

**Special Use Permit #2012-0027****1024 and 1026 King Street – Hank’s Oyster Bar**10  
6-16-12

Application	General Data	
Consideration of a request to expand an existing restaurant.	<b>Planning Commission Hearing:</b>	June 5, 2012
	<b>City Council Hearing:</b>	June 16, 2012
<b>Address:</b> 1024 and 1026 King Street	<b>Zone:</b>	KR/King Street Retail
<b>Applicant:</b> Hank’s Oyster Bar Old Town, LLC by David Chamowitz, attorney	<b>Small Area Plan:</b>	Old Town

**Staff Recommendation:** APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

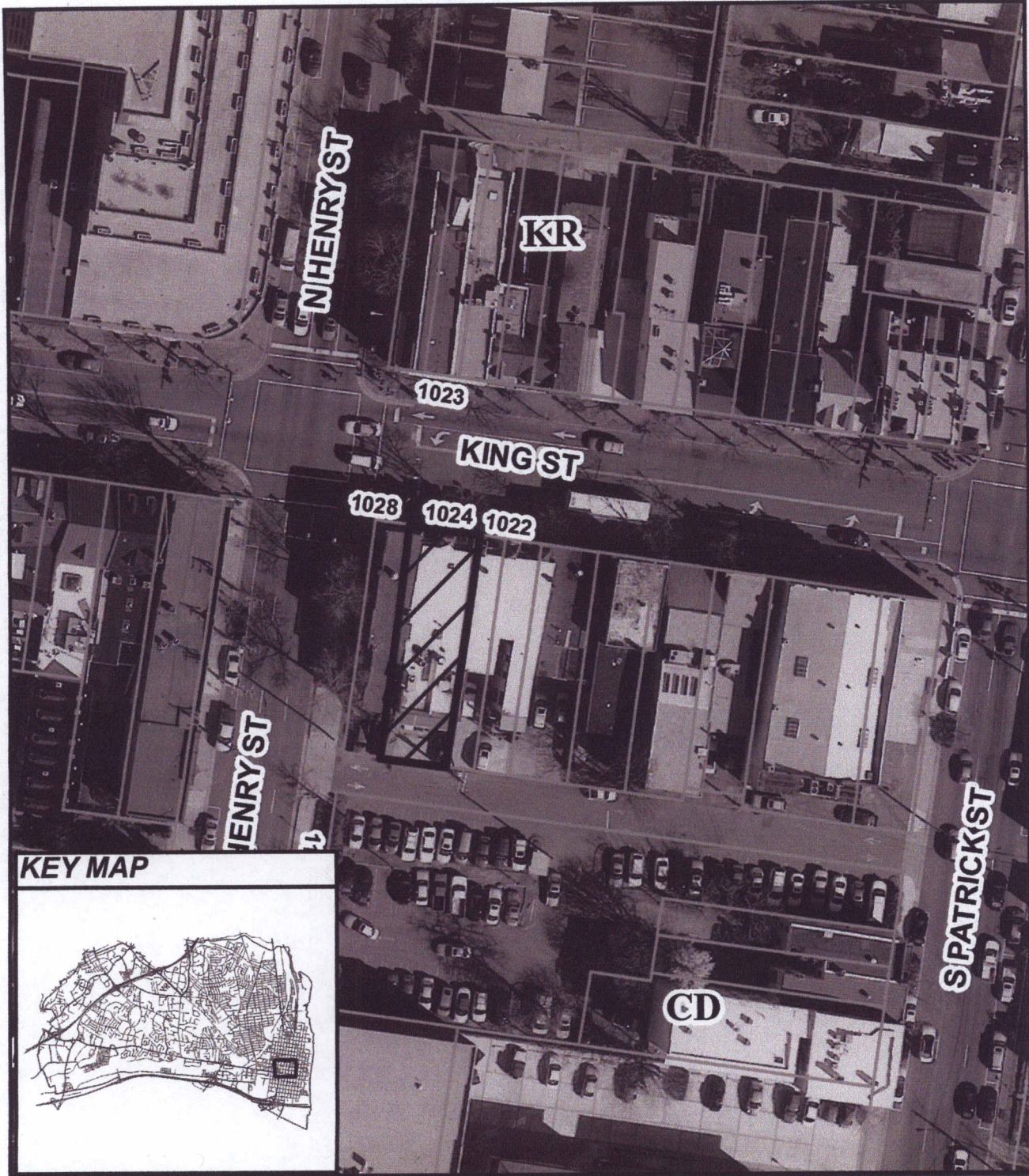
**Staff Reviewers:** Nathan Randall [nathan.randall@alexandriava.gov](mailto:nathan.randall@alexandriava.gov)

**PLANNING COMMISSION ACTION, JUNE 5, 2012:** On a motion by Mr. Dunn, seconded by Mr. Robinson, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion passed on a vote of 5 to 0, with Mr. Wagner and Mr. Jennings absent.

Reason: The Planning Commission agreed with the staff analysis.

