

EXHIBIT NO. 1

3
3-14-09

DOCKET ITEM #3-A

Encroachment #2008-0007

315 Madison Street- A La Lucia

Application	General Data	
Request: Consideration of a request for an encroachment into the public right-of-way for outdoor seating.	Planning Commission Hearing:	March 5, 2009
	City Council Hearing:	March 14, 2009
Address: 315 Madison Street	Zone:	CRMU-X/Commercial Residential Mixed Use (Old Town North)
Applicant: Mehran Nayeri	Small Area Plan:	Old Town North

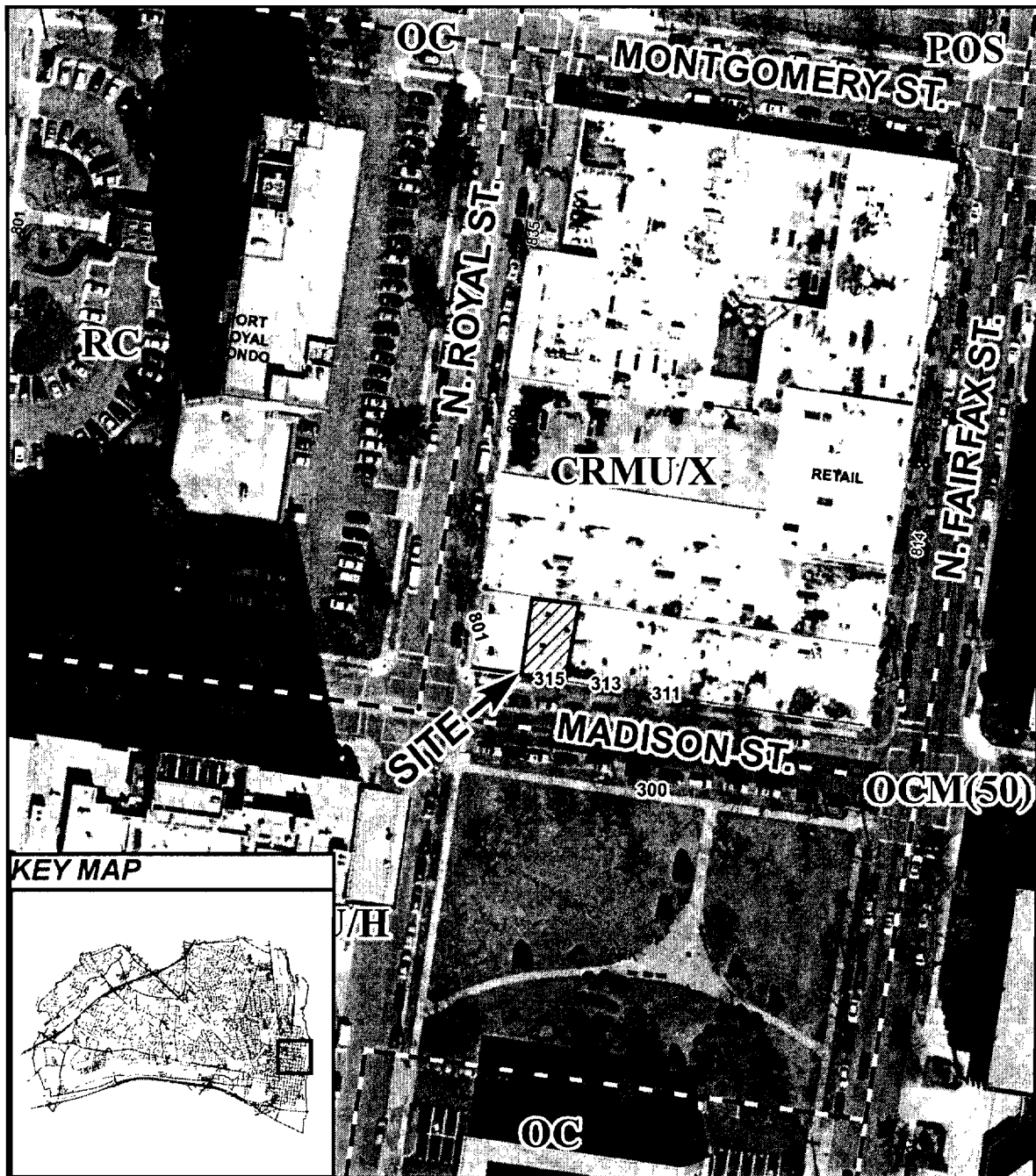
Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

