

EXHIBIT NO. 1

13
12-15-01

Docket Item #2-B
ENCROACHMENT #2001-0007

Planning Commission Meeting
December 4, 2001

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

APPLICANT: Ahmad Amarlooi

LOCATION: 315 Madison Street
Montgomery Center - Flatbreads

ZONE: CRMU-X/Commercial Residential Mixed Use

PLANNING COMMISSION ACTION, DECEMBER 4, 2001: By unanimous consent, the Planning Commission recommended denial of the request.

Reason: Although the applicant had not requested that the case be taken off the consent agenda, the Planning Commission asked that future cases for which denial is recommended not be heard as a consent item. The Planning Commission also discussed reconsidering the case either immediately or at the next Planning Commission hearing, and the applicant was given that option. The applicant expressed a preference for proceeding to City Council and agreed to meet with staff about the merits of the case prior to that time.

Speakers:

Ahmad Amarlooi, the applicant, and Roger Machanic, the property owner, were present.

PLANNING COMMISSION ACTION, NOVEMBER 8, 2001: The Planning Commission noted the deferral of the request.

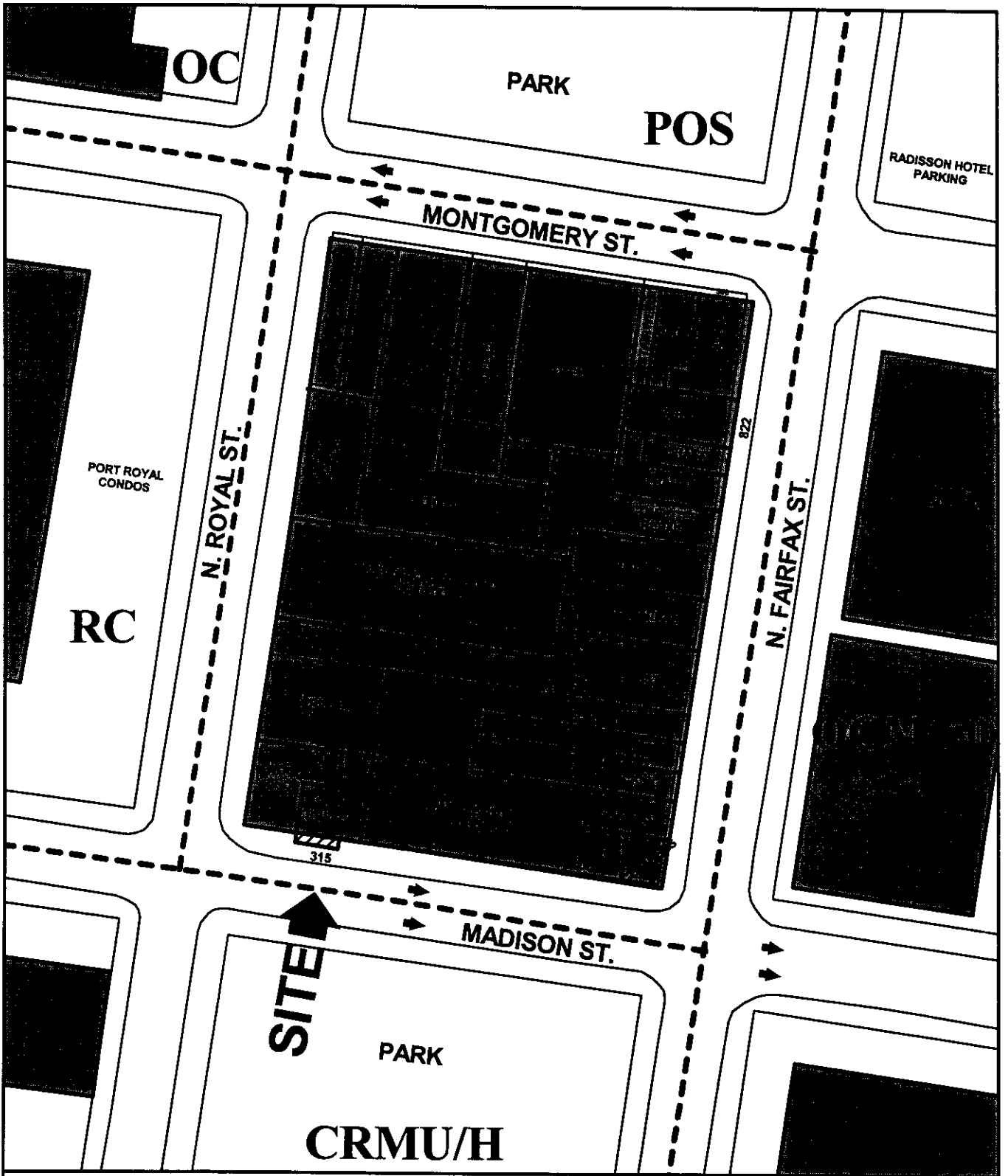
Reason: The applicant failed to comply with the requirements for legal notice.

