

EXHIBIT NO. 1

6  
4-13-02

Docket Item # 7  
SPECIAL USE PERMIT #2002-0010

Planning Commission Meeting  
April 2, 2002

**ISSUE:** Consideration of a special use permit review for a restaurant.

**APPLICANT:** Catherine M. Archuleta

**LOCATION:** 1640 King Street  
Cate's Bistro Gourmet

**ZONE:** OCH/Office Commercial High

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**PLANNING COMMISSION ACTION, APRIL 2, 2002:** On a motion by Ms. Fossum, seconded by Mr. Leibach, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendation. The motion carried on a vote of 7 to 0.

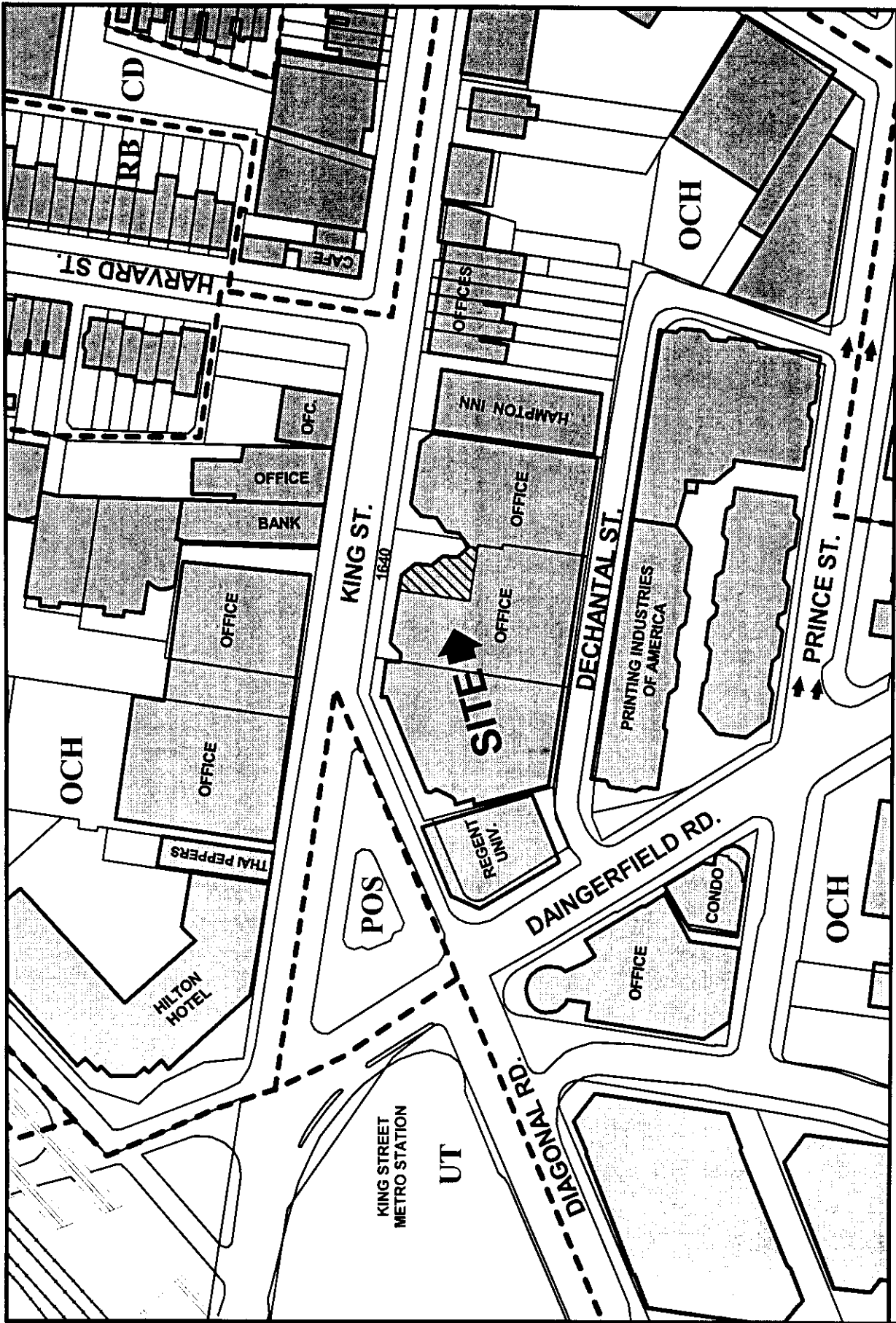
Reason: The Planning Commission agreed with the staff analysis.