Speakers:

David Chamowitz, attorney for the applicant, spoke in support of the request.



KEY MAP



**SUP #2012-0027**

**6/5/2012**



## I. DISCUSSION

The applicant, Hank's Oyster Bar Old Town LLC by David Chamowitz, attorney, requests a Special Use Permit amendment to expand an existing restaurant at 1024 and 1026 King Street.

### SITE DESCRIPTION

The subject site is one lot of record with 28 feet of frontage on King Street, 100 feet of depth, and a total lot area of approximately 2,800 square feet. The lot is improved with two commercial townhouses. The space at 1026 King Street houses the current Hank's Oyster Bar. The space at 1024 King, which formerly housed a home furnishings store, is the site of the requested expansion. Offices are located on the second floor of both townhouses.



The surrounding area is comprised of primarily commercial uses, both along King Street and on nearby Route 1. Other uses in the 1000 block of King Street include a bookstore, a hair salon, two home furnishings/antiques stores, a cupcake bakery, a gelato shop, a deli, and two other restaurants. A City-owned parking lot is located across an alley immediately to the south of the property. Residential townhouses are located about a half-block to the southwest.

### BACKGROUND

City Council first approved a restaurant at this site in 1991. In 2001, SUPs were approved to expand the restaurant and change its ownership. The current owners assumed ownership of the business in 2007. The most recent SUP approved at the site, SUP#2007-0103, was approved in November 2007 to increase seating and hours of operation and add on-premises alcohol.

On May 4, 2012, staff inspected the premises for compliance with conditions of SUP#2007-0103 and found no violations.

### PROPOSAL

The applicant proposes to expand its existing seafood restaurant into the tenant space immediately next-door. Seating at the restaurant will increase from the currently approved 60 to 89. The elimination of Condition #11 has also been requested to allow the applicant to offer live entertainment in the future. No other changes to the operation of the business are proposed. Additional elements of the restaurant operation are as follows:

Hours of Operation: 7 a.m. – 1 a.m. daily

<u>Number of Seats:</u>	60 (current) <u>29 (additional requested)</u> <b>89 total seats</b>
<u>Type of Service:</u>	Table service, bar service and carry-out
<u>Alcohol:</u>	On-premises alcohol service only
<u>Entertainment:</u>	Live entertainment may be offered in the future
<u>Delivery:</u>	No delivery service is proposed
<u>Noise:</u>	No unusual noise levels anticipated
<u>Trash/Litter:</u>	Typical restaurant waste will be picked up several times/week

#### ZONING/MASTER PLAN DESIGNATION

The subject property is located in the KR zone. Section 6-702 of the Zoning Ordinance allows a restaurant in the KR 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 use.

#### PARKING

The subject property is located within the Central Business District (CBD). Restaurants located within the CBD are exempt from parking requirements pursuant to Section 8-300(B) of the Zoning Ordinance.

## **II. STAFF ANALYSIS**

Although the restaurant expansion will replace a retail tenant, staff does not object to the applicant's request. The proposal represents modest increases that will support an existing Alexandria business. Overall the restaurant will remain modest in size at 89 seats (only a 29-seat addition) and it is not expected to significantly impact the surrounding neighborhood either as a general matter or with regard to the specific elements (diversity of uses, parking, litter and late night hours/alcohol) found in the Old Town Restaurant Policy.

#### Diversity of Uses

The Policy and the King Street Retail Strategy express related concerns about maintaining a diversity of uses and preventing restaurants from crowding out retail shops in Old Town. Although the expanded restaurant is replacing Chinoiserie, a retail home furnishings store, staff does not find that the concerns expressed in the Policy and the Strategy are an issue here. The

expansion of Hank's into one small storefront immediately next to its existing business will not negatively alter the existing diversity on the block or crowd out retail uses. An array of commercial uses will remain in the 1000 block of King Street including a bookstore, four home furnishings/antiques stores, a clothing boutique, a do-it-yourself art studio, three beauty salons, and offices. Staff also notes that Chinoiserie has found an alternate location a few blocks away on King Street.

#### Parking

The Policy also recognizes the potential for restaurant customer parking to spill over into residential areas in some instances. Staff finds that this potential is reduced at this location given the relatively small size of the restaurant and the presence of a public parking lot located immediately behind the building. Condition language has been either added or retained in this report to further reduce the potential parking impact from this use. Condition #16 will continue to require the applicant to provide off-street parking spaces for its employees who drive to work. Condition #17 will require the applicant to participate in any future parking program developed consistent with recommendations in the King Street Retail Strategy. Staff has also included Condition #25 to require the applicant to post information about the location of parking and the availability of public transportation on its website and in printed materials.

#### Litter

Significant litter impacts are not anticipated from this use given that the restaurant concept here is primarily oriented toward dine-in customers. Nonetheless, staff has retained standard condition language (Condition #10) that will require the applicant to pick up litter on the property and surrounding area on a routine basis.

