EXHIBIT NO. 17  
5-16-09

**DOCKET ITEM #3**  
**Special Use Permit #2009-0011**  
**106-108 North Washington Street**

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Application	General Data	
<b>Request:</b> Consideration of a request to operate a restaurant.	<b>Planning Commission Hearing:</b>	May 7, 2009
	<b>City Council Hearing:</b>	May 16, 2009
<b>Address:</b> 106-108 North Washington Street	<b>Zone:</b>	CG/Commercial General
<b>Applicant:</b> The Burger Joint by M. Catharine Puskar, attorney	<b>Small Area Plan:</b>	Old Town

**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](mailto:nathan.randall@alexandriava.gov)

**PLANNING COMMISSION ACTION, MAY 7, 2009:** On a motion by Mr. Wagner, seconded by Ms. Fossum, the Planning Commission voted to recommend approval of the request, amending condition #3 regarding seating, and subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 7 to 0.

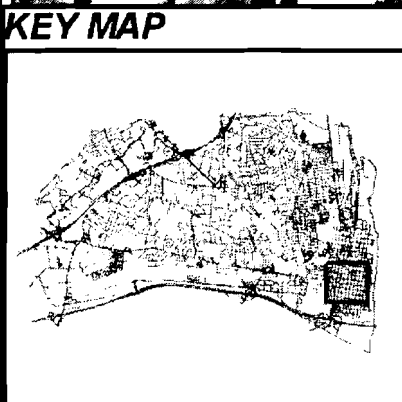
**Reason:** The Planning Commission agreed with the staff analysis and with the applicant's updated request for two additional seats at the restaurant.

**Speakers:**

Elizabeth McKeeby, representing the applicant, spoke in favor of the request and asked the Planning Commission to consider amending condition #3 regarding seating and condition #11 regarding parking.

Poul Hertel, President of Old Town Civic Association, discussed outdoor seating and hours of operation at the restaurant, and asked the Planning Commission to fully consider the parking ramifications of Old Town restaurants.

SUP #2009-0011  
106-108 N. Washington St.



SUP #2009-0011

05/07/09



## I. DISCUSSION

### REQUEST

The applicant, Capitol Burger LLC, requests special use permit approval for the operation of a restaurant located at 106-108 N. Washington St.

### SITE DESCRIPTION

The subject property is one lot of record with 31 feet of frontage on N. Washington Street, 70 feet of depth and a total lot area of 2,696 square feet. The site is developed with a two-story commercial building. Access to the property is from King Street.

The surrounding area is occupied by a mix of commercial uses. Immediately to the north is the Ross department store. To the south is a restaurant. To the east across N. Washington are Old Town Deli, Brahm & Powell Opticians, and a clothing store.

### BACKGROUND

Timberman's Drug Store operated on this site but closed several years ago. There is no record that any Special Use Permits have been approved for this location, although in recent years two restaurants have applied for and later withdrawn Special Use Permit requests for the site.

### PROPOSAL

The applicant proposes to operate a gourmet hamburger restaurant at this location. Customers may dine-in, with no wait service offered, or carry-out. The applicant also proposes to serve alcohol on-premises. The applicant notes in its SUP application that it intends to apply for up to 10 outdoor seats under separate approval as part the King Street Outdoor Dining Program. The applicant agrees to voluntarily prohibit smoking at the restaurant.

Hours: Monday-Saturday: 11:00am – midnight  
Sunday: noon – midnight

Number of seats: 40 Indoor seats  
Up to 10 outdoor seats under separate approval as part of King Street Outdoor Dining Program

Type of Service: Dine-in (without wait service) and carry-out

Customers: 240 per day

Alcohol: On-premises alcohol service only

Entertainment: No live entertainment is proposed.

Noise: No noises are proposed to emanate from the property

Trash/Litter: Trash will be collected from the site three times per week. Restaurant staff will monitor vicinity for litter.

#### PARKING

The subject property is located within the Central Business District (CBD). According to Section 8-300 (B) of the Zoning Ordinance, restaurants located within the CBD are exempt from parking requirements. Nonetheless, staff has conditioned in Section III of this report that the applicant shall participate in an organized parking program.

#### BOARD OF ARCHITECTURAL REVIEW

The location of the proposed restaurant is within the boundaries of the Old and Historic Alexandria District and is under the jurisdiction of the Old & Historic Alexandria Board of Architectural Review (BAR.) The applicant has applied to the BAR for review and approval of proposed signage, awnings, and lighting and its application is on hold pending SUP approval. If the SUP is approved the applicant will be scheduled for a BAR hearing. All exterior changes to the building that are visible from the public right-of-way will require the applicant to obtain approval from the Old and Historic Board of Architectural Review. Such exterior changes include, but are not limited to: the proposed signage, awnings, and lighting, and any new or replacement signage, lighting, window replacement, fencing, kitchen exhaust and/or new HVAS vents or fixtures, or other alterations visible from a public right-of-way.

#### ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CD/Commercial Downtown zone. Section 4-503 (Y) of the Zoning Ordinance allows a restaurant in the CD zone only with a special use permit.

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

## **II. STAFF ANALYSIS**

Staff supports the applicant's request to operate a restaurant at this location. Staff believes that this use is reasonable and appropriate for its location and will contribute to an active street-life in the vicinity. In reaching this conclusion staff has analyzed the restaurant proposal for conformance with the Old Town Restaurant Policy. Since the restaurant is located one storefront from King Street, staff has also analyzed the proposal for conformance with the King Street Retail Strategy. As noted in the following discussion, the restaurant proposal is consistent with both of these policies.

### Old Town Restaurant Policy

Staff has determined that the proposed restaurant is in conformance with the Old Town Restaurant Policy. The policy requires restaurants to be analyzed regarding the following factors: the availability of off-street parking, the impact of the restaurant on parking in the adjacent neighborhood, late night hours, predominance of alcohol, litter, and diversity of uses.

The proposed 40-seat restaurant is small enough to have a minor parking impact in the neighborhood. Off-street parking exists in public garages in the immediate vicinity to accommodate patrons, many of whom will already be in the area as workers and visitors. Staff has included a condition requiring the applicant to participate in an organized parking program which will encourage the use of public garages.

