

Docket Item #11
ENCROACHMENT #2004-0001

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: Thaiphoon of Old Town Inc.,
by Rich Markus

LOCATION: 6 King Street

ZONE: CD/Commercial Downtown

PLANNING COMMISSION ACTION, MARCH 2, 2004: On a motion by Mr. Komoroske, seconded by Mr. Robinson, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and recommended permit conditions. The motion carried on a vote of 7 to 0.

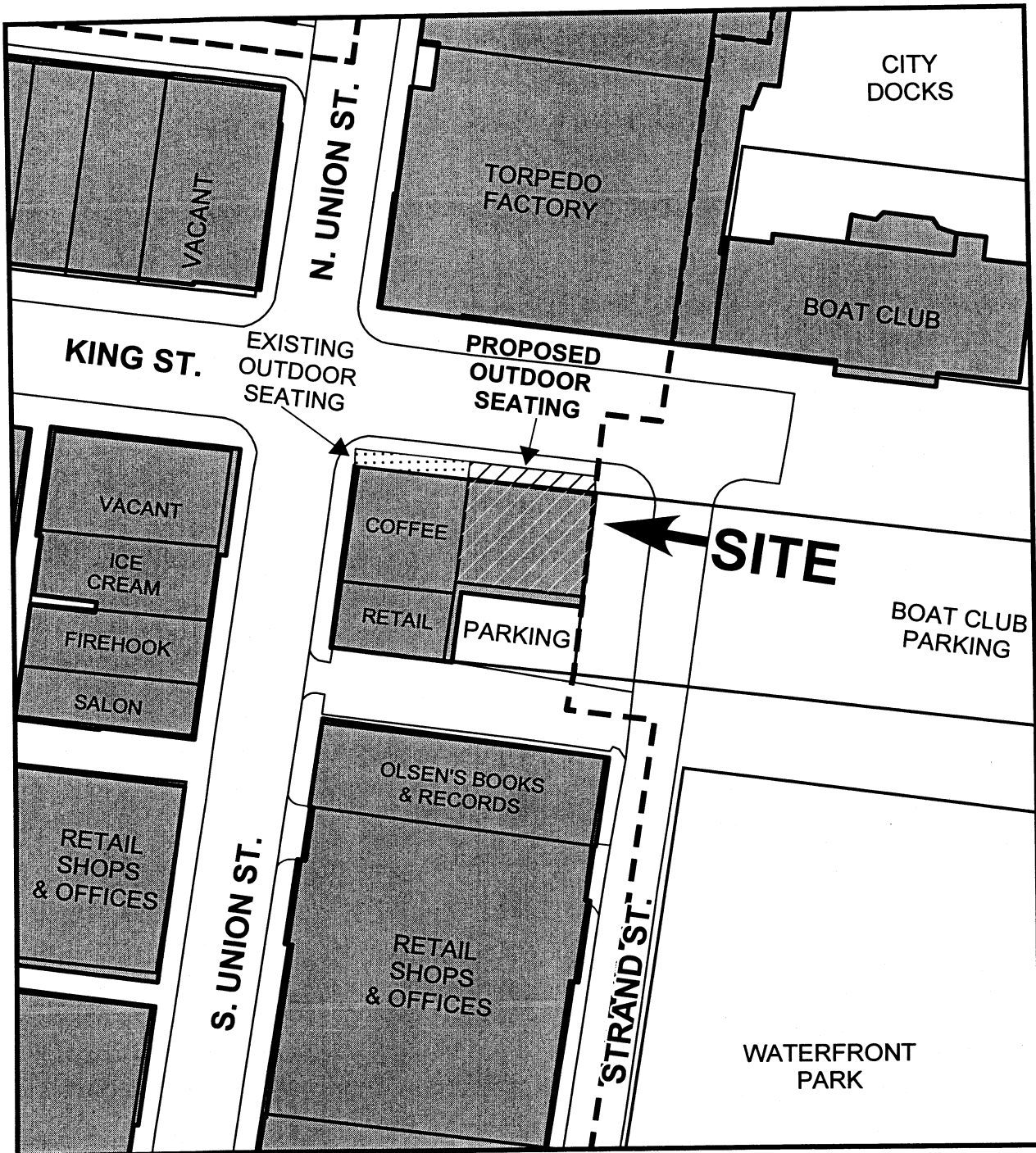
Reason: The Planning Commission agreed with staff's analysis and noted that, despite some misinformation to the contrary, the Planning Commission strongly supports outdoor seating and has consistently recommended approval of such cases.

