

Docket Item #6
ENCROACHMENT #2003-0011

Planning Commission Meeting
March 2, 2004

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

APPLICANT: Serendipitous Inc., trading as Bittersweet
by John P. Manor, Jr.

LOCATION: 821 - 823 King Street; 103 North Alfred Street
Bittersweet Restaurant

ZONE: CD/Commercial Downtown

PLANNING COMMISSION ACTION, MARCH 2, 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 staff's analysis.

Speakers: None

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.



ENC #2003-0011

03/02/04



I. DISCUSSION

REQUEST

The applicant, Serendipitous Inc., trading as Bittersweet, by John P. Manor Jr., requests approval of an encroachment permit to occupy approximately 300 square feet of public sidewalk right-of-way along Alfred Street for the restaurant's proposed outdoor seating.

SITE DESCRIPTION

The subject property is one corner lot of record with 29.3 feet of frontage on King Street, 100 feet of frontage on Alfred Street and a lot area of 2,930 square feet. The site is developed with a commercial building occupied by the restaurant, Bittersweet, and its offices. It is located in the heart of Old Town Alexandria and surrounded by commercial uses.

RESTAURANT CHARACTERISTICS

Bittersweet restaurant has been in business at this location for more than six years and serves American cuisine. Currently, the restaurant offers 60 indoor seats to its patrons. The existing special use permit allows the restaurant to operate between 8:00 A.M. to 8:00 P.M., daily. In actuality, the applicant closes the restaurant at 4:00 P.M. daily. Its peak hours of business are generally during breakfast and lunch time. The business is operated by a total of 22 employees, serving approximately 350 customers per day. Although the restaurant's location within the Central Business District of Historic Alexandria exempts the applicant from the requirement to provide off-street parking, condition # 13 of the special use permit requires the applicant to provide free off-street parking for employees who drive to work.

REQUEST DETAILS

The applicant requests approval to place 24 outdoor seats in front of the restaurant along North Alfred Street (see attached plans) on land that is owned by the City. The outdoor seating will occupy approximately 300 square feet of the public sidewalk. The area of encroachment is divided into two sections. One section will be five feet wide and 47 feet long, the second section further north will be five feet wide and 12 feet long.

As proposed and required by staff's recommended conditions, the outdoor seating area will leave a minimum of five feet clear sidewalk for pedestrian passage along North Alfred Street, including where there are sidewalk features, such as tree wells and a traffic control box. Otherwise the pedestrian passage is greater than six feet.

The 24 proposed seats will not be permanent in nature. The area will be set up everyday at 8:00 A.M. and taken down every day at closing. Customers and employees will access the seating area from the main entrance on King Street.

ZONING / MASTER PLAN

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 downtown use.

II. STAFF ANALYSIS

Staff strongly supports this request to add outdoor seating in the heart of Old Town Alexandria. The proposed outdoor seating will add vitality to the street, thereby attracting more visitors and customers for area businesses. It creates a visible symbol of activity and economic health. While a five foot sidewalk width is less than staff might require on a major pedestrian thoroughfare, staff found that the encroachment's location on a side street and the fact that the tables and chairs will be taken down daily at closing will not limit pedestrian use of the public right-of-way.

In addition to this encroachment application, the applicant filed an amendment of the special use permit to add 24 outdoor seats to the restaurant. See Special Use Permit #2003-0123 for details regarding the operation of the restaurant and recommended permit conditions.

Staff recommends approval of the encroachment permit subject to the recommended conditions.

III. RECOMMENDED PERMIT CONDITIONS

1. The applicant (and his/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/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. (T&ES)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any obstruction encroaching into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
3. Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment. (T&ES)
4. A minimum pedestrian pathway of five (5) feet shall be maintained, including where there are sidewalk features, including, but not limited to, tree wells. (P&Z)
5. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
6. 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)
7. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
8. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)

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

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.

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 A minimum pedestrian pathway of 5 feet shall be maintained. Distance to be measured from the face of the curb to encroachment.
- R-2 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-3 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.
- R-4 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-5 The applicant (and his/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/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.
- R-6 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment.
- R-7 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any obstruction encroaching into the public right-of-way, within 60 days, upon notification by the City.