Speakers:

Ms. Catherine Archuleta, applicant, stated that the violation which triggered the public hearing had been corrected.

**PLANNING COMMISSION ACTION, MARCH 5, 2002:** By unanimous consent, the Planning Commission deferred the request.

Reason: The applicant requested the deferral.



04/02/02

SUP #2002-0010



STAFF RECOMMENDATION:

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 business or entity in which the applicant has a controlling interest. (P&Z) (SUP #2000-0094)
2. The hours of operation shall be limited from 8:00 A.M. to Midnight daily. (P&Z) (SUP #2000-0094)
3. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #2000-0094)
4. Seating shall be provided for no more than 20 patrons. (P&Z) (SUP #2000-0094)
5. Outside dining facilities may be located in the courtyard area between the buildings and shall not encroach on the public right-of-way. The outdoor dining area shall be cleared of all diners by 11:00 P.M. and the area shall be cleaned and washed by Midnight. (P&Z) (SUP #2000-0094)
6. Delivery service shall be limited to a maximum of one delivery vehicle. (P&Z) (SUP #2000-0094)
7. No employees or delivery vehicles shall park on or load from any public right-of-way. (P&Z) (SUP #2000-0094)
8. Live entertainment may be provided inside the restaurant as requested by the applicant. (P&Z) (SUP #2000-0094)
9. **CONDITION AMENDED BY STAFF:** No music or amplified sound shall be audible at the property line. All loudspeakers shall be prohibited from the exterior of the building. (P&Z) (~~SUP #2000-0094~~) (T&ES)
10. Alcoholic beverages may be sold for on-premises consumption and may be limited to wine tasting. For off-premise sales, only single bottles of non-fortified wine, minimum size (750 ml) may be sold. (City Council) (SUP #2000-0094)
11. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #2000-0094)

12. The applicant shall install at least one trash container inside the restaurant for customers' use. (P&Z) (SUP #2000-0094)
13. 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 #2000-0094)
14. 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 at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z) (SUP #2000-0094)
15. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #2000-0094)
16. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors and smoke and any other air pollution from operations at the site and prevent them from leaving from the property to prevent them from or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES) (~~SUP #2000-0094~~)
17. The applicant shall require that its employees who drive to work use off-street parking. (P&Z) (SUP #2000-0094)
18. The applicant shall post a sign indicating the location of off-street parking for patrons. (P&Z) (SUP #2000-0094)
19. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program for employees. (Police) (SUP #2000-0094)
20. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval after it has been operational for six months 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. (~~PC~~) (~~SUP #2000-0094~~) (P&Z)

21. **CONDITION ADDED BY STAFF: 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)**
  
22. **CONDITION ADDED BY STAFF: The applicant shall obtain, at her expense, one Model SD-42 Bethesda Series litter receptacle to replace the old model trash container currently located near the front of Cate's Bistro Gourmet on King Street at the intersection of Diagonal and King Streets. The applicant shall contact T&ES Solid Waste Division at 703-751-5130 for information. (T&ES)**

DISCUSSION:

1. The applicant, Catherine M. Archuleta, is before the Planning Commission for a review of the special use permit for a restaurant located at 1640 King Street.
2. The subject property is one lot of record with approximately 110 feet of frontage on King Street and a total lot area of approximately 20,708 square feet. The site is developed with two office buildings that have structured parking. The site is surrounded by retail and office uses.
3. The restaurant has seating for 20 patrons, outdoor dining, delivery service, live entertainment, on- and off-premise alcohol sales, and is open between 8:00 a.m. and midnight daily.
4. The restaurant was approved by City Council on September 16, 2000 under Special Use Permit #2000-0094. This permit required the Department of Planning and Zoning to review the restaurant after it had been operational for six months. The zoning staff made an inspection of the subject property on October 26, 2001 to determine if the applicant was in compliance with the conditions of the special use permit. Staff found a violation of Condition #18. The applicant had failed to post a sign indicating the location of off-street parking for patrons. Staff visited the site again on February 4, 2001 and found that the applicant had posted the required sign.
5. There have been no citizen complaints about the restaurant in the last six months.
6. Zoning: The subject property is located in the OCH/Office commercial high zone. Section 4-1103(W) of the zoning ordinance allows a restaurant in the OCH zone only with a special use permit.
7. Master Plan: The proposed use is consistent with the King Street/Eisenhower Avenue Metro Station Small Area Plan chapter of the Master Plan that designates the property for high density office and commercial uses.