PLANNING COMMISSION ACTION, OCTOBER 2, 2001: The Planning Commission noted the deferral of the request.

Reason: The applicant failed to comply with the requirements for legal notice.

PLANNING COMMISSION ACTION, SEPTEMBER 4, 2001: The Planning Commission noted the deferral of the request.

Reason: The applicant failed to comply with the requirements for legal notice.



ENC #2001-0007

12/04/01



SUMMARY

The applicant requests permission to offer some outdoor seats in the green landscaped area in front of the restaurant located at 315 Madison Street. Although staff supports outdoor dining because it adds vitality to the streetscape and provides an amenity for area residents and business people, staff cannot recommend approval of the seating at the loss of the existing mature landscaping.

STAFF RECOMMENDATION:

Staff recommends **denial** of the request. If Council approves the request, staff recommends approval subject to compliance with all applicable codes and ordinances and the following conditions:

1. The applicant (and his or her successors, if any) obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his or her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (P&Z) (City Atty)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City. (P&Z)
3. No seating shall encroach on the public right-of-way. (P&Z)

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

DISCUSSION:

1. The applicant, Ahmad Amarlooi, requests encroachment approval for outdoor dining for the restaurant located at 315 Madison Street.
2. The subject property is one lot of record which encompasses most of an entire city block with approximately 250 feet of frontage on Madison and Montgomery Streets, and 362 feet of frontage along North Fairfax and North Royal Streets. The Montgomery Center is a mixed use development of 92,395 square feet.
3. The applicant requests permission to provide a total of 12 seats at six tables outdoors to be situated in front of the restaurant on Madison Street.
4. The proposed seating area will extend approximately 4' 10" feet from the front of the building onto a grassy area adjacent to the sidewalk and extend 30 feet along the sidewalk. In order to provide seating in this location, the applicant will remove the existing shrubs. The width of the sidewalk in this location is four feet, and the proposed seating will not encroach onto the existing sidewalk (see attached plan)
5. The applicant has obtained a general liability insurance policy in the amount of \$1,000,000 to cover any personal injury and property damage claims.
6. The applicant's special use permit request to expand the restaurant to include the proposed outdoor seating will be heard concurrently by the Planning Commission in September 2001 (SUP #2001-0069).
7. Master Plan/Zoning: The subject property is zoned CRMU-L/Commercial residential mixed use zone and is located in the Old Town small area plan chapter of the Master Plan.

STAFF ANALYSIS:

In general, staff is strongly supportive of outdoor seating because it is a desirable amenity that provides vitality and interest at the street and for the community. However, in the proposed location, the seating will require the loss of mature shrubs and green space in front of the building on public property. Staff cannot support the provision of seating at the expense of the existing mature landscaping. In its review of special use permit requests city-wide, staff spends considerable time trying to identify opportunities for new landscaping or the maintenance of existing landscaping. Therefore, staff cannot recommend the removal of healthy landscaping for the provision of outdoor seating. Staff would support outdoor seating in another location that does not require the removal of shrubs or other landscaping and has spoken with the property owner in this regard. Staff therefore recommends denial of the proposed encroachment.