Code Enforcement:

- C-1 The location and arrangement of chairs and tables shall not obstruct or impair handicap access, means of egress or access to fire department connections for the structure.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. This facility is currently operating as Bittersweet under Alexandria Health Department permit issued to Serendipitous, Inc.
- 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 \$135.00 fee for review of plans for food facilities.
- C-4 Permits or approval must be obtained prior to use of the new area(s).
- C-5 This 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.
- 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 No objections.

APPLICATION for ENCROACHMENT # 2003-0011

[must use black ink or type]

PROPERTY LOCATION: 823 King St.
TAX MAP REFERENCE: 74.02.01 01 ZONE: CD Commercial
APPLICANT'S NAME: Second Pitous, Inc. T/A Bittersweet
ADDRESS: 823 King St.
PROPERTY OWNER NAME: Transcend, LC
ADDRESS: 101 N. Alfred St.
ENCROACHMENT DESCRIPTION: Outdoor seating

INSURANCE CARRIER (copy attached) Union Insurance Co. POLICY # BDA0021501

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.

John P. Mauer, Jr.
Print Name of Applicant or Agent
103 N. Alfred St.
Mailing/Street Address
Alexandria, VA 22314
City and State Zip Code

[Signature]
Signature
703 549 2768 7/549 3150
Telephone # Fax #
10 Dec. 03
Date

===== **DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY** =====
Application Received: _____ Date & Fee Paid: _____ \$ _____

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

ACORD CERTIFICATE OF LIABILITY INSURANCE

CSR GM
BITE-1DATE (MM/DD/YY)
12/08/03

PRODUCER
Clarke & Sampson, Inc.
www.clarkeandsampson.com
228 S. Washington St., Ste 200
Alexandria VA 22314-5404
Phone: 703-683-6601 Fax: 703-739-8967

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURER A: Union Insurance Company
INSURER B:
INSURER C:
INSURER D:
INSURER E:

INSURED

Serendipituous, Inc
t/a Bittersweet
103 N. Alfred St. #201
Alexandria VA 22314

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	BOA0021501	02/01/03	02/01/04	EACH OCCURRENCE \$ 2000000
	COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$ 100000
	CLAIMS MADE <input type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10000
	X Business Owners				PERSONAL & ADV INJURY \$ 2000000
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE \$ 4000000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				PRODUCTS - COMP/OP AGG \$ 4000000
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO				BODILY INJURY (Per person) \$
	ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	HIRED AUTOS				
	NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
A	EXCESS LIABILITY	BOA0021527	02/01/03	02/01/04	EACH OCCURRENCE \$ 2000000
	X OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$ 2000000
	DEDUCTIBLE				\$
	RETENTION \$				\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	WCA0021504	02/01/03	02/01/04	WC STATU-TORY LIMITS \$
					E.L. EACH ACCIDENT \$ 100000
					E.L. DISEASE - EA EMPLOYEE \$ 100000
					E.L. DISEASE - POLICY LIMIT \$ 500000
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
Additional Insured: City of Alexandria, Virginia

CERTIFICATE HOLDER

N

ADDITIONAL INSURED; INSURER LETTER:

