

EXHIBIT NO. 1

5
9-15-07

Docket Item #4
SPECIAL USE PERMIT #2007-0053

Planning Commission Meeting
September 6, 2007

ISSUE: Consideration of a request for a special use permit to operate a restaurant.

APPLICANT: City Dock Café-King IV, LLC
by Duncan Blair, attorney

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

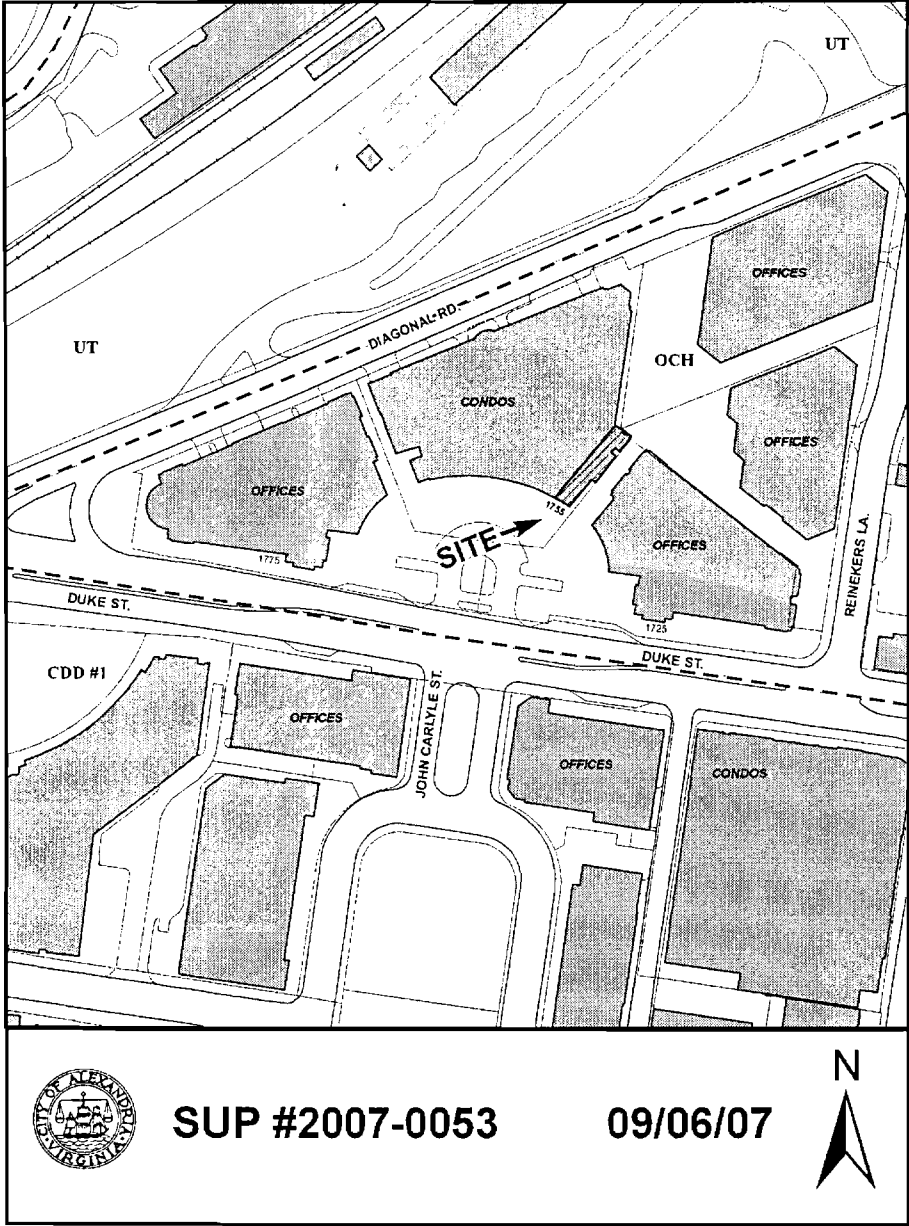
LOCATION: 1755 Duke Street
(Parcel Address: 1904 Diagonal Road)

ZONE: OCH/Office Commercial High

PLANNING COMMISSION ACTION, SEPTEMBER 6, 2007: 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.