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:

- R-1 The applicant and his or her successors, if any must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his or her successors, if any) and the City of Alexandria, as additional insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (CAO)
- R-2 Provide a drawing with dimensions of the proposed encroachment showing its relationship to the existing right-of-way line, sidewalk, etc. Encroachment shall be limited to area from the building to back of sidewalk.
- R-3 All loudspeakers shall be prohibited from the exterior of the building.
- 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 No comments.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 This facility is currently operating as Flatbreads under permit #16F-538-1, issued to Alborz, Inc.
- C-3 This facility and all modifications must meet current Alexandria City Code requirements for food establishments.

- C-4 Five sets of plans must be submitted to and approved by this department prior to construction/modifications. 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 and/or approval 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 serving restaurants must meet Alexandria City Code, Title 11, Chapter 2, requirements.
- C-9 Alexandria City Code requires "At least 1 toilet and not fewer than the toilets required by Law shall be provided." This facility has one toilet for the public and one off the kitchen for the employees. The owner has plans to add an additional public restroom but plans have not yet been submitted to this department for review and approval. At the present time, customer seating capacity is limited to a maximum of fifteen(15) patrons.
- C-10 Rules and Regulations of the Board of Health, Commonwealth of Virginia Governing Restaurants, Section 18.1 requires toilets for employees and the public. Access to public toilets through food preparation, storage, and utensil-washing areas is prohibited.
- C-11 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- F-1 No objections.

APPLICATION for ENCROACHMENT

ENC # 2001-0007

[must use black ink or type]

PROPERTY LOCATION: 315 MADISON ST. ALEX VA 22314

TAX MAP REFERENCE: _____ ZONE: _____

APPLICANT'S NAME: AHMAD AMARLOO

ADDRESS: 8915 BATTERY RD ALEX VA 22308

PROPERTY OWNER NAME: MONTGOMERY LENTER

ADDRESS: 300 MONTGOMERY ST

ENCROACHMENT DESCRIPTION: PROVIDING OUTSIDE (SIDEWALK)

SEATING AS PER SUBMITTED DRAWING (FLATBREADS)

