

EXHIBIT NO. 1

6
6-14-08

Docket Item #7
SPECIAL USE PERMIT #2008-0035

Planning Commission Meeting
June 3, 2008

ISSUE: Consideration of a request to amend a special use permit to increase the hours of operation, allow outdoor dining and amend the schedule for trash collection.

APPLICANT: Braddock Place Deli, LLC
by M. Catharine Puskar, attorney

STAFF: Richard W. Bray
Richard.bray@alexandriava.gov

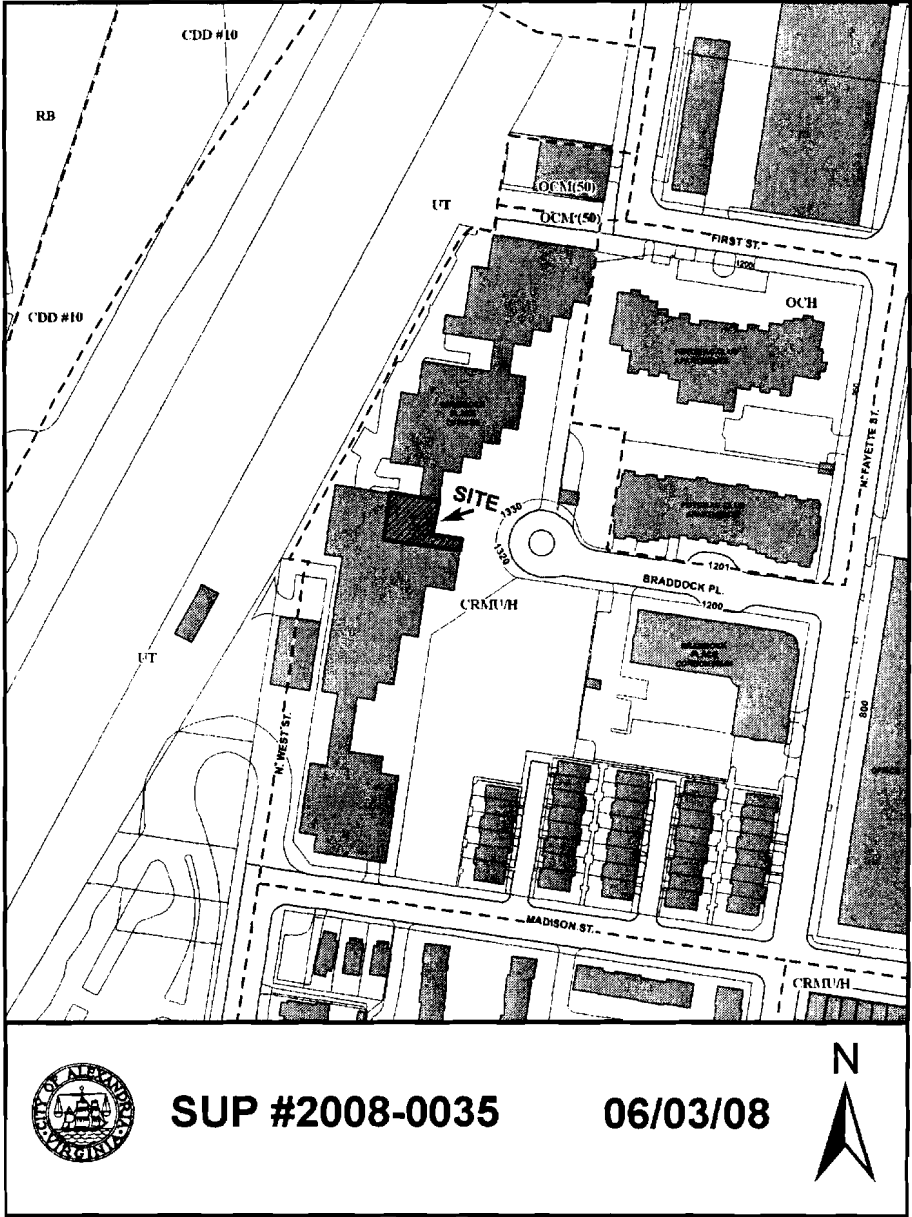
LOCATION: 1320 Braddock Place

ZONE: CRMU-H/Commercial Residential Mixed Use High

PLANNING COMMISSION ACTION, JUNE 3, 2008: 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.

