

EXHIBIT NO. 1

8  
5-12-01

Docket Item #7  
SPECIAL USE PERMIT #2001-0028

Planning Commission Meeting  
May 1, 2001

**ISSUE:** Consideration of a request for a special use permit to change the ownership of the existing restaurant.

**APPLICANT:** 710 King Street LLC  
by Mustapha Meliani

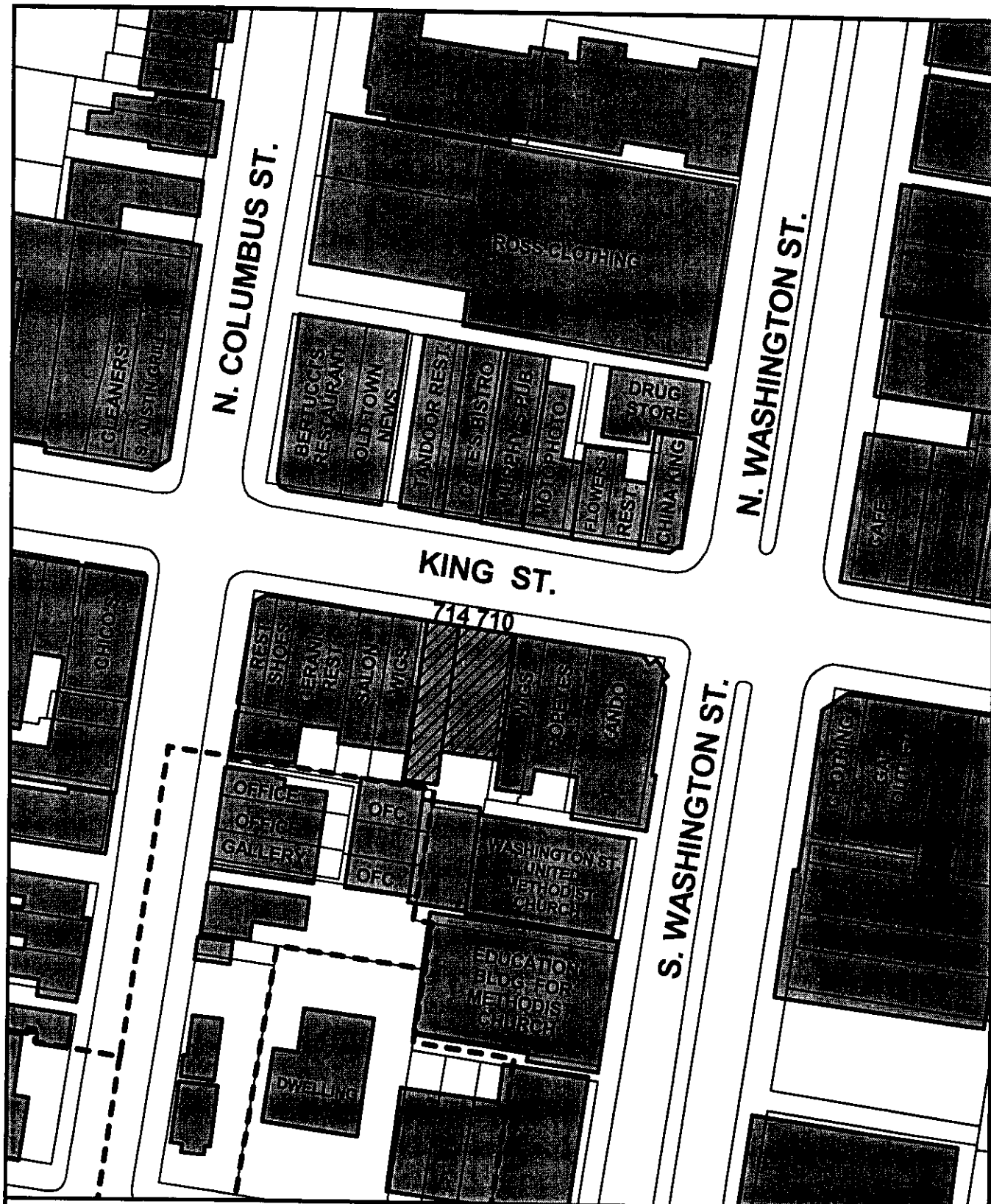
**LOCATION:** 710 – 714 King Street

**ZONE:** CD/Commercial Downtown

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**PLANNING COMMISSION ACTION, MAY 1, 2001:** 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.