→ INSURANCE CARRIER (copy attached) HARTFORD POLICY # 42WEL602654

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

THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

AHMAD AMARLOO
Print Name of Applicant or Agent

Ahmad Amarloo
Signature

315 MADISON ST.
Mailing/Street Address

(703)836-9165 (703)836-3751
Telephone # Fax #

ALEX VA 22314
City and State Zip Code

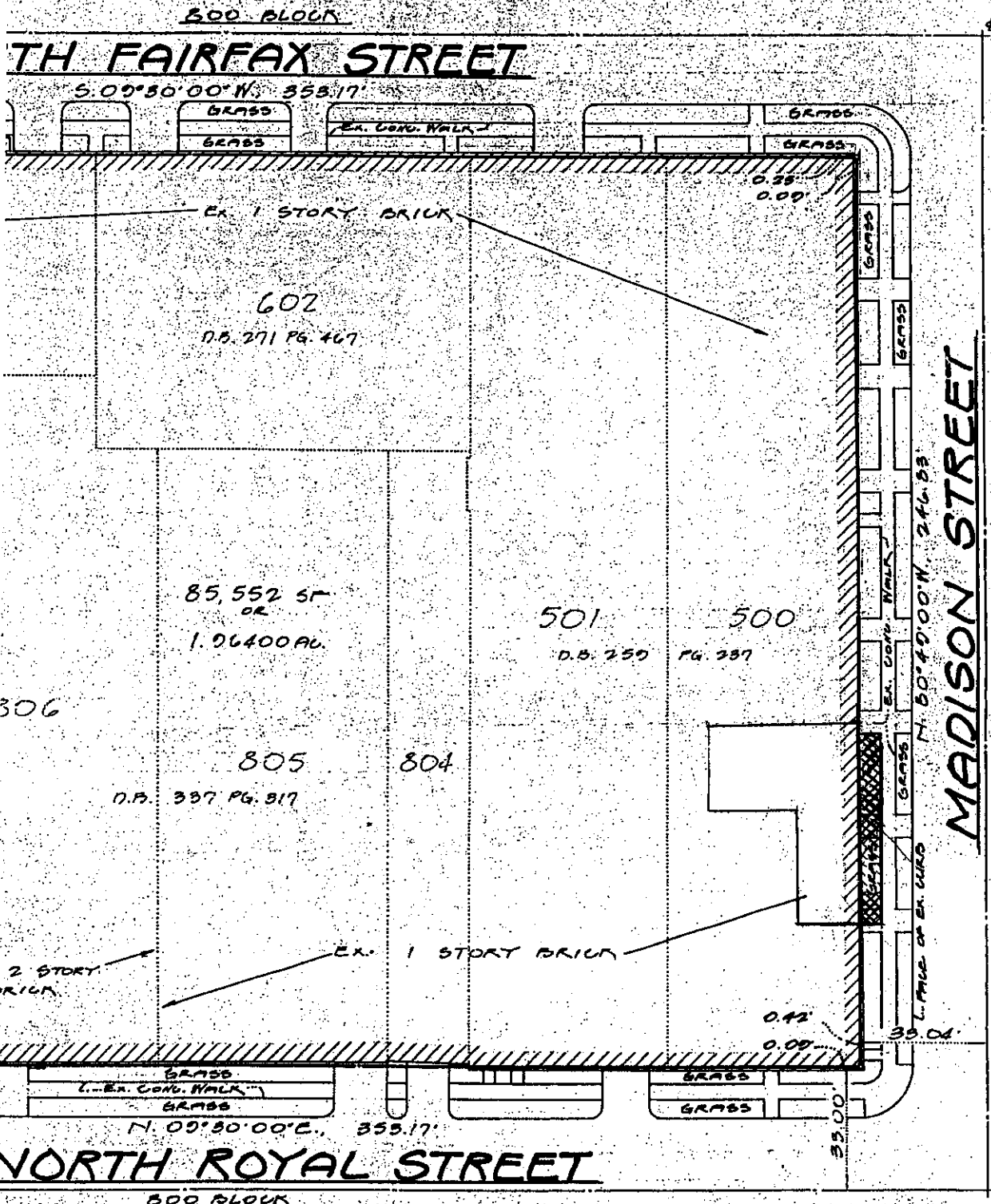
7-6-01
Date

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

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____



ENC. 2001-0007



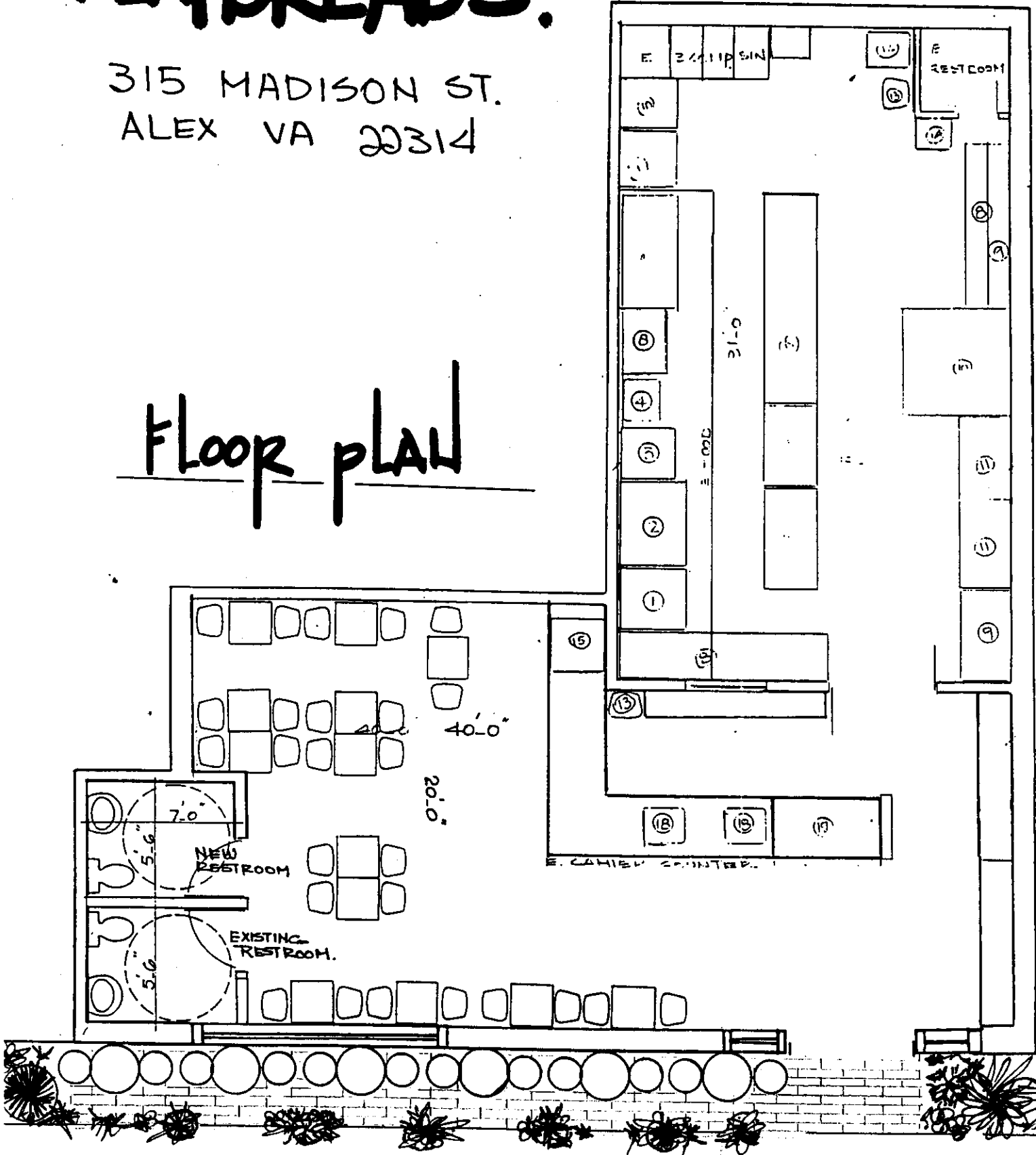
PLAT SHOWING
 THE PROPERTY OF THE
THE MONTGOMERY CORPORATION
 ALEXANDRIA, VIRGINIA