SUP #2007-0053

09/06/07



I. DISCUSSION

REQUEST

The applicant, City Dock Cafe, requests special use permit approval for the operation of a restaurant located at 1755 Duke Street.

SITE DESCRIPTION

The subject property is a tenant space in King Street Station with a total floor area of 3,750 square feet. The site is developed with a retail space, formerly occupied by a Kinkos Federal Express store. Access to the property is from Duke Street.



The surrounding area is occupied by a variety of mixed use buildings including, office-retail and residential-retail. Immediately to the north is the King Street Metro station. To the south is the Carlyle mixed use development. To the east and west are office buildings.

PROPOSAL

The applicant proposes to operate a delicatessen style restaurant catering primarily to office workers in the surrounding neighborhood. Breakfast, lunch and dinner will be offered with 152 seats and carry-out available.

Hours: 6:00 am – 6:00 pm, 7 days a week

Number of seats: 152 total seats; 112 inside, 40 outside

Noise: No adverse impacts anticipated

Trash/Litter: Commercial collection 3 times per week or more if required, staff will patrol for litter

PARKING

According to Section 8-400(B)(8) of the Zoning Ordinance, a restaurant in the King Street Transit Parking District, occupying less than 10,000 square feet in a mixed use building is not required to provide parking. The King Street Station has a parking garage with 1,264 parking spaces.

ZONING/MASTER PLAN DESIGNATION

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.

The proposed use is consistent with the King Street Metro/Eisenhower Avenue Small Area Plan chapter of the Master Plan which designates the property for high density office and commercial uses.

II. STAFF ANALYSIS

Staff supports the delicatessen style restaurant at King Street Station. The restaurant will offer a casual dining atmosphere for the employees of the surrounding office buildings as well as another dining option for guests of the Embassy Suites hotel.

Although the applicant has only requested hours from 6:00 am to 6:00 pm, staff has recommended extended hours to give the applicant more flexibility and the opportunity to create a stronger nighttime presence. While the area is currently dominated by offices that ensure restaurant patrons during the day, there is a significant amount of residential space being developed on Eisenhower Avenue that the applicant may want to take advantage of in the future.

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. 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)
2. The hours of operation of the restaurant shall be limited to 6:00 am to 11:00 pm, daily. (P&Z)
3. Seating shall be provided for no more than 112 patrons inside and 40 patrons outside. (P&Z)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
5. 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)

6. 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)
7. The applicant shall comply with any requirements adopted as a part of a smoke-free restaurant ordinance. (P&Z)
8. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)
9. 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)
10. All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES)
11. 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)
12. 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)
13. 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)
14. 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)
15. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)

16. The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business. (Police)
17. The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery readiness program for all employees. (Police)
18. 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.
- 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.
- R-3 All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line.
- R-4 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.
- R-5 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.
- R-6 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.
- R-7 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.

- 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.
- 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).

Code Enforcement:

- C-1 A **new** fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-2 Any proposed alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 Any proposed additions and alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit (USBC 108.1). Five sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application (USBC 109.1).
- C-4 Any proposed new construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-5 The following code requirements apply where food preparation results in the development of grease laden vapors:
 - (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
 - (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.
- C-6 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
 - (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
 - (b) How food stuffs will be stored on site.
 - (c) Rodent baiting plan.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. Permits are not transferable.
- C-2 Permits must be obtained prior to operation.
- C-3 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 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.

Parks and Recreation:

- F-1 No Comment

Police Department:

- R-1 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery readiness program for all employees.
- F-1 The applicant is not seeking an A.B.C. permit. The Police Department concurs.

Special Use Permit # 2007-0053

APPLICATION for SPECIAL USE PERMIT # _____

PROPERTY LOCATION: 1755 Duke Street, Alexandria, Virginia

TAX MAP REFERENCE: 73.02 OC 03

ZONE: OCH

APPLICANT Name: City Dock Café-King IV, LLC

Address: 1701 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C. 20006

PROPERTY OWNER Name: King Street IV Associates, LP

Address: 1755 R Duke Street, c/o Carr Real Estate Services
Alexandria, Virginia 22314

PROPOSED USE: Special Use Permit to operate a restaurant.