The restaurant proposes to stay open until 12:00 midnight daily, which is similar to other restaurants in the Old Town area. Other restaurants have a later closing hour than the proposed restaurant. Cusi at 700 King Street, for example, has an approved closing hour of 12:00 midnight Sunday-Wednesday and 1:00am on Thursday-Sunday. The Fish Market and O'Connell's are approved for a closing hour of 1:00am daily. Several grandfathered restaurants on King Street are open later than 12:00 midnight as well.

Although the applicant does propose to serve on-premises alcohol at the restaurant, staff does not expect alcohol consumption to predominate over food consumption. Neither live entertainment nor bar stools are proposed, suggesting a destination primarily for food consumption as opposed to primarily for alcohol consumption. Although carry-out restaurants generally have the potential to create litter, staff believes that standard conditions contained in Section III of this report sufficiently address any litter concerns.

Finally, staff notes that the addition of the proposed restaurant will not negatively impact the diversity of uses found in this vicinity. In addition to several restaurants, there are four clothing stores, a shoe store, a department store, a hardware store, two banks, a photo shop, and a flower shop in the vicinity of 106-108 N. Washington St.

### King Street Retail Strategy

One of the broad objectives in the King Street Retail Strategy is to promote land uses that maintain an active pedestrian experience. Encouraging retail and restaurant uses on the ground floor is one means to accomplish this goal. On this point the proposed restaurant fits within the King Street Retail Strategy because this restaurant use would fill a long-vacant storefront and promote an active street-life. In a related matter, staff notes that outdoor dining at restaurants in many instances can further promote an active street-life. Since this location falls within the boundaries of the King Street Outdoor Dining program, the applicant will need to apply separately for any outdoor dining. Any outdoor dining application submitted for the proposed restaurant will receive a complete review to ensure its appropriateness for this location.

Reflecting concerns that certain kinds of restaurants could impact the unique character of the King Street area, the King Street Retail Strategy further recommends "limiting the number and

type of fast food establishments to assure that there are adequate, moderately priced, quick service establishments to serve employees and visitors, while at the same time limiting establishments that... may impact the diversity and unique business environment of the street.” Although the proposed restaurant will serve hamburgers, the menu does not appear to be typical “fast food”. The menu features gourmet hamburgers, veggie burgers, tuna burgers, lobster burgers, shakes and desserts. Furthermore, since the applicants own only one other hamburger restaurant, in Bethesda, this is not a national chain restaurant. Therefore, the restaurant supports the King Street Retail Strategy.

### Conclusion

Staff believes that the proposed restaurant is reasonable and appropriate for this location. The proposal is consistent with both the Old Town Restaurant Policy and the King Street Retail Strategy. Subject to the conditions contained in Section III of this report, staff recommends approval of the Special Use Permit request.

### **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 between 11:00am and 12:00 midnight seven days/week. (P&Z)
3. **CONDITION AMENDED BY PLANNING COMMISSION:** The maximum number of indoor seats at the restaurant shall be 40 ~~42~~. Additional outdoor seating may be provided on the premises subject to approval by the Director of Planning and Zoning through the King Street Outdoor Dining Program. (P&Z) (PC)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
5. No live entertainment shall be permitted either inside the restaurant or in the outdoor dining area. (P&Z)
6. On-premises alcohol service may be permitted, but no off-premises sales shall be allowed. (P&Z)
7. Meals ordered before the closing hour may be sold, but no new patrons may be admitted after the closing hour and all patrons must leave by one hour after the closing hour. (P&Z)

8. 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)
9. No food, beverages, or other material shall be stored outside. (P&Z)
10. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&Z)
11. The applicant shall direct patrons to the availability of parking at nearby public garages and shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Strategy. (P&Z)
12. 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. (P&Z)(T&ES)
13. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (P&Z)(T&ES)
14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
15. 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. (T&ES)
16. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
17. 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](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)
18. 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)

19. The applicant shall contribute \$575.00 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)
20. 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 and robbery readiness training for all employees. (Police)
21. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
22. 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, or (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)(Police)

STAFF: Gwen Wright, Division Chief, Department of Planning and Zoning;  
Nathan Randall, Urban Planner.

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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)
- R-2 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. (T&ES)
- 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)
- R-4 Supply 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](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)
- 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)
- R-7 Applicant shall contribute \$575.00 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)
- 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)

- C-1 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).
- C-2 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. (T&ES)

Code Enforcement:

- C-1 Certification is required from the owners or owner=s agent that the building has been inspected by a licensed asbestos inspector for the presence of asbestos (USBC 116.1).
- C-2 The current use is classified as **B, Business**; the proposed use is **A-2, Assembly**. Change of use, in whole or in part, will require a certificate of use and occupancy (USBC 116.2) and compliance with USBC 116.1. including but not limited to: limitations of exit travel distance, emergency and exit lighting, a manual fire alarm system, and accessibility for persons with disabilities.
- C-3 **Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Drawings prepared by a licensed architect or professional engineer shall accompany the permit application. These plans shall show provide existing conditions, construction type data, and a plot plan. In addition, these plans shall show proposed conditions and provide data by the design professional which details how the proposed use will comply with the current edition of the Virginia Uniform Statewide Building Code for the new use in the area of structural strength, means of egress, passive and active fire protection, heating and ventilating systems, handicapped accessibility and plumbing facilities.**
- C-4 The applicant must obtain a Certificate of Occupancy prior to occupancy (use) of the structure (USBC 116.1).
- C-5 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-6 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-7 A 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-8 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Five sets of plans, bearing the

signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.

- C-9 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.

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 of each facility must be submitted to and approved by this department prior to construction. Plans must comply with Alexandria City Code, Title 11, Chapter 2, Food and Food establishments. There is a \$135.00 fee for review of plans for 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 robbery readiness training for all employees.
- F-1 The applicant is seeking an "ABC On" license only. The Police Department has no objections.

Board of Architectural Review:

- F-1 The location of the proposed restaurant is within the boundaries of the Old and Historic Alexandria District and is under the jurisdiction of the Old & Historic Alexandria Board of Architectural Review (BAR.) The applicant has applied to the BAR for review and approval of proposed signage, awnings, and lighting and its application is on hold pending SUP approval. If the SUP is approved the applicant will be scheduled for a BAR hearing. All exterior changes to the building that are visible from the public right-of-way will require the applicant to obtain approval from the Old and Historic Board of Architectural Review. Such exterior changes include, but are not limited to: the proposed signage, awnings, and lighting, and any new or replacement signage, lighting, window replacement, fencing, kitchen exhaust and/or new HVAS vents or fixtures, or other alterations visible from a public right-of-way. It is the applicant's responsibility to inform BAR staff when any exterior alterations are proposed which require BAR review and approval.