REVI	DATE	C

14 DREAMS.

315 MADISON ST.
ALEX VA 22314

FLOOR PLAN



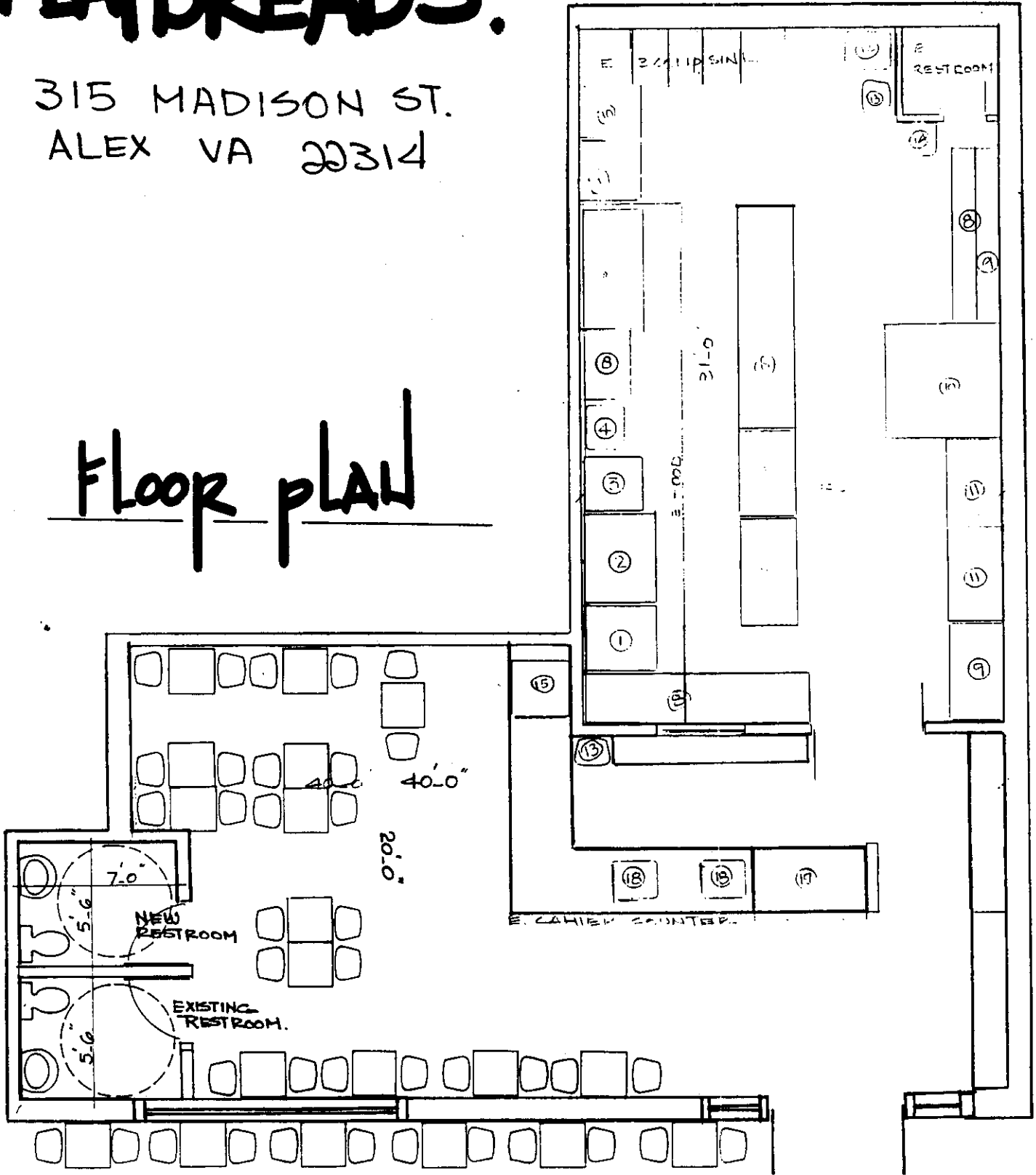
ENC. 2001-0007

RECEIVED
OCT 19 2001
PLANNING & ZONING

FLATBREADS.

315 MADISON ST.
ALEX VA 22314

FLOOR PLAN



SUP 2001-0069

SIDE WALK

MADISON ST

//

City of Alexandria, Virginia

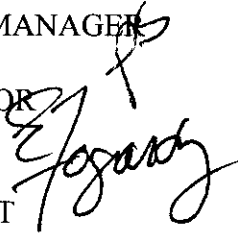
12/13
12-15-01

MEMORANDUM

DATE: DECEMBER 12, 2001

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHIL SUNDERLAND, CITY MANAGER