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.

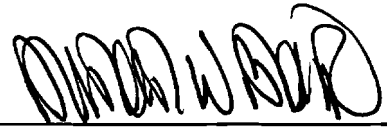
THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

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.

Land, Clark, Carroll, Mendelson & Blair, P.C.

Duncan W. Blair, Esquire

Print Name of Applicant or Agent



Signature

524 King Street

Mailing/Street Address

(703) 836-1000

Telephone #

(703) 549-3335

Fax #

dblair@landclark.com

Alexandria, Virginia 22314

City and State Zip Code

June 15, 2007

Date

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

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (*check one*) the 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, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

City Dock Café-King IV, LLC is a Virginia limited liability company. The only entity owning a membership in excess of ten percent are: Preferred Offices LLC, a District of Columbia corporation.

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?

- Yes. Provide proof of current City business license
 No. The agent shall obtain a business license prior to filing application.

2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.

See attached plans, preliminary exterior elevation and layout of the restaurant.

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, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

City Dock Café-King IV, LLC, a Virginia limited liability company doing business as “City Dock Café – King” (the “Applicant”), is requesting a special use permit to operate a restaurant in the mixed-use King Street Station Project at 1755 Duke Street.

City Dock Café-King will be a delicatessen style restaurant with 112 indoor seats and 40 outdoor seats in the arcade area fronting on Duke Street. The restaurant will serve breakfast, lunch and dinner seven days a week.

USE CHARACTERISTICS

4. The proposed special use permit request is for: *(check one)*

a new use requiring a special use permit,

a development special use permit,

an expansion or change to an existing use without a special use permit,

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).

The Applicant anticipates the restaurant will serve approximately five hundred (500) patrons a day. Patrons will consist primarily of nearby residents and employees of nearby businesses.

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

The restaurant will employ on a full or part time basis approximately forty (40) employees working in two (2) shifts per day. The anticipated number of employees on site at any one time is anticipated to be eight (8) employees.

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

Day:

Hours:

Monday – Sunday

6:00 A.M. – 6:00 P.M.

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

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

It is not anticipated that noise levels will exceed permitted levels under the Alexandria City Code.

- B. How will the noise from patrons be controlled?

It is not anticipated that patron noise will be a source of complaints; as such, no extraordinary noise mitigation and control measures are warranted.

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

It is not anticipated that offensive odors will emanate from the use of the property as a restaurant. All cooking equipment will be equipped with an exhaust system filtering and venting to the exterior of the building in accordance with City regulations.

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?

The type of volume of trash and garbage generated by the restaurant will be mainly refuse from products received (i.e. cardboard delivery boxes) and from general restaurant operations (product remnants). Trash and garbage will be deposited and stored in the commercial 34 yard compactor dumpster in the 1800 Diagonal Road building.

B. How much trash and garbage will be generated by the use?

The restaurant will generate approximately 1/10 dumpster of trash and garbage per day.

C. How often will trash be collected?

Trash and garbage will be collected by a commercial collector at least three (3) times a week.

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

Litter is not an anticipated problem; however, the restaurant's staff will self-police the adjacent right-of-way.

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:

Small quantities of organic compounds, generally recognized to be appropriate for use by restaurants in the operation of the business, will be stored, used as solvents, and disposed of in accordance with applicable regulations.

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:

Small quantities of organic compounds, generally recognized to be appropriate for use by restaurants in the operation of the business, will be stored, used as solvents, and disposed of in accordance with applicable regulations.

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

The location and hours of operations should provide a safe environment for its patrons and staff. It is not anticipated that extraordinary security measures will be required.

ALCOHOL SALES

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

Yes. No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

PARKING AND ACCESS REQUIREMENTS

14. Please provide information regarding the availability of off-street parking:

A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

None. Pursuant to Section 8-400(B)(8) of the Alexandria Zoning Ordinance, restaurants in hotel and office building projects of less than 10,000 square feet are not required to provide parking in the King Street Metro Station Transit area.

