

EXHIBIT NO. 1

4
9-25-10

Docket Item #3

Encroachment #2010-0005

1125 Queen Street – Café Nicole

Application	General Data	
Request: Consideration of a request for an encroachment into the public right-of-way for outdoor dining.	Planning Commission Hearing:	September 7, 2010
	City Council Hearing:	September 25, 2010
Address: 1125 Queen Street	Zone:	CL/Commercial Low
Applicant: Nicole Burlimann	Small Area Plan:	Braddock Road

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

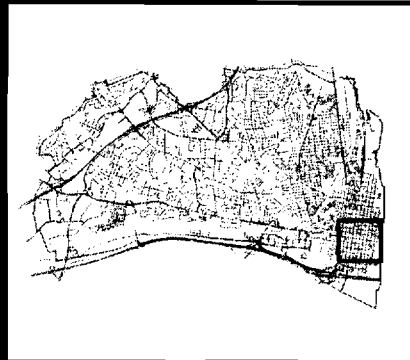
Staff Reviewers: Nathan Randall nathan.randall@alexandriava.gov

PLANNING COMMISSION ACTION, SEPTEMBER 7, 2010: 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.



KEY MAP



ENC #2010-0005

09/07/10



I. DISCUSSION

REQUEST

The applicant requests approval of an encroachment in the public right-of-way for the addition of outdoor seats in two areas in front and to the side of an existing restaurant at 1125 Queen Street. Although a small portion of land in front of the restaurant is privately-owned, nearly all of the area be used for outdoor dining is located in public right-of way.

SITE DESCRIPTION

The subject property is one lot of record with approximately 29 feet of frontage on Queen Street, 70 feet of frontage of North Fayette Street, and a total lot area of 2,030 square feet. The lot is developed with a one-story commercial building currently housing Café Nicole, a coffee shop and restaurant.



The surrounding area is occupied by a mix of office, commercial, institutional and residential uses. Residential townhouses are located primarily to the north. Professional offices are located to either side of the property, commercial uses are located further down the block on Queen Street to the east, and the Antioch Church of Christ and Helen Miller Park are located to the south across Queen Street.

BACKGROUND

A restaurant named Tom Allen's operated in this location for many years prior to 1975. Sergeant's Restaurant, also known as Sarge's, operated here from 1975 until it was gutted by fire in 2007. The current tenant, Café Nicole, opened in May 2010. Since a restaurant operated in this location prior to May 1979, the restaurant use is considered to be grandfathered. As long as it operates within the terms of its grandfathered status, the inside restaurant operations do not require a Special Use Permit.

Outdoor dining is not covered under the terms of its grandfathering status, but is allowed by Administrative Special Use Permit as a result of the Small Business Zoning text amendment adopted by City Council in June 2010. Staff has already approved the applicant's request for an Administrative Special Use Permit (SUP#2010-0040) for the outdoor dining use only.

PROPOSAL

The applicant proposes to add up to 13 outdoor seats in two separate outdoor dining areas as shown in the outdoor dining plan dated August 24, 2010, which is attached to this report. One area is proposed to be located directly in front of the restaurant and will measure approximately 4.5 feet wide by 22 feet long in total. A small portion of this area is located on private property, such that the area of encroachment onto public-right of way is only 4 feet by 22 feet. The other outdoor dining area is located entirely on public right-of way to the side of the restaurant and adjacent to Fayette Street. It will measure approximately 9.33 feet wide by 11.67 feet long, all within the public right-of way.

ZONING/MASTER PLAN

The subject property is located in the CL / Commercial Low zone. Because outdoor dining is not covered under the terms of the restaurant's grandfathering status, Section 4-102.1(E) of the Zoning Ordinance, which allows outdoor dining at an approved restaurant in the CL zone with an Administrative Special Use Permit, applies here.

The proposed use is consistent with the Braddock Road Small Area Plan chapter of the Master Plan which designates the property for commercial use.

II. STAFF ANALYSIS

Staff supports the applicant's request for an encroachment into the public right-of-way for outdoor dining. Outdoor dining is a positive addition to the existing restaurant that will increase activity and enhance the pedestrian experience in the neighborhood. The encroachment request is necessary because the building is located on the property line on the North Fayette Street side and only six inches from the front property line along Queen Street. Ample room exists to accommodate the applicant's proposed outdoor dining areas, particularly given the newly-widened sidewalks at this intersection. Furthermore, at least six feet of sidewalk, and in some cases more, will remain unobstructed for pedestrian movement though the site.