## APPLICATION SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2009-0011

PROPERTY LOCATION: 106-108 N. Washington Street

TAX MAP REFERENCE: 74.02-02-10 ZONE: CD

APPLICANT: Capitol Burger, LLC D/b/a

Name: The Burger Joint

Address: 4827 Fairmont Avenue, Bethesda, MD 20814

PROPOSED USE: Restaurant

[ **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.

Revised 4/2/09

The Burger Joint

By: M. Catharine Puskar, Attorney

M. Catharine Puskar by EM 2/24/09

Print Name of Applicant or Agent

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, PC

Signature

Date

2200 Clarendon Boulevard, 13th Floor

(703) 528-4700

(703) 525-3197

Mailing/Street Address

Telephone #

Fax #

Arlington, VA 22201

City and State

Zip Code

cpuskar@arl.thelandlawyers.com

Email address

ACTION-PLANNING COMMISSION

ACTION-CITY COUNCIL

SUP # 2009-0011

**PROPERTY OWNER'S AUTHORIZATION**

As the property owner of 106-108 N. Washington Street, I hereby  
(Property Address)  
grant the applicant authorization to apply for the The Burger Joint (restaurant) use as  
(use)

described in this application.

Jemals Timberrmans LLC

By: Norman Jemal

Phone (202) 638-6300

Please Print Name: Attn: Douglas Development Corporation

Address: 702 H Street, NW, Suite 400  
Washington, DC 20001

Email: Njemal@douglasdevelopment.com

Signature: [Signature]

Date: 2-24-2009

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.

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.

Mark Bucher 7820 Statford Road, Bethesda, MD 20814  
(43% ownership)

John Ripley 35841 Troon Court, Round Hill, VA 20141  
(57% ownership)

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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, 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.)

Please see attached.

**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).

240. per day.

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

Total staff - 15

Staff per shift - 7

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

Day:  
Monday - Saturday

Hours:  
11:00 AM - 12 Midnight

Sunday

Noon to 12 Midnight

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

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

Noise will not emanate from the property.

B. How will the noise be controlled?

N/A



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

N/A

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)

Paper and food trash, recyclables.

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

12 cubic yard dumpster, emptied 3 times per week.

- C. How often will trash be collected?

3 times per week.

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

Restaurant staff to monitor vicinity.

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:

N/A

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:

N/A

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

Safety training provided for each employee.

### 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.

Alcohol sales of beer and wine only; on-premise sales only.

**PARKING AND ACCESS REQUIREMENTS**

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

  N/A   Standard spaces  
  N/A   Compact spaces  
  N/A   Handicapped accessible spaces.  
  N/A   Other.

Planning and Zoning Staff Only Required number of spaces provided: _____ Does the application meet the requirements? <input type="checkbox"/> Yes <input type="checkbox"/> No
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

- B. Where is required parking located? (check one)   N/A    
☐ 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:

- A. How many loading spaces are available for the use?   No loading spaces are required, per section 8-200(B)(5), building erected prior to June 25, 1963.

Planning and Zoning Staff Only Required number of loading spaces: _____ Does the application meet the requirements? <input type="checkbox"/> Yes <input type="checkbox"/> No
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

- Early morning hours, prior to 10:00 AM.

- Loading to occur daily.

- Street access is adequate.

How large will the addition be? 0 square feet.

- \_\_\_\_\_ sq. ft. (existing) + \_\_\_\_\_ sq. ft. (addition if any) = \_\_\_\_\_ sq. ft. (total) N/A

- ☐ other. Please describe: \_\_\_\_\_

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## 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? maximum of  
Indoors: 40 up to 10 Total number proposed: 50  
(to be filed under the City's administrative process)
2. Will the restaurant offer any of the following?  
Alcoholic beverages (**SUP only**) XX Yes      No  
Beer and wine — on-premises XX Yes      No  
Beer and wine — off-premises      Yes XX No
3. Please describe the type of food that will be served:  
Burgers, french fries, desserts, shakes and beverages.  
\_\_\_\_\_  
\_\_\_\_\_
4. The restaurant will offer the following service (check items that apply):  
XX table service      bar XX carry-out      delivery
5. If delivery service is proposed, how many vehicles do you anticipate? N/A  
Will delivery drivers use their own vehicles?      Yes N/A No  
Where will delivery vehicles be parked when not in use?  
N/A
6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?  
     Yes XX No  
If yes, please describe:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Parking impacts.** Please answer the following:

1. What percent of patron parking can be accommodated off-street? (check one)  
☐ 100% \*Pursuant to Zoning Ordinance Section 8-300(c), no off-street  
☐ 75-99% parking is required. However, there are public parking  
☐ 50-74% facilities within the vicinity.  
☐ 1-49%  
☒ No parking can be accommodated off-street
2. What percentage of employees who drive can be accommodated off the street at least in the evenings and on weekends? (check one)  
☐ All  
☐ 75-99%  
☐ 50-74%  
☐ 1-49%  
☒ None
3. What is the estimated peak evening impact upon neighborhoods? (check one)  
☒ No parking impact predicted  
☐ Less than 20 additional cars in neighborhood  
☐ 20-40 additional cars  
☐ More than 40 additional cars

**Litter plan.** The applicant for a restaurant featuring carry-out service for immediate consumption must submit a plan which indicates those steps it will take to eliminate litter generated by sales in that restaurant.

The restaurant staff will monitor for litter regularly.