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

_____ Standard spaces

_____ Compact spaces

_____ Handicapped accessible spaces.

1264 **Other. Parking spaces are located below grade parking garage for the King Street Station project.**

- C. Where is required parking located? on-site off-site (*check one*)

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

Below grade parking structure for King Street Station.

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.

- D. 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.

15. Please provide information regarding loading and unloading facilities for the use:

- A. How many loading spaces are required for the use, per section 8-200 (B) of the Zoning ordinance?

One.

- B. How many loading spaces are available for the use?

The restaurant will have the use of the two (2) loading and unloading areas for King Street Station accessed off Reinekers Lane.

- C. Where are off-street loading facilities located?

Reinekers Lane.

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

The Applicant anticipates that most deliveries will occur in the morning between 6:00 A.M. and noon.

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

The Applicant anticipates one (1) to two (2) deliveries per day.

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?

Street access to the subject property is adequate and no new street improvements are required to accommodate the expansion.

SITE CHARACTERISTICS

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? N/A square feet.

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

3750 sq. ft. (existing) + -0- sq. ft. (addition if any) = 3750 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:

***A hotel and office project with retail, restaurant and amusement uses as ancillary uses (Section 8-400 (B) (8))**

SUP # 2007-0053



APPLICATION

RESTAURANT

All applicants requesting a Special Use Permit or an Administrative Use Permit for a restaurant shall complete the following section.

1. How many seats are proposed?
Indoors: 112 Outdoors: 40 Total number proposed: 152

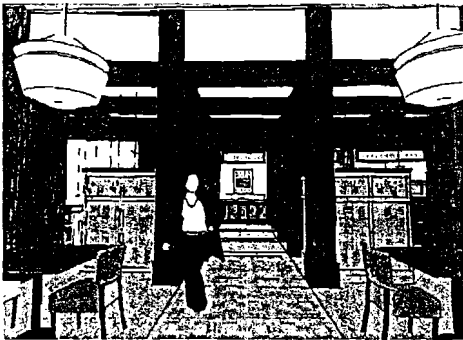
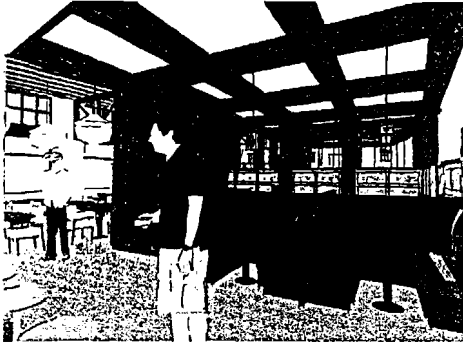
2. Will the restaurant offer any of the following?
Alcoholic beverages (**SUP only**) Yes X No
Beer and wine — on-premises Yes X No
Beer and wine — off-premises Yes X No

3. Please describe the type of food that will be served:
Delicatessen style food for breakfast, lunch and dinner.

4. The restaurant will offer the following service (check items that apply):
 X table service _____ bar X carry-out _____ delivery

5. If delivery service is proposed, how many vehicles do you anticipate? _____
Will delivery drivers use their own vehicles? Yes X No
Where will delivery vehicles be parked when not in use?