Staff has heard from the West Old Town Citizens' Association, who supports the applicant's request and asked that the owner stack and lock the tables and chairs each night to preclude their after-hours use. Staff included this suggestion as a condition in Special Use Permit #2010-0040, the approval for the outdoor dining use.

Subject to the conditions contained in Section III of this report, staff recommends approval of the encroachment request.

III. STAFF RECOMMENDATION

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

1. Outdoor dining at the restaurant shall comply with all requirements and conditions of SUP#2010-0040. (P&Z)
2. The applicant shall maintain minimum 6' wide unobstructed sidewalk to the front and the side of the restaurant. (T&ES)
3. 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)
4. 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)
5. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)

STAFF: Barbara Ross, Deputy Director;
Nathan Randall, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 Maintain minimum 6' wide unobstructed sidewalk. (T&ES)
- R-2 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)
- R-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)
- R-4 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure that encroached into the public right-of-way, within 60 days, upon notification by the City. (T&ES)

Code Enforcement:

- C-1 The proposed space used for outdoor seating with tables must provide a minimum of 15 square feet per person.
- C-2 Any configuration of outdoor seating shall comply with the following conditions:
- Fire Dept. Connections must remain accessible - not be blocked by tables or fixtures.
 - Daily Sweeping/washing of outdoor dining area is recommended to control rodent activity.
 - Fire Hydrants shall not be obstructed by tables, chairs or other fixtures.
 - The configuration of any outdoor seating shall not obstruct or diminish the required egress from the structure or any adjacent structures.
- C-3 Any increase in occupancy must be supported by the required number of restroom facilities within the structure in accordance with the USBC/International Plumbing Code.

- C-4 Any increase in occupancy will only be considered for the exterior of the structure and will not modify the approved interior approved occupant load. At no time shall any approved outdoor seating be incorporated inside due to foul weather or other situations.

Health Department:

- F-1 This facility is currently operating as Café Nicole under an Alexandria health permit issued to Burlimann Enterprises, LLC.
- 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 \$200.00 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.

Parks and Recreation:

- F-1 No Comments

Police Department:

- F-1 The Police Department has no objections to the encroachment.



APPLICATION

ENCROACHMENT

ENC# 2010-0005

PROPERTY LOCATION: 1125 Queen St, Alexandria, VA 22314
TAX MAP REFERENCE: 064.03-04-03 **ZONE:** CL

APPLICANT

Name: Nicole Burlimann (Cafe Nicole)
Address: 1125 Queen St, Alexandria, VA 22314

PROPERTY OWNER

Name: Sergeant's Restaurant Inc.
Address: 828 Fairoak Ave, Hyattsville, MD 20783

PROPOSED USE:

outdoor seating/dining

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 hereby applies for an Administrative Use Permit in accordance with the provisions of Article VI, Section 6-600 of the 1992 Zoning Ordinance 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.

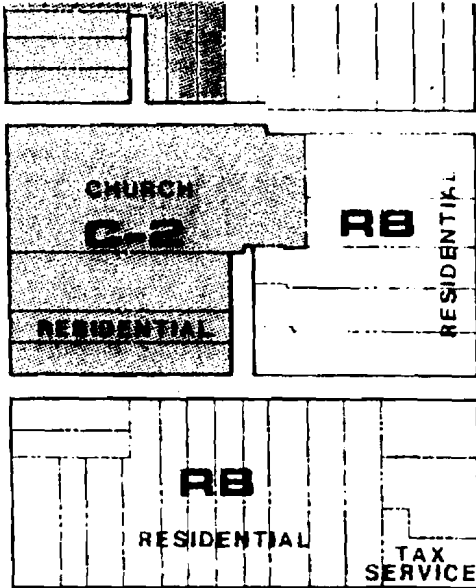
THE UNDERSIGNED I/so attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

Nicole Burlimann
Print Name of Applicant or Agent
1125 Queen St
Mailing/Street Address
Alexandria, VA 22314
City and State Zip Code