**Alcohol Consumption and Late Night Hours.** Please fill in the following information.

1. Maximum number of patrons shall be determined by adding the following:  

	<u>50</u>	Maximum number of patron dining seats
+	<u>0</u>	Maximum number of patron bar seats
+	<u>0</u>	Maximum number of standing patrons
=	<u>50</u>	Maximum number of patrons
2. 7 Maximum number of employees by hour at any one time
3. Hours of operation. Closing time means when the restaurant is empty of patrons. (check one)  
☐ Closing by 8:00 PM  
☐ Closing after 8:00 PM but by 10:00 PM  
☒ Closing after 10:00 PM but by Midnight  
☐ Closing after Midnight
4. Alcohol Consumption (check one)  
☐ High ratio of alcohol to food  
☐ Balance between alcohol and food  
☒ Low ratio of alcohol to food

### 3.) Narrative Description

SUP2009-0011

The Burger Joint (the "Applicant") is requesting an SUP in order to establish a gourmet burger restaurant at 106-108 N. Washington Street. This site was previously occupied by Timbermans Drug Store which is now vacant. The Applicant intends to preserve the existing building facade, and redesign the interior to accommodate the proposed restaurant.

The Burger Joint currently has a restaurant operating in Bethesda, Maryland and looks forward opening a second location in Old Town Alexandria. In addition to the traditional beef burger, the restaurant serves a wide variety of other burgers such as veggie, Ahi tuna and lobster burgers with fresh, high-quality ingredients, french fries made with organic Yukon Gold or organic sweet potatoes, shakes, desserts and beverages. The restaurant proposes to serve beer and wine for on-premises consumption only.

There are a maximum of 50 restaurant seats proposed. Fifteen restaurant employees are proposed, with seven employees per shift. The Applicant requests hours of operation from 11:00 AM to 12 midnight Monday through Saturday and from noon to midnight on Sunday. At The Burger Joint, customers order at the main counter for take-out food or may be seated at a table and assisted by full service wait staff. Interior alterations to the building are proposed and The Burger Joint will be filing a separate application for a Certificate of Appropriateness from the BAR for any proposed exterior lighting, signage, awnings, etc.

Pursuant to Zoning Ordinance Section 8-300(C), because the restaurant is located within the Central Business District, no off-street parking is required for this use. However, adequate street parking is provided within proximity to the restaurant as there are three public parking opportunities within a few blocks, including the N. St. Asaph Street lot, the N. Alfred Street garage and the 418 Cameron Street garage. It is anticipated that most customers will be nearby residents, office workers, and visitors to the City who will arrive at the restaurant on foot.

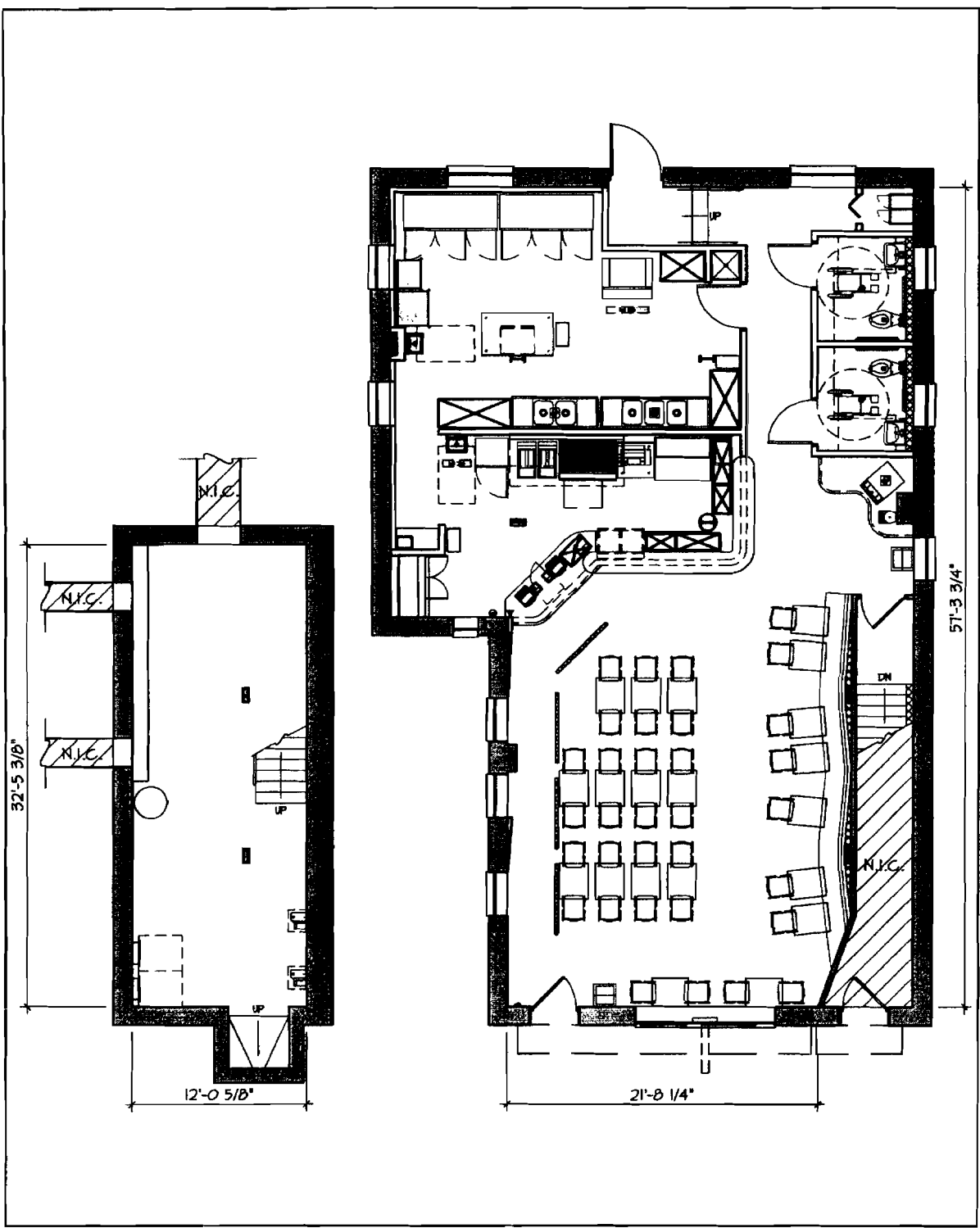
The Burger Joint will offer a new choice for dining within the City's Old and Historic District while furthering the goals for the Central Business District and vision of the King Street Retail Strategy. The Burger Joint looks forward to creating a people-oriented, vibrant and pedestrian friendly restaurant at 106-108 N. Washington Street and is a business which enjoys becoming an involved member of the local community.