Staff Reviewers: Eileen Oviatt eileen.oviatt@alexandriava.gov

PLANNING COMMISSION ACTION, MARCH 5, 2009: 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.

CITY COUNCIL ACTION:



SUP #2008-0085
ENC #2008-0007

03/05/09



I. DISCUSSION

REQUEST

The applicant requests permission to provide 15 outdoor seats in the public right-of-way in front of the restaurant located at 315 Madison Street.

SITE DESCRIPTION

The subject property is one lot of record that encompasses most of an entire city block with approximately 250 feet of frontage on Madison and Montgomery Streets, and 326 feet of frontage along North Fairfax and North Royal Streets. The subject site is a part of the Montgomery Center is a commercial development of 92,395 square feet that includes personal service, retail, restaurant, and community service uses. The subject restaurant occupies 2,624 square feet.

The surrounding area is occupied by a mix of residential condominium developments and office buildings. Immediately to the north and east is the Montgomery Center. The unit immediately to the north is currently vacant, and the unit immediately to the east is the Madison Annex of the Art League School. To the south is open space associated with the Alexandria House Condominiums, and to the west are the Port Royal Condominiums.

BACKGROUND

A restaurant/bakery has operated in this location since 1983. Conditions for the operation of a full service restaurant with increased seats, outdoor seating, and hours of operation were added over the years. From 1998 to 2001, the restaurant was operated as "Flatbreads." On December 15, 2001, City Council approved special use permit SUP #2001-0069 and encroachment ENC #2001-0007, which increased the number of seats, added eight outdoor seats, and extended the hours of operation. Further review of the approved encroachment shows that no ordinance was passed to codify the encroachment for outdoor seating.

In December 2003, an administrative change of ownership was granted by the Director of Planning and Zoning allowing the ownership of the restaurant to change from Alborz Inc. to Del Nayeri Company LLC, at which time the restaurant was changed to "a la Lucia." On October 15, 2005, City Council approved SUP #2005-0089 to increase the allowable number of seats to from 75 to 120 following an expansion of the restaurant.

PROPOSAL

The applicant is requesting approval of an encroachment for outdoor dining with fifteen seats. The proposed seating area will extend 56 inches from the front of the building to the sidewalk, and 49 feet along the sidewalk. In order to provide seating in this location, the applicant will have to remove the existing shrubs. The width of the sidewalk in this location is four feet, and

the proposed seating will not encroach onto the existing sidewalk. The applicant is also requesting approval of a special use permit for this outdoor seating (see SUP2008-0085).

ZONING/MASTER PLAN

The subject property is located in the CRMU-X/Commercial Residential Mixed Use zone (Old Town). Section 5-403(V) of the Zoning Ordinance allows a restaurant in the CRMU-X zone only with a special use permit. The Old Town North Small Area Plan chapter of the Master anticipates redevelopment of the site and designates the property for commercial residential mixed use.

II. STAFF ANALYSIS

The land immediately outside the building is part of the public right-of-way, therefore, the outdoor seating proposal requires an encroachment permit to use the public space in addition to the typical special use permit for the restaurant. Staff supports the applicant's request for an encroachment for 315 Madison Street and believes outdoor seating in this area of the City should add a positive element of activity and interest for the adjacent commercial and residential neighborhoods. The proposed seating will be located adjacent to the building. Staff believes that there will be sufficient room for pedestrian access past the proposed seats and recommends approval of the encroachment.

