

DATE: September 23, 2010

TO: Barbara Ross, Deputy Director
Department of Planning and Zoning

FROM: Nathan Randall, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2010-0046
Administrative Special Use Permit Review
Site Use: Restaurant
Applicant: Bolital, LLC
Location: 818 North Saint Asaph Street
(Parcel Address: 600 Montgomery Street)
Zone: CD-X/Commercial Down Town (Old Town North)

Request

Special Use Permit #2010-0046 is a request to operate outdoor dining at the applicant's existing restaurant, known as Villa D'Este, at 818 North Saint Asaph Street. Although the applicant originally proposed 12-14 seats in one outdoor dining area, the proposal has been revised down to 10 outdoor dining seats in two outdoor dining areas. The applicant's proposal requires approval of an encroachment ordinance (ENC#2010-0006), which is scheduled to be heard by Planning Commission and City Council in October. Because the entire outdoor dining area is located on public right-of-way, the applicant may not operate the outdoor dining until the encroachment ordinance has been approved.

One outdoor dining area is proposed to be located to the right of the restaurant's North Saint Asaph Street entrance and will measure approximately 5.5 feet wide by 19.33 feet long. The other area, located to the left of the restaurant's entrance, will measure approximately 5.66 feet wide by 16 feet long. The final dimensions of each area are subject to change during the encroachment approval process.

The applicant proposes to operate the outdoor dining between the hours of 11:30am and 10:00pm daily, except for a break in the mid-afternoon each day and closing hour of 9:00pm on Sundays. No live entertainment is proposed for the outdoor dining area.

Background

On June 16, 1990, City Council approved SUP #2346 to Aman Sulaimani for the operation of a 99-seat restaurant. Previous to this approval, on May 10, 1990, the Board of Zoning Appeals approved a 25-space parking variance (BZA #5992), which reduced the restaurant's parking requirement to zero. Staff administratively approved a change of ownership (SUP#96-0096) to Bolital, LC on June 11, 1996.

On August 11, 2010, staff visited the subject property and found no violations of the conditions of Special Use Permit #96-0096. Staff has not received any complaints that would require staff to docket the special use permit for public hearing.

Parking

The restaurant is not required to provide parking for its 99 interior seats due to the parking variance (BZA#5992) approved by the Board of Zoning Appeals on May 10, 1990. The applicant has agreed to shift ten seats from inside the restaurant to the outdoor dining area in connection with this request. As a result there will be no increase in the overall number of seats at the restaurant and no additional parking will be required.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, the Old Town North Community Association and North Old Town Independent Citizens' Civic Association were sent e-mails with information about the current application. Staff received one letter of support for the proposal from the Old Town North Community Partnership. Staff has not received any comments from residents or adjacent businesses that would require staff to docket the Special Use Permit for public hearing.

Staff Action

Staff supports the applicant's request for outdoor dining at this location and believes it will add a positive level of activity to this site. Pedestrian movement along the sidewalk will not be impacted by the proposal because the entire outdoor dining area will be located between the building wall and the existing sidewalk.

The applicant's original outdoor dining plan included a wooden deck surface and too many seats for the amount of space proposed. Staff has worked with the applicant to create a revised outdoor dining plan (see attached) that expanded the outdoor dining into two areas on either side of the restaurant's North Saint Asaph Street entrance and now includes a brick surface.

Although the proposal requires the removal of two small trees (one of which is potted) and a few small shrubs and ground-level plants, staff believes the benefits of outdoor dining here outweigh the removal of a small amount of minor landscaping. The proposal will not impact the more substantial landscaping on the site, and staff is including condition language to preserve two medium-sized trees located just outside of the outdoor dining areas. As an added measure, staff has included condition language in this report that will require the applicant to include planters as a part of its outdoor dining barrier.

Since the site is located within the Old & Historic Alexandria District, staff has included condition language requiring all elements of the outdoor dining area, including furniture, barriers and any umbrellas, to be consistent with the King Street Outdoor Dining Design Guidelines to the satisfaction of the Director. Finally, staff notes that it has recommended hours of operation for the outdoor dining area that are somewhat longer than the applicant proposes in order to provide increased flexibility in restaurant operations.

Staff finds that request is consistent with the outdoor dining standards contained in Section 11-511(M) of the Zoning Ordinance and hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: September 29, 2010

Action: Approved

Barbara Ross, Deputy Director

Attachments: 1) Special Use Permit Conditions
2) City Department Comments
3) Statement of Consent

CONDITIONS OF SPECIAL USE PERMIT #2010-0046

The applicant is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral to public hearing by the Planning Commission and City Council.

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&CD) (SUP 2346)
2. **CONDITION AMENDED BY STAFF:** Seating shall be provided inside for no more than ~~99~~ 89 patrons. The maximum number of outdoor seats permitted at the restaurant shall be 10. (P&CD)-(SUP 2346) (P&Z)
3. **CONDITION AMENDED BY STAFF:** The maximum hours of operation for indoor seats at during which the restaurant is open to the public shall be limited to shall be between 11:30 A.M. to 11:30 P.M., Sunday to Thursday, and 11:30 to 1:30 A.M., Friday and Saturday, as requested by the applicant. The maximum hours of operation for outdoor seats at the restaurant shall be between 11:30am and 10:00pm daily. The outdoor dining area shall be closed and cleared of all customers by 10:00pm daily and shall be cleaned and washed at the close of each business day that it is in use. (P&Z) (SUP 95-0035)
4. No food, beverages, or other material shall be stored outside. (P&CD) (SUP 2346)
5. **CONDITION AMENDED BY STAFF:** ~~Trash and garbage shall be stored inside or in a dumpster.~~ Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&Z) (P&CD)-(SUP 2346)
6. Trash and garbage shall be collected daily when the business is open. (P&CD) (SUP 2346)
7. **CONDITION DELETED BY STAFF:** ~~No outside dining facilities shall be located on the premises.~~ (P&Z) (SUP 95-0035)
8. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP 95-0035)
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 95-0035)
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 95-0035)