STAFF ANALYSIS:

Staff has no objection to the continued operation of the existing restaurant located at 1640 King Street. Staff has, however, amended the review condition to require a review of the restaurant one year after this approval since there was a violation of the special use permit conditions. Staff has also added a standard condition regarding meals ordered near the closing hour (Condition #21), and has recommended that the applicant fund a new city trash container. There is an old model city trash container located near the front of the restaurant on King Street at the intersection of Diagonal and King Streets that needs to be replaced (Condition #22). Both of these last two conditions have been applied to merchants throughout the city, and the last condition will improve the appearance of King Street. With these and the existing conditions, staff recommends approval of the special use permit.

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

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 Applicant shall replace, at their expense, the existing street box with a Model SD-42 Bethesda Series litter receptacle. Contact T&ES Solid Waste Division (703/751-5130) for information.
- R-2 All loudspeakers shall be prohibited from the exterior of the building.
- R-3 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-4 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.

Code Enforcement:

- F-1 No comments.

Health Department:

- F-1 No comments.

Police Department:

- F-1 No objections.



APPLICATION for SPECIAL USE PERMIT # 2002-0010

[must use black ink or type]

PROPERTY LOCATION: 1640 KING ST

TAX MAP REFERENCE: 63.04-09-04 ZONE: OCH

APPLICANT Name: CATHERINE M. ARCHULETA

Address: \_\_\_\_\_

PROPERTY OWNER Name: \_\_\_\_\_

Address: \_\_\_\_\_

PROPOSED USE: REVIEW OF RESTAURANT  
"CATE'S BISTRO"

**THE UNDERSIGNED** hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 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** hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

\_\_\_\_\_  
Print Name of Applicant or Agent

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Mailing/Street Address

\_\_\_\_\_  
Telephone #

\_\_\_\_\_  
Fax #

\_\_\_\_\_  
City and State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Date

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

Application Received: \_\_\_\_\_

Date & Fee Paid: \_\_\_\_\_ \$

ACTION - PLANNING COMMISSION: \_\_\_\_\_

ACTION - CITY COUNCIL: \_\_\_\_\_



ALEXANDRIA DEPARTMENT OF  
PLANNING AND ZONING  
301 King Street, Room 2100  
Alexandria, Virginia 22314

SUP 2000-0094

Z-02

TICKET NO 2340

**NOTICE OF VIOLATION**  
YOU ARE CHARGED WITH VIOLATING THE  
ALEXANDRIA, VIRGINIA ZONING ORDINANCE

Oct. 26, 2001      1      2:17  
Date ticket served      Day of Week      Time AM/PM

Location of Violation: 1640 King  
Street

Ord. Section: 11-505

Description of Violation: Condition #18  
(the applicant shall post a  
sign indicating the  
location of off-street  
parking for patrons)

Penalty \$: 50.00  
 1st       2nd  
 3rd/MORE     

IF THE VIOLATION IS NOT CORRECTED BY  
Nov. 2, 2001 AN ADDITIONAL MONETARY  
PENALTY WILL BE ASSESSED.

[Signature]      103  
Inspector's Signature      ID Number

I personally observed or investigated the commission of the  
violation noted above and/or violation was based upon signed  
affidavit.

- VIOLATORS COPY - WHITE
- CITY ATTORNEY COPY - YELLOW
- FINANCE COPY - PINK
- PLANNING AND ZONING COPY - ORANGE

NOTICE SERVED ON:

NAME: LAST MORALES FIRST JOSE MIDDLE JUAN

PROPERTY OWNER  
 COMPANY Cafe Pasco  
NAME

OTHER \_\_\_\_\_  
POSITION

1640 King Street  
ADDRESS  
Alexandria VA  
CITY/TOWN      STATE      ZIP

[Signature]      11/27/01  
SIGNATURE      DATE

I hereby acknowledge receipt of this Notice of  
Violation. Signature is not an admission of guilt.