Speakers:

Erika L. Byrd, the applicant's attorney, presented the application, emphasizing the various positive effects the outdoor seating will have on the streetscape and vitality of Old Town Alexandria, and added that the proposed encroachment complies with all code requirements and therewith leaves a sufficient sidewalk clearance for pedestrians.

Julie Crenshaw, resident, opposed the outdoor seating because she believes the area to have bad air quality due to the frequent trips of tour busses and trucks that pick-up and drop-off tourists, school children and boats in front of the proposed restaurant.

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 #2004-0001

03/02/04



I. DISCUSSION

REQUEST

The applicant, Thaiphoon of Old Town Inc., represented by Rich Markus, architect, requests approval of an encroachment to permit it to locate outdoor restaurant seating in the public sidewalk right-of-way in front of 6 King Street.

SITE DESCRIPTION

The subject property is one lot of record that is located on the east end of King Street. The lot is approximately 94.3 feet by 48.6 feet, and has an area of 4,302 square feet. The lot is occupied by a three and one half story building. Commercial and office uses surround the lot on three sides. Starbucks coffee shop adjoins the restaurant to the west; the Old Dommion Boat Club parking lot is located to the east. Residential uses are nearby.

HISTORY AND CONTEXT

The restaurant is allowed to occupy the space without a special use permit because its predecessor restaurant, the Seaport Inn, occupied the site since prior to the special use permit requirement. The applicant plans to renovate approximately 1778 square feet of the first and 1338 square feet of the second floor for a total of 3116 square feet of the subject building for the restaurant. The restaurant anticipates having a total of 159 seats, which, when combined with the 33 seats provided for the adjacent Starbucks coffee shop, amounts to 192 seats and is well within the grandfathered restaurant rights allowing for up to 290 seats.

PROJECT DESCRIPTION

The applicant requests approval to place outdoor seating in front of the restaurant along the front building wall on King Street. The seating area is divided into two sections, one is located west and the second is located east of the entrance (see attached plans). ABC (Alcohol and Beverage Control Board) regulations require a restaurant serving alcoholic beverages to provide a clear physical separation or barrier to prevent the general public access to the outdoor seats, except through one clearly delineated point of ingress/egress. Therefore, the applicant proposes to install a three foot high metal railing around the perimeters of the encroachment. The railing, signs and awnings are subject to BAR (Board of Architectural Review) approval.

Proposal:

The applicant's initial encroachment proposal to occupy 270 square feet of the public sidewalk did not provide sufficient room for pedestrian access between the seating area and sidewalk features, such as a light post and tree wells. Staff informed the applicant that a minimum distance of five feet must be maintained at any point to ensure a safe passage for pedestrians. The applicant agreed to reduce the encroachment width, resulting in the following dimensions:

	West Section	East Section	TOTAL
<u>Encroachment Width</u>	6'-9 ½"	5'-7"/ 6'-9 ½"	
<u>Encroachment Length:</u>	19'-6"	20' 3"	
<u>Encroachment Area:</u>	133 square feet	122 square feet	255 square feet

ZONING / MASTER PLAN

The subject property is zoned CD (Commercial Downtown), and is included in the Old Town Small Area Plan. 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 at the foot of King Street. The proposed outdoor seating will add vitality to the street, thereby attracting more visitors and customers for area businesses. Its location, with a confined outdoor area, awnings, seats and people, will be seen from King Street and parts of the waterfront, and creates a visible symbol of activity and economic health. The encroachment will not obstruct pedestrian use of the public sidewalk since there will be at least five feet of public right-of-way remaining for pedestrian use after the outdoor seating is installed.

Staff does recommend two site improvements, including the addition of one City trash can on the corner of King Street and the Strand and the placement of planters filled with seasonal plants along the west and east side of the railing.