FROM: EILEEN FOGARTY, DIRECTOR
PLANNING AND ZONING 

SUBJECT: FLATBREADS RESTAURANT
SUP #2001-0069
ENC #2001-0007

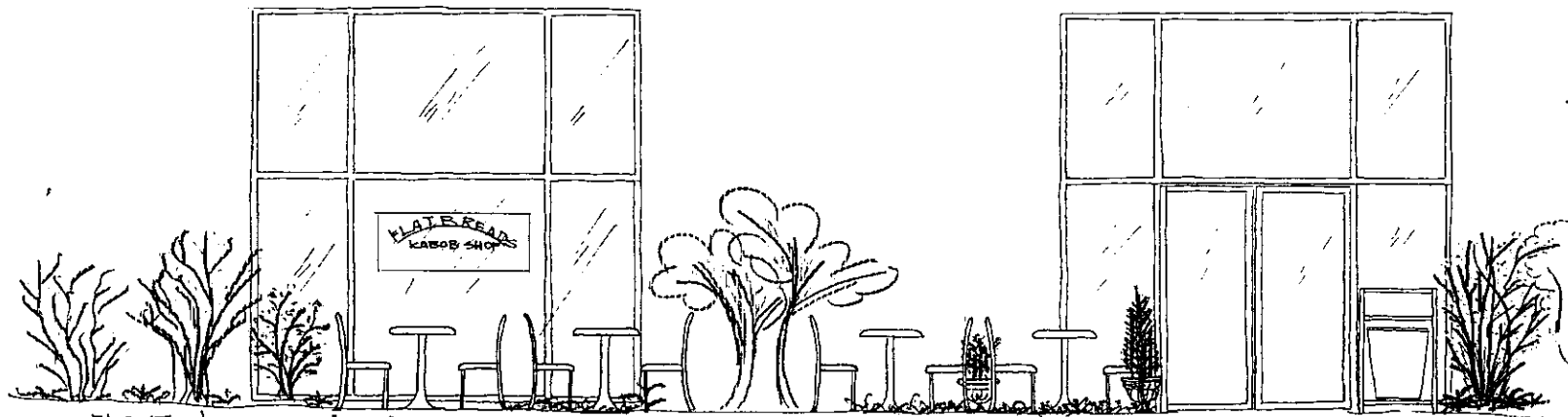
On Saturday City Council will consider the special use permit and the encroachment request for Flatbreads Restaurant at 315 Madison Street in the Montgomery Center. Although staff supports the new restaurant at this location, staff had originally recommended denial of the proposed outdoor seating. The land immediately outside the building is public right of way; therefore, the outdoor seating proposal required, in addition to the typical special use permit for the restaurant, an encroachment permit to use the public space. Because there are now changed circumstances, staff, the applicant, and the landlord have discussed the issue and come to an agreement which will allow the outdoor seating to proceed.

Therefore, as to both case SUP#2001-0069 and case ENC #2001-0007, staff has changed its recommendation from a denial of the outdoor seating to a recommendation for approval with the following conditions:

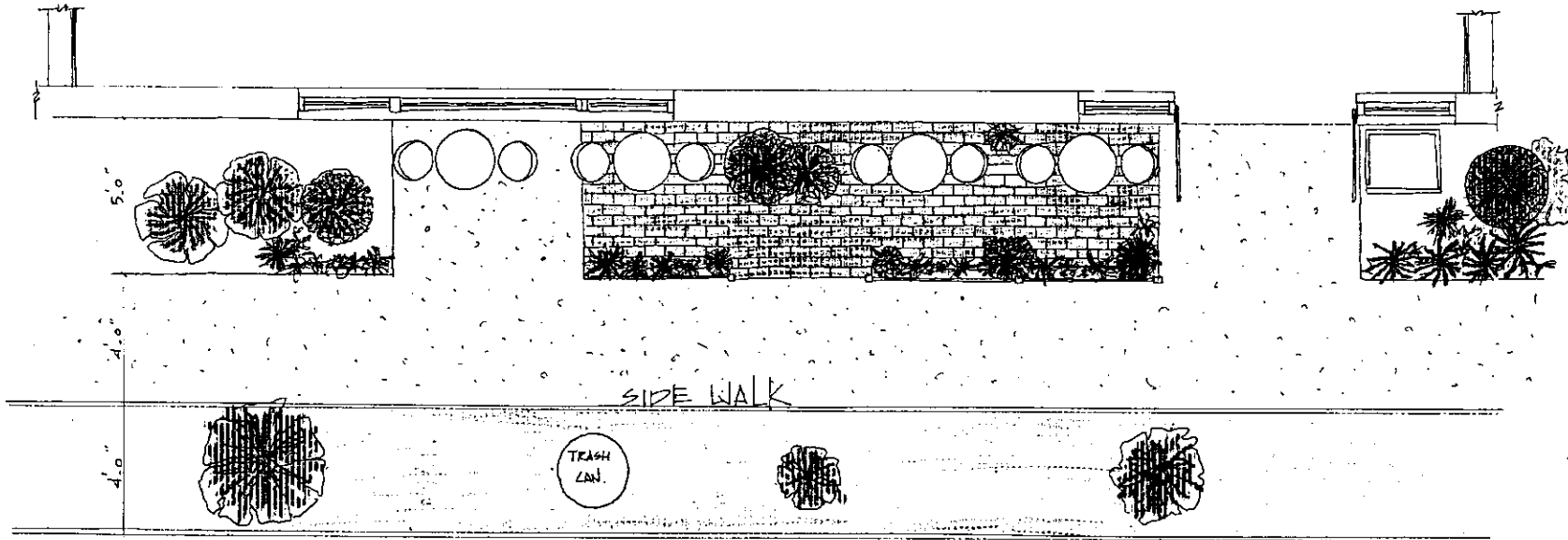
1. Outdoor seating is permitted which generally complies with the attached plan proposed by the applicant, which includes eight seats at four tables and plantings to include a large evergreen bush against the building plus planters, a low fence, and plantings at the perimeter of the outdoor dining area, all to the satisfaction of the Director of Planning and Zoning.
2. Must at all times keep at least 4 feet of the public sidewalk clear for pedestrian access.