SLP2009-0011

OLD TOWN

BGR

106 NORTH WASHINGTON STREET  
ALEXANDRIA, VIRGINIA 22314



SEATING: .....  
TOTAL: ..... 40  
SQ. FT.: ..... BASEMENT - 409, 1ST - 1,726 = 2,135

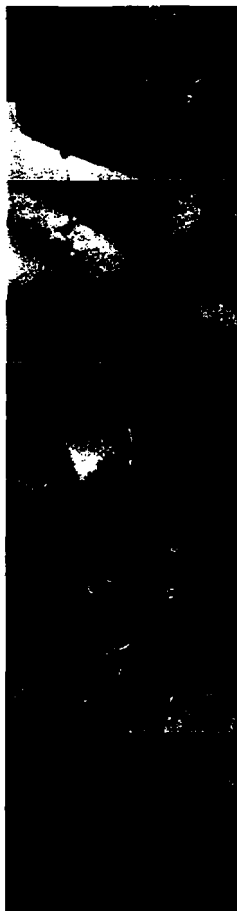
0 - 4 TOPS = 0  
13 - 2 TOPS = 26  
7 - BOOTHS = 14  
0 - STOOLS = 0

PROJECT #: 09-032  
SCALE: N.T.S.  
DATE  
SUBMITTED: 03/26/09  
APPROVED:





- Home
- The Story
- Press
- Menu
- Links
- Employment
- Locations
- Contact Us





- Home
- The Story
- Press
- Menu
- Links
- Employment
- Locations
- Contact Us

It all goes back to the long days of summer, growing up just outside Philadelphia where each Sunday the entire neighborhood would gather for a block party of sorts. As a child, there was nothing better than Mr. Kaufman's burgers. You could smell them cooking over the grill for blocks. All the kids lined up, waiting to get their hands on the first one. As it turned out, Philip Kaufman was a butcher. He owned the only Prime Beef butcher shop in the area. This was back in the day when groceries were bought at the local store, and steaks and beef were purchased from the neighborhood butcher. They were simpler times; we were all less rushed.

Philip Kaufman saved the best cuts for his Sunday burgers. I never forgot the smell of the burgers cooking, nor that special one-of-a-kind taste that immediately brings me back to my childhood. Imagine Mr. Kaufman, a small man in stature, about 5 ft 6, weighing in at a svelte 240. He looked like a pear, but he definitely knew his food. He always wore the same white smock and big white chef's hat - the kind that made it look as if he had a balloon over his head. It was goofy. Looking back he was cool, very cool.

As an adult, burgers were simple. Grab some ground beef at the local store, and put in on the grill for backyard cookouts. They were always good, but I was in a constant battle to recreate that fond childhood memory for my family and friends. Then it became an obsession. My wife, kids, friends and neighbors will confirm that this was quite a process lasting years: mixing, blending, grinding, cooking and sampling burgers. Indeed we visited all of the burger chains, both big and small. Some were good, actually very good; but not spectacular and not worthy of my lifelong memory of The Event.

Philip Kaufman passed away in the late 1980's. His family still lives in the Philadelphia area. Our burgers are a tribute to the long days of summer and creating fond memories.

Today we stand here ready to present to you our passion and commitment to create enjoyment, pleasure and memories for you and your family. Our burgers are hand-crafted with the finest beef on the planet. We only use grain-fed Midwestern cattle raised on family farms; all natural, no hormones, fillers or antibiotics, and most importantly they run free in the fields. Our Prime beef is dry aged (the amount of time is a closely guarded secret), blended and ground fresh daily.

The beef is only one component, but it's the canvas we use. The buns are made for us locally and delivered fresh every day. The tomatoes are the finest available. Lastly the burgers are grilled to temperature over an open flame, not fried on a piece of stainless steel. We present to you not a fast food place, not a mass production burger operation, but a "joint" - one that you can make your own, stay awhile and enjoy the food.



- Home
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### BURGERS

All natural, hormone free, Certified Prime, aged beef, freshly ground and pattied. Grilled to order, to your specifications.

#### SLIDERS

Mini versions of our award winning patties. Cheese, Pickles, Grilled Onions and our mojo (secret sauce) all on a soft, buttery, toasted potato bun.

#### THE BURGER

This put us on the map. Served on a fresh toasted, buttery, sesame-seed bun with our mojo. Add: American, Swiss, Maytag Farms Blue, Cheddar, Pepper Jack.

#### VEGGIE

Our house made recipe, including brown rice, black beans, oats and molasses. Served on a fresh toasted, buttery, sesame seed bun.

#### THE CUBAN

Our burger topped with slow roasted pork, Serrano ham, sweet pickles, mustard and swiss. Served on a fresh bun, that is grill pressed to be extra crisp.

#### THE DOUBLE

We couldn't resist. Double patties, double cheese, lettuce, tomato, red onion and pickles on a triple bun. Booyah!

#### THE GREEK

Featured on Food Network's "Throwdown with Bobby Flay" Seasoned fresh Lamb, Tzaziki, Mint and Feta. Served on grilled pita with cucumber, tomato and red onions.

#### AHI TUNA

Sushi grade fresh tuna, with cilantro, ginger and garlic, topped with a grilled pineapple slice served on a buttery, toasted fresh bun.

#### LOBSTER

Our version of the Lobster Roll. Fresh, flown in from the docks of Maine. Lump tail and claw meat mixed with a light mayo based sauce. Served on a fresh buttery toasted potato bun.

#### BURGER OF THE MONTH

Each month we absolutely promise to present to you a mind blowing combination.

**\*ADD APPLEWOOD SMOKED THICK CUT BACON WITH ROSEMARY TO ANY BURGER**

#### GRILLED CHEESE

Pick a cheese, no burger.

### OUTRAGEOUS

#### THE 9 POUNDER

Actual weight after bun and condiments, 15.4 pounds! Two heads of lettuce, 6 tomatoes, 2 red onions, 4 whole pickles and a river of our mojo, ketchup and mustard. Also comes with a bottle of Maalox®. If you can eat it in one sitting it's free.

#### TURKEY BURGER

Our turkey burger is infused with portabella mushrooms and gorgonzola cheese. Comes standard with a fresh toasted, buttery, sesame-seed bun with our mojo.

#### FRIES\*

We don't take this lightly. The Best Burger's have to be matched with the Best Fries.