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 feet shall be maintained, including where there are sidewalk features, such as a light post and trees. (P&Z)
5. Applicant shall obtain, at its expense, one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way. Contact T&ES Engineering Division (703/838-4318) for information. (T&ES)
6. The applicant shall install and maintain landscaped planters, to include four seasons of plants in at least two black containers of a style and at a location approved by the Department of Planning and Zoning. (RPCA) (P&Z)
7. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
8. 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)
9. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
10. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)

11. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all encroachment provisions and requirements. (P&Z)
12. The Director of Planning and Zoning shall review the encroachment permit one year after 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 as a result of a complaint that rises to the level of a violation, 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)

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.

In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

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 Applicant shall obtain, at their expense, one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way. Contact T&ES Engineering Division (703/838-4318) for information.
- R-6 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-7 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-8 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 arrangement of tables, chairs and other decorative features shall not obstruct or impair handicap access, emergency egress, or access to fire department connections for the structure.
- F-1 The revised drawings submitted show a conflict in gate swing and aisle width for compliance with means of egress and handicap accessibility.

Health Department:

- 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 \$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.

Department of Recreation, Parks and Cultural Activities:

- R-1 The applicant shall install and maintain landscaped planters, to include four seasons of plants in at least two black containers of a style and at a location approved by the Department of Planning and Zoning.

APPLICATION for ENCROACHMENT # 2004-0001

[must use black ink or type]

PROPERTY LOCATION: 6 KING STREET

TAX MAP REFERENCE: 75.01 05 01 ZONE: CD

APPLICANT'S NAME: THAIPHOON OF OLD TOWN INC.

ADDRESS: 6505 GREYNA GREENWAY ALEXANDRIA VA 22312

PROPERTY OWNER NAME: STARWOOD URBAN ~~INVESTMENTS~~ RETAIL

ADDRESS: 1320 19th St. NW Suite 800 WASHINGTON DC 20036

ENCROACHMENT DESCRIPTION: ENCROACHMENT OF 270SF IN PUBLIC SPACE (SIDEWALK) FOR OUTDOOR SEATING OF RESTAURANT

INSURANCE CARRIER (copy attached) _____ POLICY # _____

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.

RICH MARKUS

Print Name of Applicant or Agent

RICH MARKUS ARCHITECTS

1215 CONNECTICUT AVE NW

Mailing/Street Address

3RD FLOOR

WASHINGTON DC 20036

City and State

Zip Code


Signature

202 833 9292 **202 416 0332**

Telephone #

Fax #

12/23/03
Date

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

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

Representing

TheTravelers

City of Alexandria
Commonwealth of Virginia
Planning & Zoning Department
301 King Street
Alexandria, Va 22313

LAM & ASSOCIATES, LTD.

4220 EVERGREEN LANE - ANNANDALE, VIRGINIA 22003
TELEPHONE: (703) 941-7950

Jan 2nd, 2004

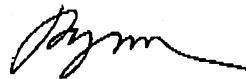
Gentlemen:

Lam & Associates, Ltd. an Agency of Travelers Insurance Companies is pleased to inform you that our Insured **Thaiphoon of Old Town, Inc.** situated at 6, King Street, Alexandria, Va 22313 whose insurance policy for the premise Patio Area has General Liability Coverages of \$ 1,000,000.

City of Alexandria, Virginia shall be named as Additional Insured effective once the restaurant is operational. We hope that this shall facilitate the processing of the Patio permit.

Kindly inform the undersigned if we can be of additional assistance.

Sincerely,



PY Lam
President

Jd/PYL

RECEIVED
PAGES 1 DATE 1/2/04 FAX # (703) 832-6393
TO BETTING IRPS
FROM KATHY ZAN
CO. LAM & ASSOCIATES, LTD
PH # (703) 941-7950 FAX # (703) 256-6072