III. STAFF RECOMMENDATION

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

1. Outdoor seating is permitted subject to a seating layout plan that is reviewed and approved by the Director of Planning and Zoning. The applicant shall ensure that pedestrian access is provided past the outdoor seating and shall clean and wash the seating area at the close of each day of operation. (P&Z)
2. The applicant (and his or her successors, if any) shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his or 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)
3. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City. (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. Landscape planters/containers shall be placed in the area of the outdoor dining to the satisfaction of the Directors of P&Z and RP&CA. Planters shall not obstruct pedestrian access and shall not drain directly onto the sidewalk. (Parks)

STAFF: Faroll Hamer, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
Eileen Oviatt, Urban Planner..

Staff Note: For commercial properties, the applicant and/or his successors are responsible for payment of an annual charge for such encroachment pursuant to Section 3-2-85 of the City Code.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 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.
- R-2 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.
- R-3 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.

Code Enforcement:

- F-1 The request for a total of 24 outdoor seats is not supported by the Building Code. See comment C-1. In addition, the applicant is required to show compliance with comments C-1 through C-4. (47' x 4.67' = 219.49')
- C-1 The proposed space for outdoor seating with tables occupies 219.5 square feet. The USBC limits the occupant loading for this area to 15 square feet per person or a total of 15 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.
- 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 No Comment

Parks and Recreation:

- R-1: Landscape planters/containers shall be placed in the area of the outdoor dining to the satisfaction of the Directors of P&Z and RP&CA. Planters shall not obstruct pedestrian access and shall not drain directly onto the sidewalk.
- R-2: The applicant shall contribute \$250.00 for one street tree, to replace a missing tree on the Royal Street block face. The monetary donation shall be submitted to the Department of Recreation, Living Landscape Fund, 1108 Jefferson St. Alexandria, VA 22314, within 60 days of City Council approval.
- C-1: Property owner shall control weeds along public sidewalks, curb lines and within tree wells which are within 12 feet of the owners front property line. (City Ord. No. 2698, 6/12/82, Sec. 2; Ord. No. 2878, 11/12/83, Sec. 1)

Police Department:

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

**APPLICATION****ENCROACHMENT**ENC# 2008-0007PROPERTY LOCATION: 315 madison St.TAX MAP REFERENCE: 055.03-01-10 ZONE: CRMU/M**APPLICANT**Name: a la lucia - mehrran NayeriAddress: 315 madison St. Alexandria, VA.**PROPERTY OWNER**Name: mehrran NayeriAddress: 300 Montgomery Street #200 Alexandria, VA 22314PROPOSED USE: outdoor seating for restaurant 24 seats.INSURANCE CARRIER (copy attached) Traveler's POLICY # 2013B1078

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.

M.N. [] **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.M.N. [] **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.M.N. [] **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.M.N. [] **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.Mehrran Nayeri

Print Name of Applicant or Agent

315 madison St.

Mailing/Street Address

Alexandria VA 22314

City and State

Zip Code

M. Nayeri

Signature

703-836-5123 703-548-9463

Telephone #

Fax #

mnayeri@alalucia.com

Email address

11-20-08

Date

Application Received: _____

Date and Fee Paid: \$ _____

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

11/20/2008



ENC 2008-0007

315 Madison St. Alexandria, Va. 22314

To Whom it may concern:

We would like to make the follow requests for encroachment-

1. Removal of an existing patch of landscaping containing 3 low bushes(flowerbed is a total of 130.5 Sq. Feet) (54"x29')
2. Use of an additional 81 Sq. Feet of Concrete area adjacent to sidewalk (54"x18')
3. Transplantation of removed landscaping to an existing (but empty) flowerbed adjacent to sidewalk and curb.
4. The total space shall not exceed 211.5 Sq. Feet (54" x 47')
5. Proposed area will not impede the 48" of sidewalk designated as pedestrian walkway.
6. Visual diagram enclosed.