Fresh, Organic Yukon Gold Potatoes or Organic Sweet Potatoes, cut and soaked overnight. Double fried to order.

\*Fries can be topped with Garlic, Parmesan and Rosemary, and we take no responsibility for missing fingers as you eat these fries. **WARNING: THEY ARE HIGHLY ADDICTIVE!!**

#### RINGS

Fresh, Organic sweet Vidalia Onions.

#### DESSERTS

Fresh-baked chocolate chip cookies and brownies. Changing daily surprises.

#### SHAKES

This is not as easy as it sounds. A great shake is hard to come by. This is the best and thickest shake you will ever have.

**VANILLA BEAN - DOUBLE CHOCOLATE - STRAWBERRY FLAVOR OF THE MONTH**

### CONCOCTIONS

#### COKE & ROOTBEER FLOATS

Coke and a scoop of Vanilla Ice Cream; Hires Rootbeer and a scoop of Vanilla Ice Cream.

#### BEER

Stella Artois, DogFish 60 min. IPA  
By the Cup or Pitcher

#### DRINKS

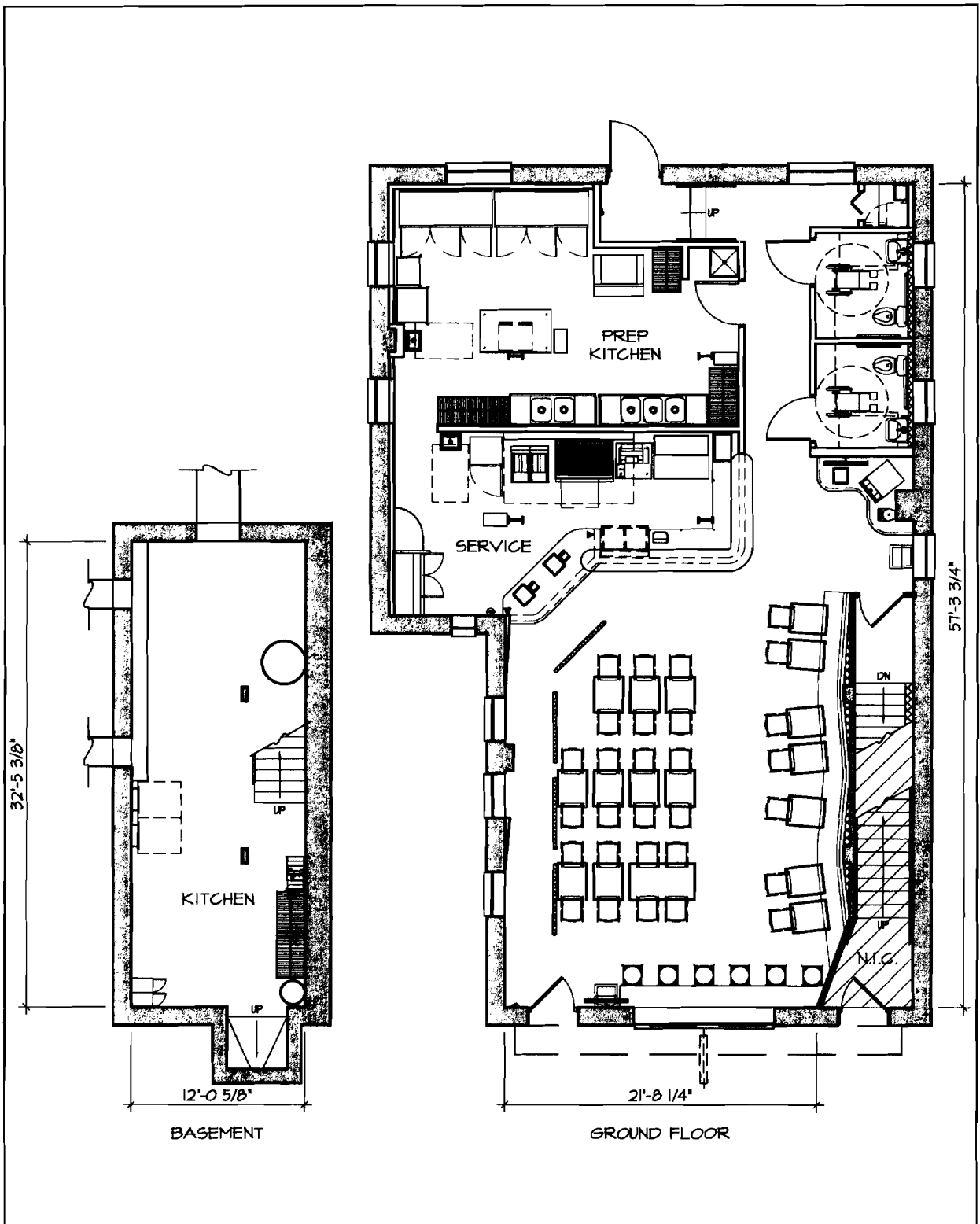
Coke\*, Diet Coke\*, Sprite, Fruit Punch, Orange, Raspberry Ice Tea

\*Add Vanilla or Cherry

Housemade Lemonade  
Quartermaine ® Iced tea  
Bottled Rootbeer  
Bottled Shirley Temple  
Bottled Water

SUP2009-0011

<p>OLD TOWN</p>	<p><b>BGR</b></p>	<p>106 NORTH WASHINGTON STREET ALEXANDRIA, VIRGINIA 22314</p>
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	<p>SEATING: ..... 1 - 4 TOPS = 4          9 - 2 TOPS = 18          7 - BOOTHS = 14          6 - STOOLS = 6</p> <p>TOTAL: ..... 42</p> <p>SQ. FT.: ..... BASEMENT - 409, 1ST - 1,726 = 2,135</p>	<p>PROJECT #: 09-032</p> <p>SCALE: N.T.S.</p> <p>DATE</p> <p>SUBMITTED: 04/02/09</p> <p>APPROVED:</p>
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**WALSH COLUCCI  
LUBELEY EMRICH  
& WALSH PC**

M. Catharine Puskar  
(703) 528-4700 Ext. 5413  
cpuskar@arl.thelandlawyers.com

May 4, 2009

**Via Email**

John Komoroske, Chairman and  
Members of the Planning Commission  
City of Alexandria  
301 King Street, Rm 2100  
Alexandria, VA 22314