With these conditions, staff recommends approval of the proposed use.

FLAT BREADS



ELEVATION SCALE $1/2" = 1.0'$



FLOOR PLAN SCALE $1/2" = 1.0'$

APPLICATION for ENCROACHMENT

ENC # 2001-0007

[must use black ink or type]

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ENCROACHMENT DESCRIPTION: PROVIDING OUTSIDE (SIDEWALK) SEATING AS PER SUBMITTED DRAWING. (FLATBREADS)

INSURANCE CARRIER (copy attached) HARTFORD POLICY # 42WEL602654

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

THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.

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AHMAD AMARLOO
Print Name of Applicant or Agent

Ahmad Amarloo
Signature

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Mailing/Street Address

(703)836-9165 (703)836-3751
Telephone # Fax #

ALEX VA 22314
City and State Zip Code

7-6-01
Date

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

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

ACTION - PLANNING COMMISSION: 12/4/01 Recommend Denial UC

ACTION - CITY COUNCIL: 12/15/01PH--See attached.

13. ENCROACHMENT #2001-0007
315 MADISON ST
FLATBREADS

Public Hearing and Consideration of a request for encroachment into the public sidewalk right-of-way for restaurant seating; zoned CRMU-X/Commercial Residential Mixed Use. Applicant: Ahmad Amarlooi.

COMMISSION ACTION: Recommend denial 7-0

City Council upheld the Planning Commission with regard to SUP #2001-0069, deleting Condition #3, and with regard to the encroachment 2001-0007, upheld the staff's new recommendation as outlined in the December 12, 2001 memorandum. Those new conditions read as follows: "1. **Outdoor seating is permitted which generally complies with the attached plan proposed by the applicant, which includes eight seats at four tables and plantings to include a large evergreen bush against the building plus planters, a low fence, and plantings at the perimeter of the outdoor dining area, all to the satisfaction of the Director of Planning and Zoning.**"; and "2. **Must at all times keep at least four feet of the public sidewalk clear for pedestrian access.**"

Council Action: _____

14. SPECIAL USE PERMIT #2001-0061
4111 DUKE ST
DANCING PEPPERS

Public Hearing and Consideration of a special use permit review of restaurant; zoned CC/Commercial Community. Applicant: Grupo Dos Chiles, LLC, by Alfred W. Shriver, III.

COMMISSION ACTION: Recommend approval 7-0

City Council approved the Planning Commission recommendation, amended by changing the date in Condition #20 back to May 4, 2002, and on Condition #19, that negotiations will continue on the landscaping, but that it will include four trees.

Council Action: _____

15. SPECIAL USE PERMIT #2001-0065
2700 JEFFERSON DAVIS HY
AFGHAN RESTAURANT

Public Hearing and Consideration of a special use permit review and request to change the ownership and to increase the hours of operation of the restaurant; zoned I/Industrial. Applicant: Afghan Restaurant, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend approval 7-0

For the record, Mayor Donley commended Mr. Hart, attorney for the applicant, for working with the applicant to improve what was a tenuous situation for them six or seven months ago.

City Council approved the Planning Commission recommendation.

Council Action: _____