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



I. DISCUSSION

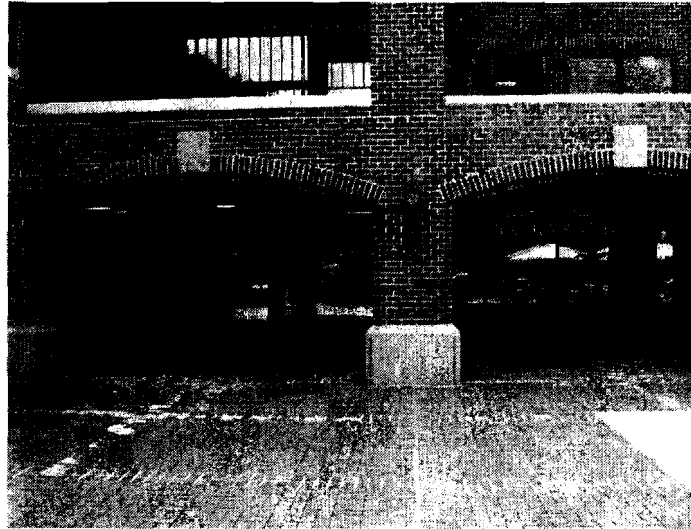
REQUEST

The applicant, Braddock Place Deli, requests amendments to an approved special use permit for the operation of a restaurant located at 1320 Braddock Place.

SITE DESCRIPTION

The subject property is part of the Braddock Place office park consisting of four office buildings on one lot of record at the terminus of Braddock Place. The total lot area of the office park is 155,275 square feet. Access to the property is from Braddock Place.

The surrounding area is occupied by a mix of office, residential and transportation uses. Immediately to the north is the Jaguar site, which is in the planning process for a new mixed use project. To the south are single family detached houses. To the east are the Braddock Place Townhomes and the residential high rises Braddock Place Condominiums and Potomac Club Residences. To the west are the Washington Metropolitan Transit Authority tracks.



BACKGROUND

On October 8, 1986, City Council granted Special Use Permit #1941 for the operation of a restaurant at this location. On December 14, 1991, City Council granted Special Use Permit #1941A for a change in ownership of the existing restaurant. On September 13, 2007, staff administratively approved Special Use Permit #2007-0078, a change of ownership for the existing restaurant. The existing restaurant seeks amendments to this Special Use Permit. The restaurant has operated as a deli style restaurant continuously with a 3 month hiatus from July 2007 to September 2007, when it was closed during a change of ownership.

On May 5, 2008, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found no violations of the special use permit.

PROPOSAL

The applicant proposes to increase the hours of operation for the restaurant and allow outdoor dining. The applicant also requests removal of condition number five that requires daily trash pick up.

Hours: Current: 7:00 am – 4:00 pm, Monday through Friday
Proposed: 6:00 am – Midnight, daily

Number of seats: 86 inside, no change from current SUP
53 additional seats outdoors

Noise: No history of noise problems

Trash/Litter: Commercial trash collection as scheduled by building management

PARKING

According to Section 8-200(A)(8) of the Zoning Ordinance, a restaurant requires one parking space for every four seats. A restaurant with 139 seats will be required to provide 35 off-street parking spaces. The Braddock Place development provides 848 off street parking spaces for use by the various tenants. Sufficient parking is provided for the subject restaurant.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CRMU-H/Commercial Residential Mixed Use-High zone. Section 5-303(N) of the Zoning Ordinance allows a restaurant in the CRMU-H zone only with a special use permit.

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

II. STAFF ANALYSIS

Staff supports the amendments to this Special Use Permit. The outdoor dining and later hours are consistent the City's goal of creating a lively active area around the Braddock Road Metro station. The newly adopted Braddock Road Metro Small Area Plan encourages businesses to remain open later and take steps to promote pedestrian oriented active uses. The Braddock Place complex has a large courtyard that is under utilized and the outdoor dining area will help to create a more appealing atmosphere. The trash collection is arranged by the management and is beyond the applicant's control, staff feels that the building management has ample incentive to ensure timely pick up of all waste.

Staff believes that with 848 parking spaces provided for the office complex, parking will not be an issue. Furthermore, the restaurant caters primarily to on site office workers and nearby residents who would not drive to the location.

With the following conditions, staff recommends approval of the special use permit.