11. **CONDITION AMENDED BY STAFF:** All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line. (P&Z) (T&ES) (SUP-95-0035)
12. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit 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 the 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) (SUP-95-0035)
13. **CONDITION SATISFIED AND DELETED BY STAFF:** The applicant shall provide funds to plant three ornamental trees along North St. Asaph Street (3 trees x \$150 ea. = \$450.00). (Arborist)(SUP-95-3500)
14. **CONDITION ADDED BY STAFF:** The applicant shall submit a final outdoor seating plan for review and approval consistent with the King Street Outdoor Dining Guidelines to the satisfaction of the Director of Planning & Zoning. The plan shall depict the design, location, size and space of the dining area, chairs, tables, barriers, umbrellas, planters, wait stations, patio surface and other components to be located within the area, and such additional information as the Director may reasonably require. Barriers used in the outdoor dining area shall incorporate the use of planters. The outdoor seating area shall not include advertising signage, including on umbrellas. (P&Z)
15. **CONDITION ADDED BY STAFF:** Outdoor dining shall be consistent with all terms and conditions of Encroachment #2010-0006. No part of the outdoor dining use, including planters, wait stations, and barriers, shall encroach onto the public right-of-way, except as permitted in Encroachment #2010-0006, unless authorized by an another encroachment ordinance. (P&Z)
16. **CONDITION ADDED BY STAFF:** The two trees shown on either edge of the outdoor dining areas on the outdoor dining plan dated September 21, 2010 shall not be removed in connection with the new outdoor dining area and must be preserved. Should either tree be removed in violation of this condition, the Director may require the applicant to provide replacement landscaping at the applicant's expense. (P&Z)
17. **CONDITION ADDED BY STAFF:** The applicant shall maintain a minimum 6' wide unobstructed sidewalk. (T&ES)
18. **CONDITION ADDED BY STAFF:** The brick surface material proposed for the encroachment area shall be approved by the Director of Transportation & Environmental Services and shall be flush with the existing sidewalk. (T&ES)

19. **CONDITION ADDED BY STAFF:** On-site alcohol service is permitted inside the restaurant and in the outdoor dining area. No off-premises alcohol sales are permitted. (P&Z)
20. **CONDITION ADDED BY STAFF:** No delivery service shall operate from the restaurant. (P&Z)
21. **CONDITION ADDED BY STAFF:** Live entertainment is permitted at the restaurant as approved in Special Use Permit #95-0035. Dancing shall be restricted to Friday and Saturday nights only and to a maximum of 50 people at any one time. (P&Z)
22. **CONDITION ADDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements and methods to prevent underage sales of alcohol. (P&Z)
23. **CONDITION ADDED BY STAFF:** The applicant shall provide information about alternative forms of transportation to access the location of the use, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. (P&Z)
24. **CONDITION ADDED BY STAFF:** At such time as an organized parking program is adopted by City Council to assist with employee or customer parking for the area in which the subject property is located, such as a shared parking program or the Park Alexandria program, the applicant shall participate in that program. (P&Z)
25. **CONDITION ADDED BY STAFF:** The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. (P&Z) (T&ES)
26. **CONDITION ADDED BY STAFF:** The applicant shall maintain a minimum six-foot wide unobstructed sidewalk along North Saint Asaph Street. (T&ES)
27. **CONDITION ADDED BY STAFF:** 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)
28. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
29. **CONDITION ADDED BY STAFF:** The applicant shall contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business and robbery readiness training for employees prior to the operation of the business. (P&Z)

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. (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 All 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 Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 Live entertainment is prohibited from the outdoor seating area. (T&ES)
- R-6 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. (T&ES)
- R-7 The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. (T&ES)
- R-8 Maintain minimum 6' wide unobstructed sidewalk. (T&ES)
- R-9 Brick proposed for outdoor dining area shall be flush with the existing sidewalk. (T&ES)
- 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. (T&ES)
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (TES) (SUP2010-0031)

In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of City Council approval.

Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at commercialrecycling@alexandriava.gov, for information about completing this form.

Code Enforcement:

- C-1 The proposed space used for outdoor seating with tables must provide a minimum of 15 square feet per person.
- C-2 Any configuration of outdoor seating shall comply with the following conditions:
- Fire Dept. Connections must remain accessible - not be blocked by tables or fixtures.
 - Daily Sweeping/washing of outdoor dining area is recommended to control rodent activity.
 - Fire Hydrants shall not be obstructed by tables, chairs or other fixtures.
 - The configuration of any outdoor seating shall not obstruct or diminish the required egress from the structure or any adjacent structures.
- C-3 Any increase in occupancy must be supported by the required number of restroom facilities within the structure in accordance with the USBC / International Plumbing Code.
- C-4 Any increase in occupancy will only be considered for the exterior of the structure and will not modify the approved interior approved occupant load. At no time shall any approved outdoor seating be incorporated inside due to foul weather or other situations.

Health Department:

- F-1 This facility is currently operating as Villa D'Estes under an Alexandria Health permit, issued to Bolital LLC T/A Villa D'Estes.
- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- 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 \$ 200.00 fee for review of plans food facilities (Payable to City of Alexandria).
- C-4 Permits or approval must be obtained prior to the use of new area(s).
- C-5 The 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 and equipment to be handled at this facility to the Health Department with your plan.

Police Department:

F-1 The Police Department has no objections to the request for outdoor dining.