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(703) 836-5123 Voice * (703) 548-9463 Fax * MNayeri@alalucia.com

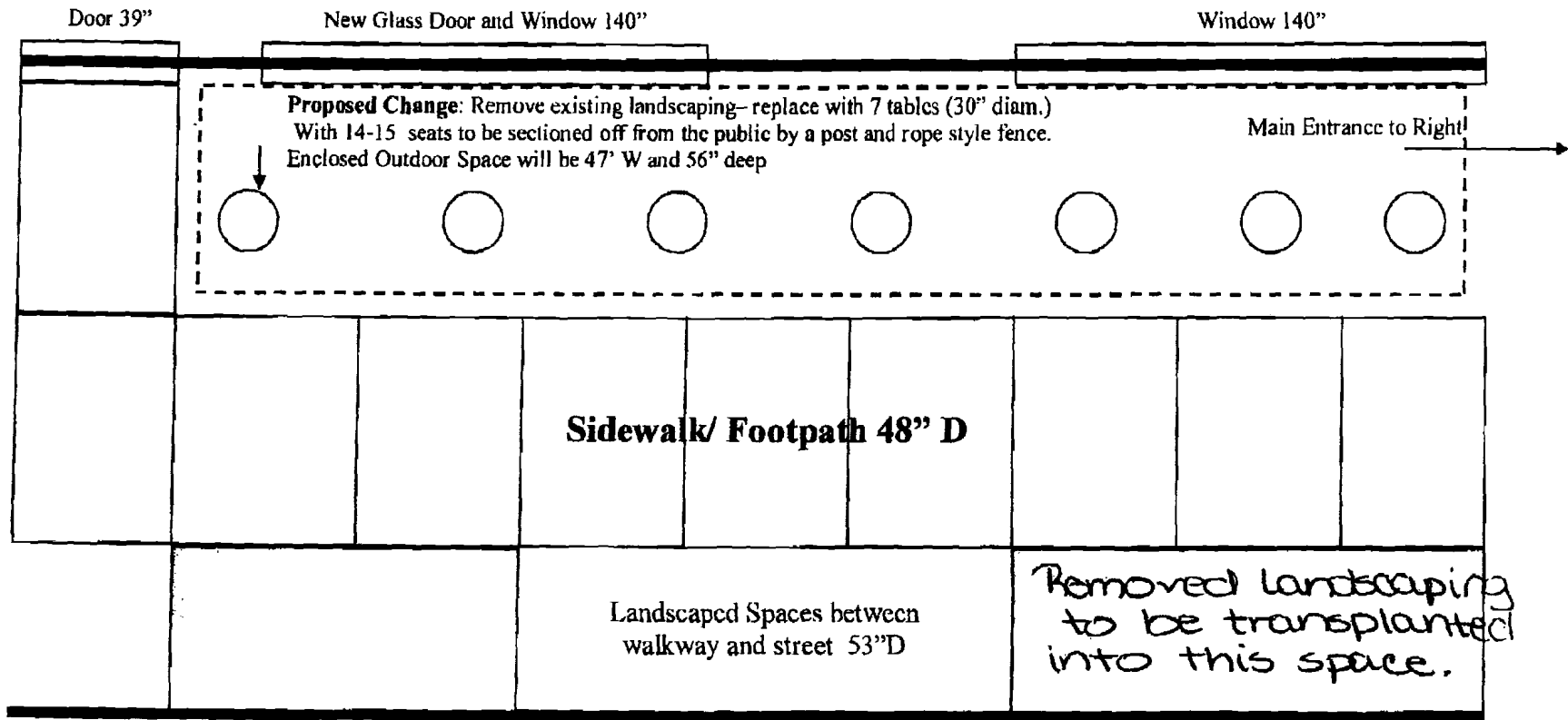
Visit us Online: WWW.alalucia.Com

Attn: Elaine
RE: SUP # 2008-0085

Existing Arial View

REVISED
2/9/09

Building Front



Street