SUP #2001-0028

05/01/01



STAFF RECOMMENDATION:

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

1. That the special use permit be issued to the applicant only or to any corporation or entity in which the applicant has a controlling interest. (P&Z)(SUP 1498)
2. That the hours of operation be limited to 11:00 A.M. to 11:00 P.M. Sunday through Thursday, and 11:00 A.M. to 1:00 A.M. on Friday and Saturday. (P&Z) (PC) (SUP #97-0005)
3. 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 #97-0005)
4. **CONDITION AMENDED BY STAFF:** Seating shall be provided for no more than ~~80~~ 205 patrons. Seating shall include at least eleven four person tables on the ground floor of the restaurant space at 714 King Street within the space now used for dining. ~~Las Tapas customers may also be served in the seats authorized for the first floor of La Costa Del Sol next door.~~ (P&Z) (SUP #97-0005) (P&Z)
5. **CONDITION AMENDED BY STAFF:** ~~No live entertainment shall be provided at the restaurant except that Las Tapas customers may participate in the limited entertainment permitted on the first floor of La Costa Del Sol next door.~~ Live entertainment may be provided at the restaurant as follows:
  - (A) (1) Flamenco dancing and demonstration with acoustic guitar players and a maximum of two professional dancers may occur on an occasional basis; (2) dancing, with demonstration and instruction, may occur twice each week, to include a disc jockey playing recorded music with one amplifier, one receiver, and two 200 watt speakers; and (3) a single acoustic guitar player may be present in each restaurant daily.
  - (B) All dancing and amplified music must cease by 11:00 p.m. No standing customers are permitted.

(C) All entertainment must be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring the food service as well as the entertainment. (P&Z)

6. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)(SUP #97-0005)
7. The applicant may serve mixed drinks, beer and wine for on-premise consumption only. (P&Z)(SUP #97-0005)
8. Service in the bar area shall be limited to 10 people seated on bar stools. (P&Z) (SUP #97-0005)
9. No food, beverages, or other material shall be stored outside. (P&Z)(SUP #97-0005)
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 #97-0005)
11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #97-0005)
12. The applicant shall require that its employees who drive to work use off-street parking. (CC) (SUP 99-0094)
13. The applicant shall (a) provide subsidized parking for all patrons under the Park Alexandria program during evenings and weekends in a public parking garage, (b) advertise such parking by posting notice at its restaurant and including such notice in any advertising, and (c) urge patrons who drive to use the space. (P&Z) (SUP #97-0005)
14. The applicant shall post signs directing patrons to the availability of discounted validated parking at the Church Square garage located at the 100 block of North Alfred Street. City Council hereby authorizes an agreement with the garage to allow restaurant parking in the garage consistent with this approval. (P&Z) (SUP #98-0055)

15. On each anniversary of the approval of the special use permit, the applicant shall provide to the Director of Planning and Zoning a copy of the lease or other arrangement by which the applicant makes off-street parking available for customers and employees. (P&Z) (SUP #98-0055)
16. The applicant shall employ the best cost-effective technology available to control odors at the time this permit takes effect, to the satisfaction of the Director of Health. (P&Z) (SUP #97-0005)
17. **CONDITION AMENDED BY STAFF:** The new 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 #97-0005) (P&Z)
18. **CONDITION RETAINED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after Council 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, 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 #99-0094) (P&Z)
19. No music or noise shall be audible at the property line, the two restaurants together construed as occupying one lot. (P&Z) (SUP #98-0055)

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**Staff Notes:** Meals ordered before the closing hour may be served, but no new patrons may be admitted and no alcoholic beverages may be served after the closing hour, and all patrons must leave by one hour after the closing hour.

DISCUSSION:

1. The applicant, 710 King Street LLC, by Mustapha Meliani, requests special use permit approval to change the ownership of the existing restaurant located at 710 – 714 King Street.
2. The subject property is one lot of record with an area of 1,730 square feet, approximately 17.3 feet of frontage along King Street, and a depth of 100 feet.
3. A restaurant has been operated in this location and next door at 710 King Street since 1982 when Council granted Special Use Permit #1498 to Kai Dong. Since that approval the ownership of the restaurant has changed hands. Most recently, Council reviewed the special use permit in October 1999. Special Use Permits to this and the next door restaurant have previously been issued separately, but staff has now combined them into a single permit.
4. Condition #18 of the existing permit requires a review of the restaurant one year after approval. Staff inspected the property at 710 and 714 King Street on December 29, 2000, observed violations of the seating requirements, and issued citations (see attached).

In addition, staff did not see a sign posted directing patrons to the availability of subsidized off-street parking as required by Condition #14 and was unable to determine from the previous operator whether it offered subsidized parking to patrons. Staff has explained to the prospective operator that it must provide this parking subsidy to patrons and post signs.

5. Staff docketed the permit for review by the Planning Commission and City Council in March 2001 but learned shortly thereafter that the restaurant was closed and had been sold to new owners (see attached letter). The new applicant and operator, Mr. Meliani, requests special use permit approval to change the ownership of the restaurant. No changes to the operation of the restaurant are proposed. Staff has spoken at length with the applicant regarding the violations it observed in December 2000 and the requirement that he comply with all of the permit conditions.
6. During its inspection, staff also noted that access between Las Tapas and La Costa Del Sol has been provided on the second floor, so that patrons may walk between the two restaurant, as well as on the first floor.