ENC 2004-001

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20 FEB 2004

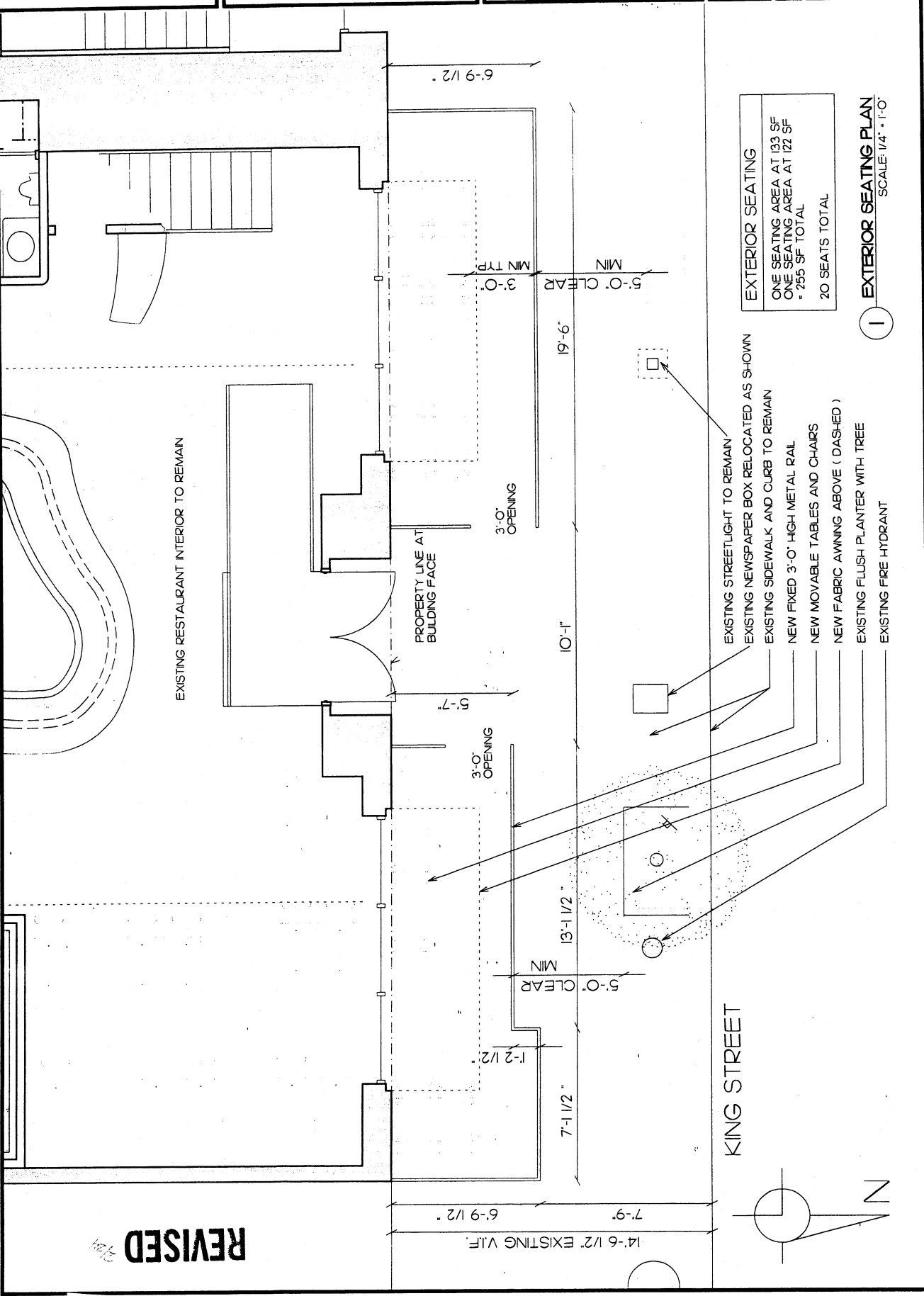
1/4" = 1'-0"

EXTERIOR SEATING PLAN

THAI RESTAURANT

6 KING STREET
OLD TOWN ALEXANDRIA VA

RICH MARKUS ARCHITECTS
1215 CONNECTICUT AVENUE NW
WASHINGTON DC 20036
202.833.9292



EXTERIOR SEATING
ONE SEATING AREA AT 133 SF
ONE SEATING AREA AT 122 SF
= 255 SF TOTAL
20 SEATS TOTAL

1 EXTERIOR SEATING PLAN
SCALE: 1/4" = 1'-0"

REVISED

REVISED 2/04

EXISTING PARKING

EXISTING RESTAURANT

ADJACENT TENANT

EXISTING BRICK SIDEWALK

NEW SEATING - SEE SHEET S02

14'-6 1/2" V.I.F.