PERSON REFUSED TO SIGN      DATE \_\_\_\_\_

**CERTIFICATE OF SERVICE**

Mailed/posted a true copy of this notice to the last  
known home or business address of the respondent  
or the respondent's agent

\_\_\_\_\_  
Name of Person or Business Served  
\_\_\_\_\_  
Address of Service  
\_\_\_\_\_  
City/State

Posted true copy of this notice at the site of the  
infraction

The undersigned states that he/she is an employee  
of the City of Alexandria Department of Planning  
and Zoning and knows this Certificate of Service to  
be true to the best of his/her knowledge.

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name  
\_\_\_\_\_  
Date      Phone # \_\_\_\_\_

**WARNING**  
YOU ARE REQUIRED TO RESPOND TO THIS NOTICE  
OF VIOLATION WITHIN 15 DAYS OF THE DATE OF  
SERVICE IN ONE OF THE FOLLOWING WAYS

1. TO PAY PENALTY AND WAIVE YOUR RIGHT TO A  
HEARING:

- Check the "Admit Violation" or "No Contest" box below;
- Make personal check, cashier's check, certified check or money order payable to City of Alexandria. Do not send cash through the mail;
- Print violation notice number on the check or money order;
- Payment may be made by mail, or in person, at the Treasury Office, City Hall, 301 King Street, Room 1510, Alexandria, Virginia, between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4949.

2. TO REQUEST A COURT HEARING:

- Check the "Contest in Court" box below and:  
(a) Mail this completed notice to the Office of the City Attorney, City Hall, Suite 1300, 301 King Street, Alexandria, Virginia, 22314; or  
(b) Appear in person or by an authorized representative, at the above address between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4433.

- If you wish to contest this violation a date will be set for trial in the General District Court of Alexandria, Virginia. Failure to appear in court on the date set for trial, unless prior approval has been granted by a judge of that court, will result in the entry of a default judgement against you.

3. TO CONTEST THE INTERPRETATION OF THE  
ORDINANCE:

- You have the right to appeal the interpretation of the zoning ordinance upon which this violation is based to the Board of Zoning Appeals within 30 days in accordance with 15.2-2311 of the Code of Virginia. The interpretation shall be final and unappealable if not appealed within 30 days.

FOR INFORMATION CONCERNING THIS TICKET CALL  
PLANNING AND ZONING AT 703-838-4688

FAILURE TO RESPOND AS PROVIDED ABOVE WILL RESULT  
IN THE ISSUANCE OF A SUMMONS TO APPEAR IN COURT  
AND ANSWER TO THE VIOLATION FOR WHICH THIS NOTICE  
WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS  
CERTIFICATION:  
 ADMIT VIOLATION     NO CONTEST     CONTEST IN COURT

Name (print) \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

I hereby certify under penalty of law, that I have  
answered as indicated above, and corrected or made  
substantial efforts to correct the violation that I have  
admitted or for which I have pleaded no contest.

Signature SUP 2001-0010      Date \_\_\_\_\_  
F-PLN-0071 (7/00)

APPLICATION for SPECIAL USE PERMIT # 2002-0010 6

[must use black ink or type]

PROPERTY LOCATION: 1640 KING ST

TAX MAP REFERENCE: 63.04-09-04 ZONE: OCH

APPLICANT Name: CATHERINE M. ARCHULETA

Address: \_\_\_\_\_

PROPERTY OWNER Name: \_\_\_\_\_

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\_\_\_\_\_  
*Print Name of Applicant or Agent*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Mailing/Street Address*

\_\_\_\_\_  
*Telephone #*

\_\_\_\_\_  
*Fax #*

\_\_\_\_\_  
*City and State*

\_\_\_\_\_  
*Zip Code*

\_\_\_\_\_  
*Date*

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

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

ACTION - PLANNING COMMISSION: 4/02/02 RECOMMEND APPROVAL 7-0

ACTION - CITY COUNCIL: 04/13/02PH-- CC approved the recommendation of the Planning Commission.