STAFF ANALYSIS:

Staff has no objection to the continued operation of the restaurant at 710-714 King Street. Staff has not received any complaints from nearby residents or City departments regarding the operation of the restaurant. However, staff is concerned about the violations it observed and recommends that the permit be reviewed one year from this approval in order to determine the applicant complies with the special use permit conditions. With this condition, staff recommends approval of the special use permit.

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

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- C-1 That the applicant comply with the City of Alexandria's Noise Control Code, Chapter 11, Section 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties as determined by the Department of Transportation and Environmental Services.
- R-2 Kitchen or other types equipment shall not be cleaned outside, nor shall any cooking residue or other wastes be washed into the streets, alleys, sidewalks or storm sewers.

Code Enforcement:

- C-1 A new fire prevention permit is required due to the change in ownership.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 This facility must meet current Alexandria City Code requirements for food establishments. Contact Environmental Health at 703-838-4400 EXT. 250 to arrange for an inspection.
- C-4 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-5 Permits must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10,. Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- C-8 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
- C-9 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 Security survey for the business.
- R-2 Robbery awareness program for all employees.
- R-3 Recommend “ABC On” license only. If “ABC Off” is approved, we recommend the following conditions:
  - 1. Beer or wine coolers may be sold only in 4-packs, 6-packs of 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. The SUP be reviewed after one year.

APPLICATION for SPECIAL USE PERMIT # 2001-0028

[x] Change of Ownership or [ ] Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 710-714 King Street, Alexandria, VA 22314

TAX MAP REFERENCE: 074.02-10-07 ZONE: CD

APPLICANT Name: 710 King Street, L.L.C., a Virginia limited liability company

Address: 710 King Street, Alexandria, VA 22314

PROPERTY OWNER Name: King Alex, L.L.C., a Va. limited liability company

Address: 710 King Street, Alexandria, VA 22314

SITE USE: Restaurant

THE UNDERSIGNED hereby applies for a Special Use Permit for Change in Ownership, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.

THE UNDERSIGNED hereby applies for a Special Use Permit for Minor Amendment, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

710 King Street, L.L.C.  
Print Name of Applicant or Agent

710 King Street  
Mailing/Street Address

Alexandria, VA 22314  
City and State Zip Code

  
Signature  
Mustapha Melani, Manager

(703) 836-4000 (703) 836-4468  
Telephone # Fax #

Cell (202) 320-8260

March 5, 2001  
Date

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

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

ADMINISTRATIVE ACTION: \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director, Planning & Zoning

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 99-0094

Date approved: 10 / 16 / 99  
month day year

Name of applicant on most recent special use permit EPS, Inc.

Use RESTAURANT

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

The existing RESTAURANT has operated for about 5  
years. This Applicant proposes no significant changes,  
other than to improve quality of food and service  
and comply with all appropriate laws and  
regulations. This Applicant was the successful  
bidder to a court-appointed special receiver.

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in 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, any noise emitted by the use, etc. (Attach additional sheets if necessary)

*No proposed changes AT this time.*

SUP # ~~99-0094~~  
2001-0028

4. Is the use currently open for business?  Yes  No

If the use is closed, provide the date closed. APPROX. Feb. / 15 / 2001  
month day year

5. Describe any proposed changes to the conditions of the special use permit:

None at this time

6. Are the hours of operation proposed to change?  Yes  No  
If yes, list the current hours and proposed hours:

Current Hours:	Proposed Hours:
_____	_____
_____	_____
_____	_____
_____	_____

7. Will the number of employees remain the same?  Yes  No  
If no, list the current number of employees and the proposed number.

Current Number of Employees:	Proposed Number of Employees:
_____	_____

8. Will there be any renovations or new equipment for the business?  Yes  No  
If yes, describe the type of renovations and/or list any new equipment proposed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Are you proposing any change in the sales or service of alcoholic beverages?  Yes  No  
If yes, describe proposed changes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. Is off-street parking provided for your employees?  Yes \_\_\_ No  
If yes, how many spaces, and where are they located?

Both patrons and employees will be  
encouraged to park in the Church Square garage

11. Is off-street parking provided for your customers?  Yes \_\_\_ No  
If yes, how many spaces, and where are they located?