CITYAL1

CITY OF ALEXANDRIA
CITY HALL
301 KING STREET
ALEXANDRIA VA 22314

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

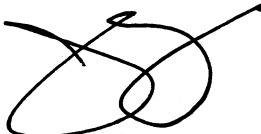
AUTHORIZED REPRESENTATIVE

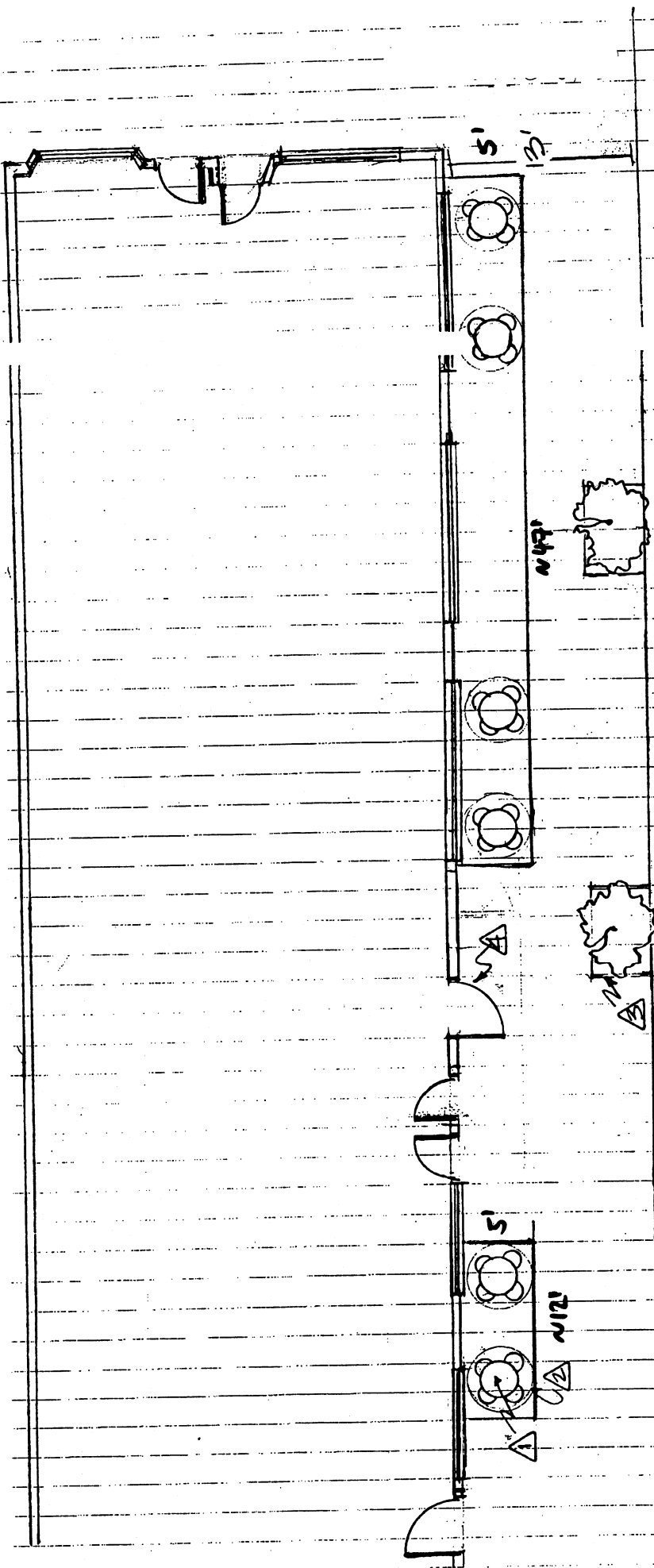
William B. Howard

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ACORD 25-S (7/97)

ENC 2003-0011

9  703 549 2108



NORTH ALFRED STREET

20" round tables
54" clearance for tables
48" x 72" tree wells
48" door clearance

$$\begin{array}{r} 5' \times 47' = 235' \\ 5' \times 12' = 60 \\ \hline 295 \text{ square feet} \end{array}$$

BITTER
11/01/04

ENC 2003-0011

MILLER & ASSOCIATES

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Of Counsel

Edward A. Williamson, MS

February 23, 2004

PC Docket Items #5+6
SUP #2003-0183
ENC #2003-011

Alexandria Planning Commission
301 King Street
City Council Chambers
Alexandria, Virginia 22314

Re: Tax Map Reference: 74.02 01 01
Planning Commission Hearing: March 2, 2004
Application Bittersweet Cafe

Dear Sirs:

Bittersweet has applied for 24 outdoor seats along North Alfred Street. I am Bittersweet's immediate neighbor to the north on Alfred Street. The purpose of my correspondence is to write and heartily recommend approval of this application. I believe the 24 seat sidewalk café concept will make Old Town more user friendly for pedestrians. I also know the owners of Bittersweet Café to be good corporate citizens.

Very truly yours,

MILLER & ASSOCIATES

Michael J. Miller

MJM:rmm

cc: Bittersweet Café - Via Hand Delivery

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