III. RECOMMENDED CONDITIONS

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

1. **CONDITION AMENDED BY STAFF:** That seating be provided inside for no more than 86 patrons and outside for no more than 53 patrons. (P&Z)
2. **CONDITION DELETED BY STAFF:** ~~That no outside dining facilities be located on the premises. (P&CD) (SUP #1941)~~
3. That no food, beverages, or other material be stored outside. (P&CD) (SUP #1941)
4. That trash and garbage be stored inside or in a dumpster. (P&CD) (SUP #1941)
5. **CONDITION DELETED BY STAFF:** ~~That trash and garbage be collected daily when the business is open. (P&CD) (SUP1941A)~~
6. That the permit be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&CD) (SUP#1941A)
7. **CONDITION AMENDED BY STAFF:** That the hours during which the business is open to the public be restricted to between ~~7:00 A.M. to 4:00 P.M., Monday through Friday~~ 6:00 am to midnight, daily, as requested by the applicant. Outdoor dining shall end by 10:00 pm. (P&Z)
8. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health) (SUP2007-0078)
9. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES) (SUP2007-0078)
10. 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) (SUP2007-0078)
11. All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES) (SUP2007-0078)

12. 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 or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES) (SUP2007-0078)
13. 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. (T&ES) (SUP2007-0078)
14. 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) (SUP2007-0078)
15. The applicant shall require its employees who drive 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. (T&ES) (SUP2007-0078)
16. **CONDITION ADDED BY STAFF:** The applicant shall submit a floor plan to the approval of the Director of Code Enforcement prior to use of any of the proposed outdoor dining facilities. (Code Enforcement)
17. **CONDITION ADDED BY STAFF:** The applicant shall post the hours of operation at the entrance of the business. (P&Z)
18. **CONDITION ADDED BY STAFF:** 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)
19. **CONDITION ADDED BY STAFF:** Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
20. **CONDITION ADDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit after it 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)

STAFF: Richard Josephson, Deputy Director, Department of Planning and Zoning;
Richard Bray, 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.

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES) (SUP2007-0078)
- R-2 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) (SUP2007-0078)
- R-3 All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES) (SUP2007-0078)
- R-4 Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 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 or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES) (SUP2007-0078)
- R-6 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. (T&ES) (SUP2007-0078)
- R-7 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) (SUP2007-0078)

- R-8 The applicant shall require its employees who drive 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. (T&ES) (SUP2007-0078)
- 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. (SUP2007-0078)
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). (SUP2007-0078)

Code Enforcement:

- R-1 The applicant shall submit a floor plan to the approval of the Director of Code Enforcement prior to use of any of the proposed outdoor dining facilities.
- C-1 The proposed space for outdoor seating with tables occupies 800 square feet. The USBC limits the occupant loading for this area to 15 square feet per person or a total of 53 persons.
- 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.

Health Department:

- F-1 This facility is currently operating as Sophia's Café under an Alexandria health permit issued to Braddock Place Deli, 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 \$135.00 fee for plans review of 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 & Recreation:

- F-1 No Comment

Police Department:

- F-1 The Police Department has no objections to the increased hours of operation, the outdoor dining, and to the deletion of condition #5 which requires daily pick up of trash.
- F-2 The applicant is not seeking an A.B.C. permit. The Police Department concurs.

PROPERTY OWNER'S AUTHORIZATION

As the property owner of _____ see attached _____, I hereby
(Property Address)
grant the applicant authorization to apply for the _____ use as
(use)
described in this application.

Name: _____ Phone: _____
Please Print

Address: _____ Email: _____

Signature: _____ Date: _____

1. Floor Plan and Plot Plan. As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver.

Required floor plan and plot/site plan attached.

Requesting a waiver. See attached written request. No change to floor plan approved with SUP 2007-0078.

2. The applicant is the (check one):

Owner

Contract Purchaser

Lessee or

Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent.

Usamah Misleh	Jason Musleh
8437 Hunt Valley Drive	6312 Maryview Street
Vienna, VA 22182	Alexandria, VA 22310

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia? N/A

Yes. Provide proof of current City business license

No. The agent shall obtain a business license prior to filing application, if required by the City Code.

NARRATIVE DESCRIPTION

3. The applicant shall describe below the nature of the request **in detail** so that the Planning Commission and City Council can understand the nature of the operation and the use. The description should fully discuss the nature of the activity. (Attach additional sheets if necessary.)

The applicant requests an amendment to Special Use Permit 2007-0078 to increase the hours of operation, permit outdoor dining and revise the trash collection schedule for the restaurant. Specifically, the Applicant requests amendment to condition #7 to revise the hours of operation to permit the restaurant to be open 7 days a week from 6:00 am to midnight, to delete condition #2 which prohibits outdoor dining, and to delete condition #5 which requires daily trash pick-up. The proposed amendments to the hours of operation and outdoor dining are consistent with the City's goal of enhancing retail and creating pedestrian activity in the Braddock Road area. The requested amendment to the trash collection schedule reflects the fact that the trash is collected according to the schedule set by property management for the property and does not happen on a daily basis but instead occurs a few times per week. These revisions will enhance both the vitality of the restaurant and the Braddock Road area.