See Above

12. Is there a proposed increase in the number of seats or patrons served? \_\_\_ Yes  No  
If yes, describe the current number of seats or patrons served and the proposed number of seats and patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

Proposed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Are physical changes to the structure or interior space requested? \_\_\_ Yes  No  
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? \_\_\_ Yes  No  
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. The applicant is the (check one) \_\_\_ Property owner  Lessee

\_\_\_ other, please describe: \_\_\_\_\_

16. The applicant is the (check one) \_\_\_ Current business owner  Prospective business owner

\_\_\_ other, please describe: \_\_\_\_\_

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

710 King Street, LLC, is a Virginia limited liability  
company. Its owners are Mustapha Meliani, Said Oudghiri,  
and Abid KARAKCHOV. Together they have been in  
the restaurant business for 25 years, currently owning 2  
successful restaurants in Washington, DC.

2001-0028

Special Use Permit # ~~99-0094~~

**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: 70 At a bar: 10 Total number proposed: 80

2. Will the restaurant offer any of the following?

alcoholic beverages       beer and wine (on-premises)  
 beer and wine (off-premises)

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

SPANISH / MEDITERRANEAN

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

table service     bar     carry-out     delivery

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

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.     No.

If yes, please describe: SEE SPECIAL USE PERMIT 99-0093  
for 710 King St. (adjoining space)



**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% *BUT we have no operating experience to date*
    - 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.

Alcohol Consumption and Late Night Hours

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

	<u>70</u>	Maximum number of patron dining seats
	<u>10</u>	Maximum number of patron bar seats
+	<u>N/A</u>	Maximum number of standing patrons
<hr/>		
	<u>80</u>	Maximum number of patrons

2. 25 Maximum number of employees by hour at any one time (for both locations)

3. Hours of operation: SAME AS EXISTING RESTAURANT  
(check one) 11-11 M-TH 11-1AM Fri. + SAT.

- Closes by 8:00 P.M.
- 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
- Low ratio of alcohol to food

APPLICATION for SPECIAL USE PERMIT # 2001-0028

[x] Change of Ownership or [ ] Minor Amendment

[must use black ink or type]

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TAX MAP REFERENCE: 074.02-10-07 ZONE: CD

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SITE USE: Restaurant

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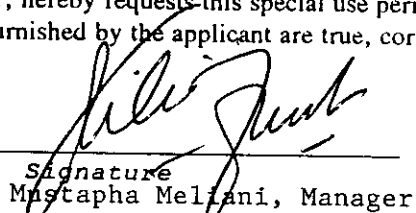
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710 King Street, L.L.C.  
Print Name of Applicant or Agent

710 King Street  
Mailing/Street Address

Alexandria, VA 22314  
City and State Zip Code

  
Signature  
Mostapha Melani, Manager

(703) 836-4000 (703) 836-4468  
Telephone # Fax #

Cell (202) 320-8260

March 5, 2001  
Date

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

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

ADMINISTRATIVE ACTION: 5-1-01 Recommended Approval UC

**ACTION -- CITY COUNCIL: 5/12/01PH -- See Attached. (Separate Motion)**

\_\_\_\_\_  
Date Director, Planning & Zoning

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

ACTION CONSENT CALENDAR (continued)

Planning Commission (continued)

5. City Council approved the Planning Commission recommendation.
6. City Council approved the Planning Commission recommendation.
7. City Council approved the Planning Commission recommendation.
8. Councilman Speck directed questions to Deputy Director of Planning and Zoning Ross with respect to combining the two separate permits into one and which now creates a single, much larger, restaurant.

City Council approved the Planning Commission recommendation. **(Separate Motion)**

9. City Council approved the Planning Commission recommendation.
10. City Council approved the Planning Commission recommendation.
11. Members of City Council, Deputy Director of Planning and Zoning Ross, and Mr. Riegle, attorney for the applicant, participated in a discussion on this item.

Councilman Speck stated his interest to the church and to City staff that if it looks like the shuttle system is not as ideal as hoped, that the City will take a look at something, that might have only a Sunday utilization, that might help to get pedestrians back and forth across the street.

Mayor Donley expressed concern about the agreement that the church has with the medical complex across the street, which is a one-year agreement, and if that agreement goes away after one year, there's a major problem particularly if they own the site. They are going to have to find a way to make it work, and clearly there is not sufficient parking nearby or on the south side of Duke Street in that regard.

Councilman Euille noted that off of Roth Street there is a warehouse building that is currently being occupied by a business, and they have created some additional parking. He queried the attorney for the applicant if he has approached them to possibly lease some spaces on Sundays.

Greg Riegle, attorney for the applicant, indicated that they have considered all of the very legitimate concerns that Council has raised, particularly the Mayor's. He expressed that the Mayor is correct that they are acquiring the property, and that they are the ones sitting in the position of risk as much as anyone, owning the building and improving it. The church's ultimate goal is to acquire an ownership interest in property. The staff has correctly summarized the nature of the relationship with the medical plaza which has since strengthened their letters indicating the year-by-year renewal is simply to account for the maintenance costs and not any intent to pull it back. We understand the risk. We respect the risk.