KING STREET

SITE PLAN
SCALE: 3/32" = 1'-0"



UNION STREET

EXISTING BUILDING
TO REMAIN TYPICAL

NEW FABRIC AWNING
WITH 4'-0" OVERHANG
NEW FIXED METAL
RAILING 3'-0" HIGH

6 KING STREET

ADJACENT TENANT

2 KING STREET ELEVATION
SCALE: 3/32" = 1'-0"

EXTERIOR SEATING
PLAN

THAI RESTAURANT

6 KING STREET
OLD TOWN ALEXANDRIA VA

RICH MARKUS ARCHITECTS
1215 CONNECTICUT AVENUE NW
WASHINGTON DC 20036
202.833.9292

20 FEB 2004
3/32" = 1'-0"

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9
3-13-04

March 12, 2004

The Honorable William Euille
Members of City Council
City of Alexandria
301 King Street
Alexandria, VA 22314

Dear Mayor Euille and Council Members:

We heartily support the application of Thaiphon Restaurant at 6 King Street and cannot foresee a negative effect caused by the loading/unloading of our buses in that immediate location.

Moreover, the increase of outdoor seating exhibits a vitality and new life that has long been missing from lower King Street.

The majority of the buses tend to offload at the southern edge of King Street and the Strand, rather than make the turn onto King Street, as traffic is often congested at the intersection. We meet all our bus groups and make sure that the entrance to Old Dominion is kept clear at all times. As the buses are there for only a few minutes to deal with their passengers, the overall traffic disruption is minimal. Great support has always been available from parking enforcement, which assist with any traffic issues that may occur.

Even with the buses making the turn onto King Street, their exhaust would be closest to the base of Old Dominion BC at the east end of King Street, perhaps 60 feet from the proposed outdoor seating area.

Given that buses load/unload on the The Strand in front of Chadwicks and on east Prince Street adjoining The Strand to service passengers for the two Dandy restaurant boats and do not distract from their outdoor seating environment, the Thaiphon's seating would be far less impacted by buses.

With our support for this restaurant and activity for lower King Street, we do not want to insinuate in any way that we plan to move our bus loading areas. All of us, which includes both City staff and citizens, have worked hard to make this location attractive for bus activity and we want to maintain that agreed upon solution.

Sincerely yours,

Charlotte Hall
Vice President

CH: cc
• Cherry Blossom • Admiral Tilp • Matthew Hayes • Miss Christin • Miss Mallory •

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SPEAKER'S FORM
DOCKET ITEM NO. 9

PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK
BEFORE YOU SPEAK ON A DOCKET ITEM.

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: Erika Byrd
2. ADDRESS: 1750 Tysons Blvd. st. 1800
TELEPHONE NO. 712 5480 E-MAIL ADDRESS: ebyrd@mcguirewoods.com
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? applicant
4. WHAT IS YOUR POSITION ON THE ITEM?
FOR: _____ AGAINST: _____ OTHER: representative
5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):
attorney
6. ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE COUNCIL?
YES ☒ NO ☐

This form shall be kept as a part of the permanent record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of three minutes will be allowed for your presentation. If you have a prepared statement, please leave a copy with the Clerk.

Additional time not to exceed 15 minutes may be obtained with the consent of the majority of the council present; provided notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at public hearing meetings, and not at regular legislative meetings. Public hearing meetings are usually held on the Saturday following the second Tuesday in each month; regular legislative meetings on the second and fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item at a legislative meeting can be waived by a majority vote of council members present but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply. If an item is docketed *for public hearing* at a regular legislative meeting, the public may speak to that item, and the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at public hearing meetings. The Mayor may grant permission to a person, who is unable to participate in public discussion at a public hearing meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular legislative meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

Guidelines for the Public Discussion Period

- (a) All speaker request forms for the public discussion period must be submitted by the time the item is called by the City Clerk.
- (b) No speaker will be allowed more than three minutes.
- (c) If more speakers are signed up than would be allotted for in 30 minutes, the Mayor will organize speaker requests by subject or position, and allocate appropriate times, trying to ensure that speakers on unrelated subjects will also be allowed to speak during the 30 minute public discussion period.
- (d) If speakers seeking to address council on the same subject cannot agree on a particular order or method that they would like the speakers to be called on, the speakers shall be called in the chronological order of their request forms' submission.
- (e) Any speakers not called during the public discussion period will have the option to speak at the conclusion of the meeting, after all docketed items have been heard.