**Re: Docket Item #3 – May 7, 2009 Planning Commission Public Hearing  
Special Use Permit #2009-0011 ("Application")  
Capitol Burger LLC d/b/a The Burger Joint ("Applicant")**

Dear Mr. Komoroske and Members of the Commission:

The Applicant respectfully requests that the Planning Commission recommend the following revisions to the Conditions for the above referenced Application:

**Condition #3**

"The Maximum number of indoor seats at the restaurant shall be 40 42. Additional outdoor seating may be provided on the premises subject to approval by the Director of Planning and Zoning through the King Street Outdoor Dining Program. (P&Z)

**Condition # 11**

"The applicant shall direct patrons to the availability of parking at nearby public garages and shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Strategy so long as there is notification to, and consultation with, the business community during the development of, and prior to adoption of any such program. (P&Z)

We have discussed these revisions with Staff and it is our understanding that they support the proposed revisions. Thank you for your attention to this matter.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

*M. Catharine Puskar by Em*

M. Catharine Puskar

cc: Mark Bucher  
Nate Ripley  
Elizabeth A. McKeeby

**Old Town Civic Association, Inc.  
P.O. Box 1213  
Alexandria, Virginia 22313**

**RE: SPECIAL USE PERMIT #2009-0011  
106-108 NORTH WASHINGTON STREET  
THE BURGER JOINT**

Dear Chairman Komarosky and members of the Planning Commission

1. Although not part of the application before you tonight, OTCA wishes to express concerns about future requests for outdoor seating on this location. We recognize that this will be handled at an administrative level. However, there are certain constraints that warrant consideration.
  - This is the location designated for offloading and loading of motorcoaches
  - This is the location for a significant transfer station for Metro buses
  - This is one of the busiest pedestrian intersections in the City

OTCA has adopted a Statement of Constraints that is attached bellow, which applies here and ought to form the basis for decision. The public right-of-way is being handed over to private interest, but let us not forget our responsibility to insure it does not end up cluttered and obstructive to the public.

2. OTCA wishes to ensure that the hours of operation are commensurate with that of others, ergo restaurants.
3. There are no parking requirements in the City Code, but there are for the Restaurant Policy. The Policy deliberately requires a view not only to the individual, but to the totality. We must insist on a thorough review of the cumulative effects of this and future restaurants and required by the Restaurant Policy.

Sincerely

Poul Hertel  
*President Old Town Civic Association*

## **Old Town Civic Association**

# **Statement of Constraints**

### **With regard to the operation of motor-coaches in Old Town Alexandria**

(Adopted by the OTCA Board of Directors on October 30, 2008)

Properly addressing motor-coach issues as they have arisen in Old Town Alexandria requires the recognition of certain physical constraints in and near Old Town. Additionally, Old Town contains a substantial number of older, irreplaceable structures which give Old Town its unique historical character that attracts permanent residents to Old Town as well as businesses and visitors, including tourists. These constraints include:

- 1 – Old Town occupies a finite physical land area lying within the Old and Historic District.
- 2 – Within the Old Town area, there are a finite number of street lane miles over which motor-coaches and other vehicles can travel, there are a finite number of motor-coach and other parking places, and there is a finite amount of sidewalk space on which pedestrians can walk, window-shop, and dine.
- 3 – As a practical matter, it is impossible to increase the number street lane-miles, on-street parking places, and sidewalk square footage within Old Town.
- 4 – Due to the physical constraints cited in the preceding sentence, Old Town has a finite capacity at any one time of motor-coaches and other vehicles moving and parking and of people walking, window-shopping, or dining on Old Town sidewalks.
- 5 – The presence of an excess number of motor-coaches, other types of vehicles, and pedestrians in Old Town has a deleterious impact on the ambiance and quality-of-life, particularly for Old Town residents, and the physical integrity Old Town's historic structures.
- 6 – Large motor-coaches have difficulty traveling on Old Town streets, they add to and impede traffic, and they often experience difficulty in turning onto narrow streets, especially when automobiles are parked on the street close to a corner.
- 7 – Restricting parking near street intersections to make it easier for large motor-coaches to turn a corner reduces the number of parking spaces in Old Town, further trimming an already tight supply of on-street parking places in Old Town.
- 8 – There are few, if any, places in Old Town where additional off-street parking can be constructed.
- 9 – There are few places in or near Old Town which are suitable for building parking facilities for motor-coaches waiting to pick up tourists they previously dropped off in Old Town.

SPEAKER'S FORM

DOCKET ITEM NO. 7

**PLEASE COMPLETE THIS FORM AND GIVE IT TO THE CITY CLERK  
BEFORE YOU SPEAK ON A DOCKET ITEM**

PLEASE ANNOUNCE THE INFORMATION SPECIFIED BELOW PRIOR TO SPEAKING.

1. NAME: Elizabeth McKeeby (Representing Applicant)  
Walsh Colucci
2. ADDRESS: 2200 Clarendon Br Arlington, VA 22201
- TELEPHONE NO. 8703 528 4700 E-MAIL ADDRESS: emckeeby@carl.thelandlawyers.com
3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? Represent the Applicant  
(The Burger Joint)
4. WHAT IS YOUR POSITION ON THE ITEM?  
FOR: ☒ AGAINST: ☐ OTHER: (Represent the Applicant)
5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):  
Law firm representing Applicant
6. ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE COUNCIL?  
YES ☒ NO ☐

This form shall be kept as a part of the permanent record in those instances where financial interest or compensation is indicated by the speaker.

A maximum of three minutes will be allowed for your presentation, except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard on a docket item shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation. If you have a prepared statement, please leave a copy with the Clerk.

Additional time not to exceed 15 minutes may be obtained with the consent of the majority of the council present; provided notice requesting additional time with reasons stated is filed with the City Clerk in writing before 5:00 p.m. of the day preceding the meeting.

The public normally may speak on docket items only at public hearing meetings, and not at regular legislative meetings. Public hearing meetings are usually held on the Saturday following the second Tuesday in each month; regular legislative meetings on the second and fourth Tuesdays in each month. The rule with respect to when a person may speak to a docket item at a legislative meeting can be waived by a majority vote of council members present but such a waiver is not normal practice. When a speaker is recognized, the rules of procedures for speakers at public hearing meetings shall apply. If an item is docketed *for public hearing* at a regular legislative meeting, the public may speak to that item, and the rules of procedures for speakers at public hearing meetings shall apply.

