conditions already in the SUP to control litter.

Condition #2 states: “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.”

Condition #6 states: “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 permitted to accumulate on site outside of those containers. Trash collection shall occur between 7:00 a.m. and 8:00 p.m.”

Condition #11 states: “The applicant shall provide the City \$1,678.00 for two Model SD-42 Bethesda Series litter receptacles, one of which shall replace the existing can, for installation on the adjacent public rights-of-ways Custis and Mt. Vernon Avenues. Contact T&ES Solid Waste Division (703)751-5130 for information.”

While the Kirkpatricks discussed concerns about litter and squirrels carrying litter to their property, another adjacent neighbor said that he did not experience this problem. He said that it would be very difficult to conclude that trash carried to the residence was from the 7-Eleven, when it could be from other residences or businesses in the area.

Regarding public urination and nuisance activities, these are issues that would be difficult to enforce through an SUP condition. However, the SUP requires compliance with “all applicable codes and ordinances,” and nuisance activities can be monitored through complaints to Police and Code Enforcement. Any complaints to these agencies are also considered during the one year review.

Use of the Back Alley

The use of the back alley for nuisance activities has been an issue for the Kirkpatricks in the past. There is a gate at the entrance to the alley to limit trespassing. The Kirkpatricks have stated that the gate is not always kept closed, and 7-Eleven responded by discussing with the adjacent neighbors that use the alley to keep the gate closed. Recently, 7-Eleven adjusted employee shift assignments so staff can verify that the gate is closed. A condition requiring that it be kept closed can be added, and may be written in the following way:

“ The gate at the entrance of the alley behind the 7-Eleven building shall be closed at night.”

Finally

Word from the applicant is that Mr. Donovan and Mr. Martz of 7-Eleven, Inc. will be meeting with Justin Wilson, Thomas Welsh, and Mary Ann Kirkpatrick on Tuesday November 16th to discuss how various concerns will be handled through the SUP and how any concerns not addressed by the SUP can be mitigated.

Hal Phipps
Division Chief, Zoning & Land Use Services
Department of Planning & Zoning
City of Alexandria, VA
703-838-3866 x367

REVISED

Special Use Permit # 2004-0086

APPLICATION for SPECIAL USE PERMIT # _____

PROPERTY LOCATION: **105 South Union Street, Alexandria, Virginia 22314**

TAX MAP REFERENCE: **075.01 06 12**

ZONE: **CD/Commercial Downtown**

APPLICANT Name: **Firehook of Union, Inc., a Virginia corporation**

Address: **105 South Union Street, Alexandria, Virginia 22314**

PROPERTY OWNER Name: **Lindsey Derich Partnership**

Address: **P. O. Box 57, Alexandria, Virginia 22313**

PROPOSED USE: Expansion of existing Firehook Bakery restaurant by adding additional seating in the rear of 105 South Union Street and amendment to existing Special Use Permit condition number 5 to expand the hours of operation.

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.

Land, Clark, Carroll, Mendelson & Blair, P.C.

Duncan W. Blair, Esquire

Print Name of Applicant or Agent

Revised application submitted electronically by Duncan Blair. KMS

Signature

524 King Street

Mailing/Street Address

(703) 836-1000

Telephone #

(703) 549-3335

Fax #

dblair@landclark.com

Alexandria, Virginia 22314

City and State Zip Code

August 23, 2004

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

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

ACTION - PLANNING COMMISSION: 11/04/2004 RECOMMENDED APPROVAL UC

ACTION - CITY COUNCIL: 11/13/04 CC approved the Planning Commission recommendation. 7-0

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