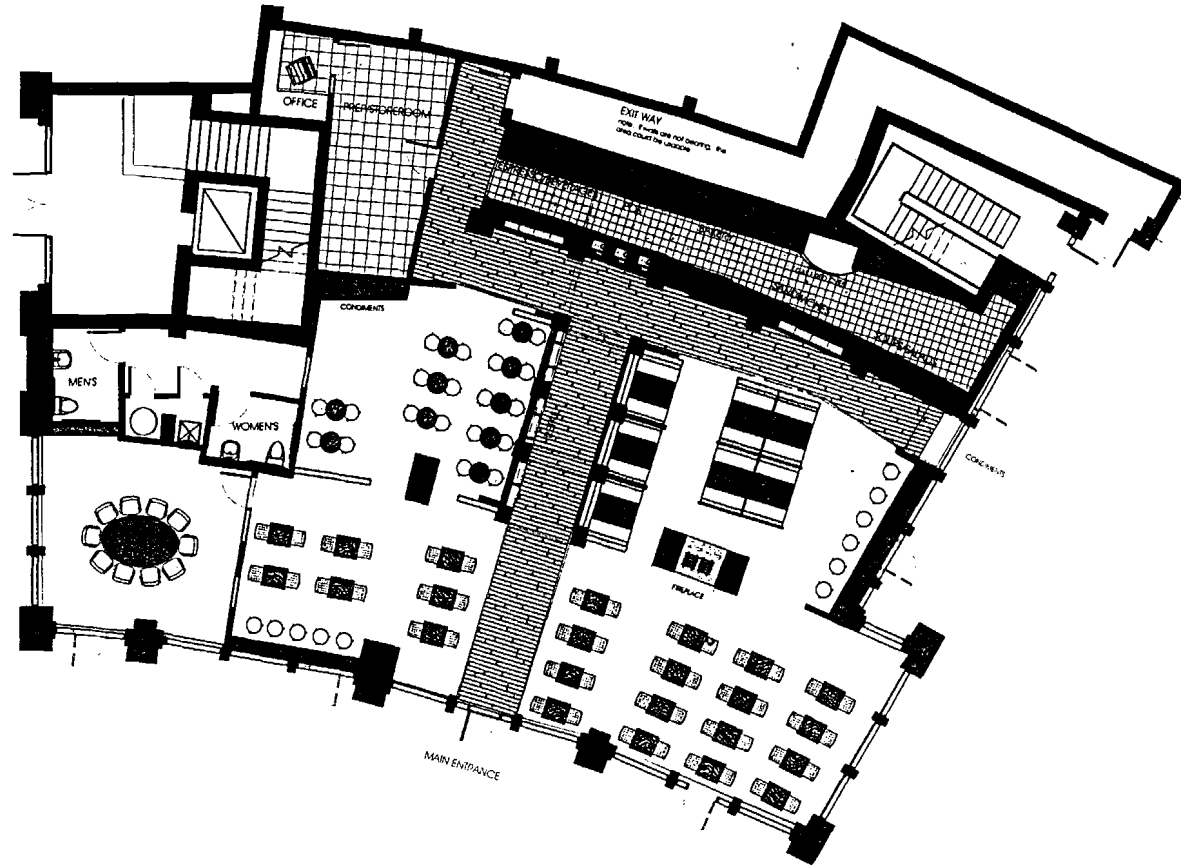
6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?
_____ Yes X No
If yes, please describe:



INTERIOR VIEWS



INTERIOR ELEVATIONS



AUP 2007-0053 FLOOR PLAN

FOR ILLUSTRATIVE PURPOSES ONLY

JUNE 21, 2007

20 CITY DOCK CAFE

RUST | ORLING

20

Special Use Permit # 2007-0053

APPLICATION for SPECIAL USE PERMIT # _____

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TAX MAP REFERENCE: 73.02 OC 03

ZONE: OCH

APPLICANT Name: City Dock Café-King IV, LLC

Address: 1701 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C. 20006

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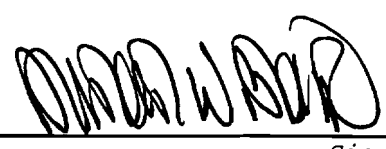
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Land, Clark, Carroll, Mendelson & Blair, P.C.

Duncan W. Blair, Esquire

Print Name of Applicant or Agent



Signature

524 King Street
Mailing/Street Address

(703) 836-1000
Telephone #

(703) 549-3335
Fax #

dblair@landclark.com

Alexandria, Virginia 22314
City and State Zip Code

June 15, 2007
Date

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

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

ACTION - PLANNING COMMISSION: By unanimous consent, recommended approval 9-6-07

ACTION - CITY COUNCIL: 9/15/07 - CC approved the PC recommendation 7-0