In addition, the public may speak on matters which are not on the docket during the Public Discussion Period at public hearing meetings. The mayor may grant permission to a person, who is unable to participate in public discussion at a public hearing meeting for medical, religious, family emergency or other similarly substantial reasons, to speak at a regular legislative meeting. When such permission is granted, the rules of procedures for public discussion at public hearing meetings shall apply.

**Guidelines for the Public Discussion Period**

(a) All speaker request forms for the public discussion period must be submitted by the time the item is called by the city clerk.

(b) No speaker will be allowed more than three minutes; except that one officer or other designated member speaking on behalf of each *bona fide* neighborhood civic association or unit owners' association desiring to be heard during the public discussion period shall be allowed five minutes. In order to obtain five minutes, you must identify yourself as a designated speaker, and identify the neighborhood civic association or unit owners' association you represent, at the start of your presentation.

(c) If more speakers are signed up than would be allotted for in 30 minutes, the mayor will organize speaker requests by subject or position, and allocated appropriate times, trying to ensure that speakers on unrelated subjects will also be allowed to speak during the 30 minute public discussion period.

(d) If speakers seeking to address council on the same subject cannot agree on a particular order or method that they would like the speakers to be called on, the speakers shall be called in the chronological order of their request forms' submission.

(e) Any speakers not called during the public discussion period will have the option to speak at the conclusion of the meeting, after all docketed items have been heard.



#7

PC] Recommended Approval w;amendments 7-0 May 7, 2009

CC approved the PC recommendation with amendments 6-0 5/16/09  
(see attachment)



## APPLICATION

# SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2009-0011

PROPERTY LOCATION: 106-108 N. Washington Street

TAX MAP REFERENCE: 74.02-02-10

ZONE: CD

APPLICANT: Capitol Burger, LLC D/b/a

Name: The Burger Joint

Address: 4827 Fairmont Avenue, Bethesda, MD 20814

PROPOSED USE: Restaurant

[ ] **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.

Revised 4/2/09

The Burger Joint

By: M. Catharine Puskar, Attorney

M. Catharine Puskar by SK

2/24/09

Print Name of Applicant or Agent

Signature

Date

WALSH, COLOCCI, LOBELEY, EMRICH & WALSH, PC

2200 Clarendon Boulevard, 13th Floor

(703) 528-4700

(703) 525-3197

Mailing/Street Address

Telephone #

Fax #

Arlington, VA 22201

cpuskar@arl.thelandlawyers.com

City and State

Zip Code

Email address

ACTION PLANNING COMMISSION

ACTION CITY COUNCIL

Krupicka	"aye"	Lovain	absent
Euille	"aye"	Smedberg	"aye"
	Wilson	"aye"	

## REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

### Planning Commission (continued)

7. SPECIAL USE PERMIT #2009-0011  
106-108 NORTH WASHINGTON STREET  
THE BURGER JOINT  
Public Hearing and Consideration of a request to operate a restaurant; zoned CG/Commercial General. Applicant: The Burger Joint by M. Catharine Puskar, attorney

PLANNING COMMISSION ACTION: Recommend Approval w/amendments 7-0

(A copy of the Planning Commission report dated May 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 7; 05/16/09, and is incorporated as part of this record by reference.)

Councilman Smedberg inquired why there was not a tree fee included in the application request. Barbara Ross, Planning and Zoning consultant, responded that the Recreation, Parks and Cultural Activities Department informed them the trees in this particular block were viable and there was no need for money to replace the trees. Ms. Ross also noted that the consistent policy has been only to collect the fee when there are dead or dying trees present.

Councilman Smedberg requested that the motion include the \$250 fee for tree replacement.

The following person participated in the public hearing on this item:

(a) Elizabeth McKeeby, 2200 Clarendon Blvd., Arlington, Virginia, attorney for the applicant, stated that the applicant will accept the additional condition with hesitation. Ms. McKeeby requested that the letter submitted to the Planning Commission on May 4, 2009, requesting that the modification to condition #11 concerning the proposed parking program be included in the approval.

**WHEREUPON**, upon motion by Councilman Wilson, seconded by Councilman Gaines and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation with the addition of a condition stating that the applicant will contribute \$250 for the planting of trees in the area. The voting was as follows:

Wilson	"aye"	Pepper	"aye"
--------	-------	--------	-------

Gaines	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	absent
	Smedberg	"aye"	

8. SPECIAL USE PERMIT #2009-0023  
50 SOUTH PICKETT STREET  
CAFE AURORA  
Public Hearing and Consideration of a request for an amendment to allow alcohol service at an existing restaurant; zoned CG/Commercial General.  
Applicant: Dahab Beyne

PLANNING COMMISSION ACTION: Recommend Approval 7-0

(A copy of the Planning Commission report dated May 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 8; 05/16/09, and is incorporated as part of this record by reference.)

**WHEREUPON**, upon motion by Vice Mayor Pepper, seconded by Councilman Wilson and carried unanimously, City Council closed the public hearing and approved the Planning Commission recommendation. The voting was as follows:

Pepper	"aye"	Gaines	"aye"
Wilson	"aye"	Krupicka	"aye"
Euille	"aye"	Lovain	absent
	Smedberg	"aye"	

9. SMALL BUSINESS ZONING CHECKLISTS  
Public Hearing and Consideration of a request to adopt administrative special use permit checklists. Staff: Department of Planning and Zoning

PLANNING COMMISSION ACTION: Recommend Adoption w/amendments 7-0

(A copy of the Planning Commission report dated May 7, 2009, is on file in the Office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No. 9; 05/16/09, and is incorporated as part of this record by reference.)

The following persons participated in the public hearing on this item:

(a) Kathleen Burns, 1036 Pelham Street, representing the West End Business Association (WEBA), stated that the improvements to the small business administrative SUP process is only beneficial to a small fraction who really need help and that the checklist was only a starting point. Ms. Burns noted that the applicants will still need guidance from Planning and Zoning staff and/or an attorney to complete the application process. Ms. Burns requested that City Council include the actions requested by WEBA in the letter dated May 15, 2009.