USE CHARACTERISTICS

4. The proposed special use permit request is for (check one):
 a new use requiring a special use permit,
 an expansion or change to an existing use without a special use permit,
 an expansion or change to an existing use with a special use permit,
 other. Please describe: _____

5. Please describe the capacity of the proposed use:

- A. How many patrons, clients, pupils and other such users do you expect?
Specify time period (i.e., day, hour, or shift).

no change

- B. How many employees, staff and other personnel do you expect?
Specify time period (i.e., day, hour, or shift).

no change

6. Please describe the proposed hours and days of operation of the proposed use:

Day: 7 days a week

Hours: 6am - midnight

7. Please describe any potential noise emanating from the proposed use.

- A. Describe the noise levels anticipated from all mechanical equipment and patrons.

no change

- B. How will the noise be controlled?

no change

8. Describe any potential odors emanating from the proposed use and plans to control them:

no change

9. Please provide information regarding trash and litter generated by the use.

A. What type of trash and garbage will be generated by the use? (i.e. office paper, food wrappers)

no change

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)

no change

C. How often will trash be collected?

Trash will be collected according to property management schedule.

D. How will you prevent littering on the property, streets and nearby properties?

no change

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

no change

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

no change

12. What methods are proposed to ensure the safety of nearby residents, employees and patrons?

no change

ALCOHOL SALES

13.

A. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes No

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales.

no change

PARKING AND ACCESS REQUIREMENTS

14. A. How many parking spaces of each type are provided for the proposed use:

- _____ no change
- _____ Standard spaces
- _____ Compact spaces
- _____ Handicapped accessible spaces.
- _____ Other.

Planning and Zoning Staff Only
Required number of spaces for use per Zoning Ordinance Section 8-200A _____
Does the application meet the requirement? [] Yes [] No

B. Where is required parking located? (check one)
[] on-site
[] off-site

If the required parking will be located off-site, where will it be located?

PLEASE NOTE: Pursuant to Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

C. If a reduction in the required parking is requested, pursuant to Section 8-100 (A) (4) or (5) of the Zoning Ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

[] Parking reduction requested; see attached supplemental form

15. Please provide information regarding loading and unloading facilities for the use: no change

A. How many loading spaces are available for the use? _____

Planning and Zoning Staff Only
Required number of loading spaces for use per Zoning Ordinance Section 8-200 _____
Does the application meet the requirement? [] Yes [] No

B. Where are off-street loading facilities located? no change

C. During what hours of the day do you expect loading/unloading operations to occur?

no change

D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?

no change

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

no change

SITE CHARACTERISTICS

no change

17. Will the proposed uses be located in an existing building? Yes No

Do you propose to construct an addition to the building? Yes No

How large will the addition be? _____ square feet.

18. What will the total area occupied by the proposed use be?

_____ sq. ft. (existing) + _____ sq. ft. (addition if any) = _____ sq. ft. (total)

19. The proposed use is located in: (check one)

a stand alone building

a house located in a residential zone

a warehouse

a shopping center. Please provide name of the center: _____

an office building. Please provide name of the building: _____

other. Please describe: _____

End of Application



APPLICATION SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2008-0035

PROPERTY LOCATION: 1310 Braddock Place (per real estate assessment)
1320 Braddock Place (street address)

TAX MAP REFERENCE: 54.01-02-07 **ZONE:** CRMU-H

APPLICANT:

Name: Braddock Place Deli, LLC

Address: 8437 Hunt Valley Drive, Vienna, VA 22182

PROPOSED USE: Amendment to Special Use Permit 2007-0078 to increase hours

of operation, permit outdoor dining and revise trash collection schedule.

[] **THE UNDERSIGNED**, hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 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 staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.

[] **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 IV, Section 4-1404(D)(7) 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 Director of Planning and Zoning 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.

M. Catharine Puskar, Attorney/Agent
Walsh, Colucci, Lubeley, Emrich & Walsh, PC
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201
City and State Zip Code

M Catharine Puskar 3/25/08
Signature Date
703-528-4700 703-525-3197
Telephone # Fax #
cpuskar@arl.thelandlawyers.com
Email address

By unanimous consent, recommended approval 6-3-08
ACTION-PLANNING COMMISSION: _____ **DATE:** _____
ACTION-CITY COUNCIL: CC approved PC recommendation **DATE:** 6/14/08
7-0