#### Late Night Hours / Alcohol

The existing restaurant presents a low potential for the types of impacts associated with the combination of alcohol service and late-night hours of operation, since the restaurant closes earlier in practice than the SUP-approved 1 a.m. closing hour and because no live entertainment is allowed at the site. However, the applicant is now requesting the elimination of Condition #11, which prohibits live entertainment, in anticipation of offering such entertainment in the future. Staff sees some potential for impacts from this portion of the request. Second-floor residential apartments are located immediately next-door and the concerns about late night hours and alcohol from the Old Town Restaurant Policy can be elevated with the presence of live entertainment. Balancing these potential concerns with the applicant's desire to add some entertainment at the site, staff is recommending limited live entertainment at the restaurant in revised Condition #11, rather than removing the condition entirely as requested. The condition language ensures that the use remains a restaurant and not a destination for live entertainment. Entertainment will need to be subordinate to the main function of the restaurant as an eating establishment, and no cover charge or other fee shall be assessed. Should any problems arise from live entertainment at the site, staff will revisit this matter during its one-year review.

Staff concludes that the applicant's proposal represents a modest expansion request and recommends approval subject to the conditions contained in Section III of this report.

### III. RECOMMENDED CONDITIONS

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

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&Z)(SUP #2472)
2. **CONDITION AMENDED BY STAFF:** Seating shall be provided inside for no more than ~~60~~ 89 patrons. (P&Z) (~~SUP #2472~~)
3. **CONDITION DELETED BY STAFF:** ~~The applicant shall be able to use the first and second floors for customer seating and customer service. (P&Z) (SUP #2001-0096)~~
4. Condition deleted. (PC)
5. The hours during which the restaurant is open to the public shall be restricted to 7:00 A.M. to 1:00 A.M., daily, as requested by the applicant. (P&Z) (SUP#2007-0103)
6. No food, beverage, or other material shall be stored outside. (P&Z) (SUP #2472)
7. Condition deleted. (PC)
8. Trash and garbage shall be collected daily when the business is open. (P&Z) (SUP #2472)
9. Condition deleted. (PC)
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 more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (T&ES) (~~SUP #2472~~)
11. **CONDITION AMENDED BY STAFF:** ~~No live entertainment shall be provided at the restaurant.~~ Limited live entertainment shall be permitted at the restaurant in the form of background music for restaurant patrons. No cover or admission fee may be assessed. All entertainment shall 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 food service as well as the entertainment. (P&Z) (~~SUP#2001-0002~~)
12. **CONDITION AMENDED BY STAFF:** The applicant shall be permitted to sell alcohol, beer and wine for on-premises consumption only. No off-premises alcohol sales shall be allowed. (Police) (P&Z) (~~SUP#2007-0103~~)

13. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)(SUP#2001-0002)
14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)(SUP#2001-0002)
15. All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. No amplified sound shall be audible at the property line. (P&Z) (T&ES) (SUP#2007-0103)
16. **CONDITION AMENDED BY STAFF:** The applicant shall require its employees who drive to work 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~~ encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. The applicant shall provide information about off-street parking and alternative forms of transportation to access the location of the restaurant, via print and electronic promotional materials, posting on the restaurant website, and other similar methods. (T&ES) (P&Z) (SUP#2007-0103)
17. The applicant shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Study. (P&Z) (SUP#2007-0103)
18. 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#2001-0002)
19. The applicant shall control 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 and Environmental Services. (T&ES) (SUP#2007-0103)
20. **CONDITION DELETED BY STAFF:** ~~The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "Solid Waste and Recyclable Materials Storage Space Guidelines", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: [www.alexandriava.gov](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES) (SUP#2007-0103)~~
21. **CONDITION DELETED BY STAFF:** ~~Applicant shall contribute \$500.00 to the Litter Control Fund for the installation of litter receptacles along the public right-of ways. Monetary contribution to be submitted to the Department of T&ES, Engineering~~

Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES)  
(SUP#2007-0103)

22. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program for all employees. (Police)(SUP#2001-0002)
23. 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. (P&Z) (SUP#2001-0096)
24. **CONDITION SUPERSEDED BY STATE LAW AND DELETED BY STAFF:** ~~The applicant shall comply with any regulations adopted as part of a smoke free ordinance. (P&Z) (SUP #2007-0033)~~
25. **CONDITION DELETED BY STAFF:** ~~The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z) (SUP#2007-0103)~~
26. 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 on how to prevent underage sales of alcohol. (P&Z) (SUP#2007-0103)
27. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the Special Use Permit after ~~it~~ the expansion 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, (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 #2001-00096)
28. **CONDITION ADDED BY STAFF:** No delivery service of food to customers shall operate from the restaurant. (P&Z)
29. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
30. **CONDITION ADDED BY STAFF:** All waste products including but not limited to organic compounds (solvents) shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers or be discharged onto the ground. (T&ES)



STAFF: Barbara Ross, Deputy Director, Department of Planning and Zoning;  
Nathan Randall, Urban Planner.

---

Staff Note: 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.