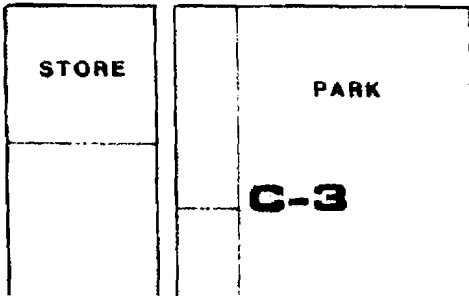
Nicole Burlimann
Signature
703-507-1943
Telephone # Fax #
nicoleburlimann@gmail.com
Email address
June 21, 2010
Date

Application Received: _____ Date and Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: _____ ACTION - CITY COUNCIL: _____

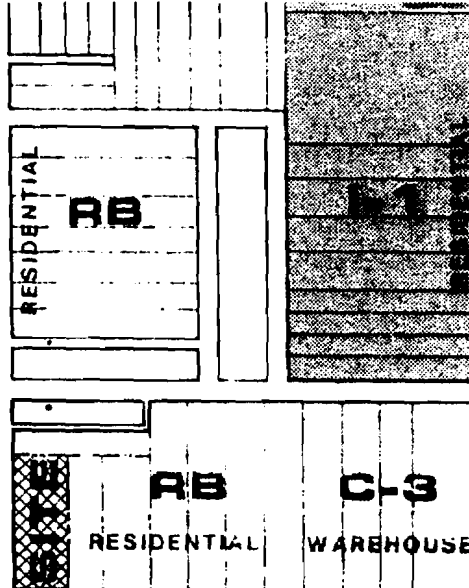
N. PAYNE STREET



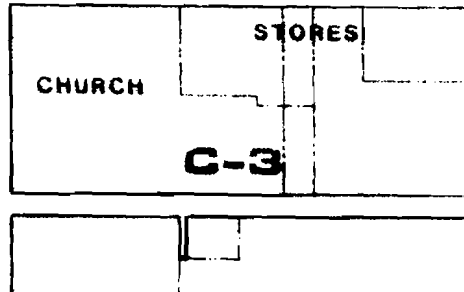
QUEEN STREET



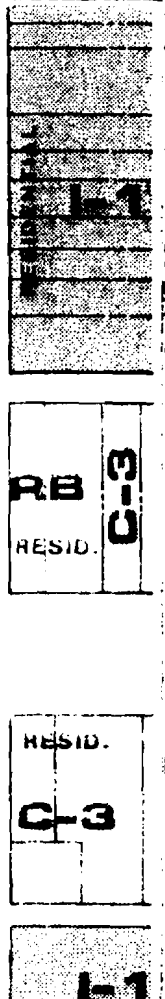
N. FAYETTE STREET



QUEEN STREET



N. HENRY STREET



PLAT

SHOWING EXISTING LAND USES AND ZONING
AROUND THE PROPERTY LOCATED AT

**1125 QUEEN STREET
CITY OF ALEXANDRIA, VIRGINIA**

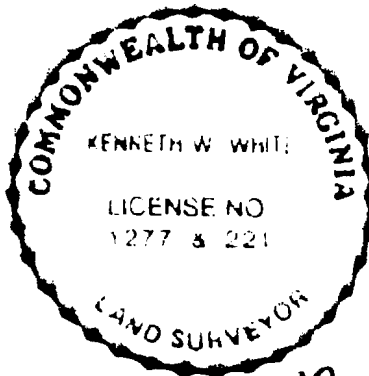
SCALE : 1"=100'

JUNE 1, 1988

TAX MAP 64.03-04-3
ZONED RB RESIDENTIAL

CERTIFIED CORRECT:

Kenneth W. White
KENNETH W. WHITE L.S.



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CASE NAME

SGT S RESTAURANT

MOLCHANY

W. GARDNER STUBBS, INC.
8540 SOUTH PINNACLES HIGHWAY
ALEXANDRIA, VIRGINIA 22304



APPLICATION

ENCROACHMENT

ENC# 2010-0005

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TAX MAP REFERENCE: 064.03-04-03 ZONE: CL

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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.

Nicole Burlimann

Print Name of Applicant or Agent

1125 Queen St

Mailing/Street Address

Alexandria, VA 22314

City and State Zip Code

Nicole Burlimann

Signature

703-507-1943

Telephone # Fax #

nicoleburlimann@gmail.com

Email address

June 21, 2010

Date

Application Received: _____	Date and Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: _____	ACTION - CITY COUNCIL: _____

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P.C Action By unanimous consent, recommended approval 9/1/10
CC Action - CC approved PC recommendation 7-0 9/25/10