

Encroachment #2010-0003

277 South Washington Street – Society Fair Restaurant

Application	General Data	
Request: Consideration of a request for an encroachment into the public right-of-way.	Planning Commission Hearing:	May 4, 2010
	City Council Hearing:	May 15, 2010
Address: 277 South Washington Street	Zone:	CD/Commercial Downtown
Applicant: Cathal and Meshelle Armstrong by Duncan Blair, Attorney	Small Area Plan:	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: Mary Christesen mary.christesen@alexandriava.gov

PLANNING COMMISSION ACTION, MAY 4, 2010: On a motion by Mr. Dunn, seconded by Mr. Robinson, the Commission voted to recommend approval of the encroachment, subject to the staff conditions, with an amendment to condition #1. The motion carried on a vote of 7 to 0.

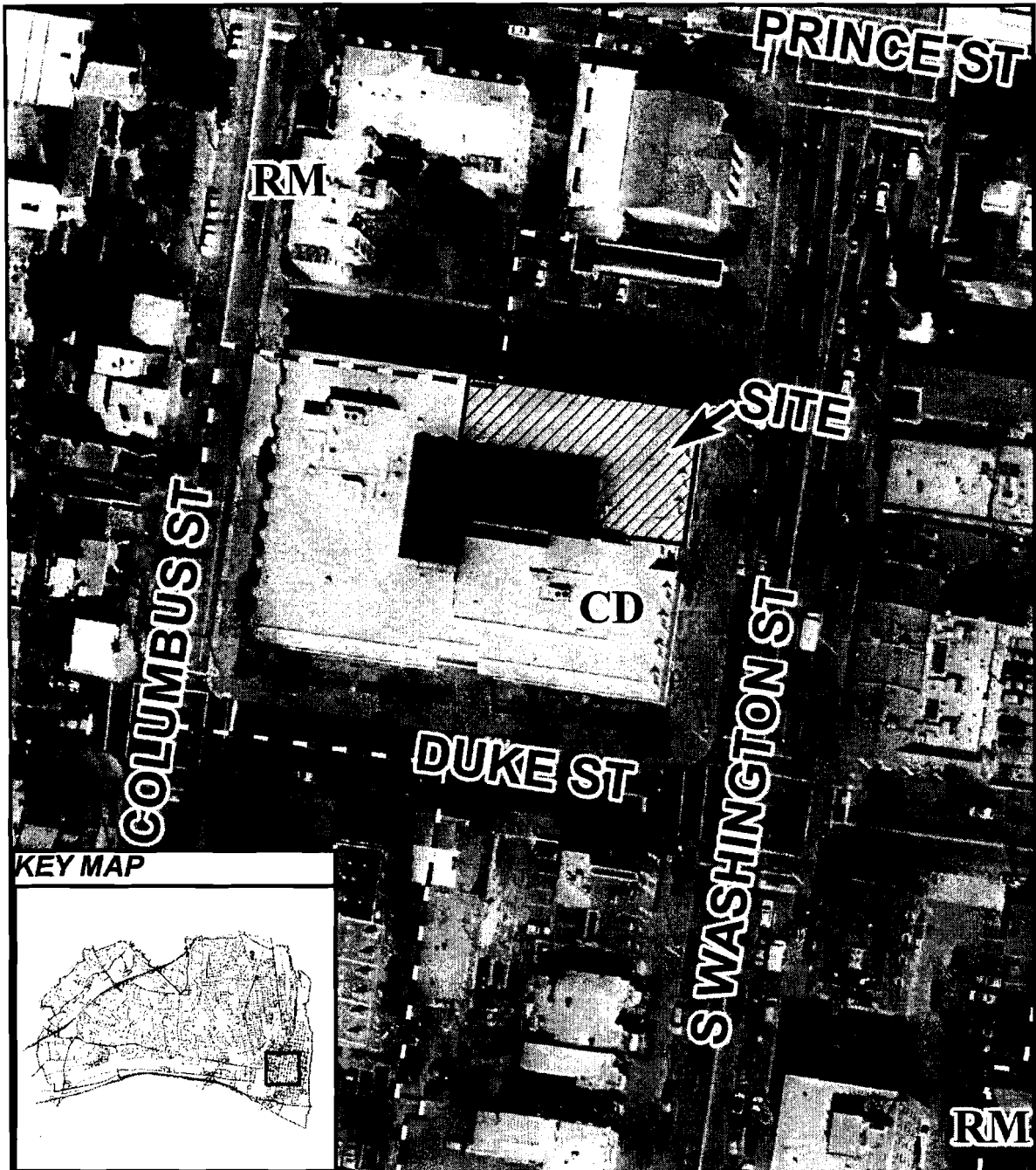
Reasons: The Commission agreed with the staff analysis, but amended condition #1 to provide adequate pedestrian access.

Speakers:

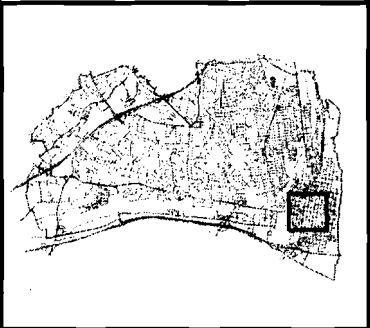
Duncan Blair, representing the applicant, presented the application.

William Doying, 817 Duke Street, spoke about concerns with the SUP, chiefly related to parking in the area.

Poul Hertel, Old Town Civic Association, spoke in general support but asked for a new condition regarding Lyceum parking, and an amendment to a condition regarding pedestrian sidewalk width, both of which were agreed to by the applicant.



KEY MAP



ENC #2010-0003

05/04/10



I. DISCUSSION

REQUEST

The applicants request permission to provide 30 outdoor seats in an area in front of the proposed restaurant and market at 277 North Washington Street. The area consists of both private property and public right-of-way.

SITE DESCRIPTION

The subject property is one lot of record with 178.43 feet of frontage on South Washington Street, 246.83 feet of frontage on Duke Street and 178.43 feet of frontage on South Columbus Street and a total lot area of 44,042 square feet. The site is developed according to Site Plan 75-0018, with the Atrium Building, formerly the headquarters of the Time-Life publishing group.

The surrounding area is occupied by a mix of offices, churches, museums and residences.

PROPOSAL

The applicant is requesting approval of an encroachment for outdoor dining with thirty seats in connection with a proposed restaurant, bakery, butchery and market (SUP2010-0009). The proposed dining area will extend 13.00 feet from the front building towards South Washington Street and 38.00 feet along the sidewalk parallel to the building. The Atrium Building property extends 7.38 feet beyond the front building wall; therefore the depth of the requested encroachment is 5.62 feet. The width of the sidewalk is 24.00 feet from the front building wall to the face of the curb. There is one street tree, which reduce the pedestrian travel way to 6.00 feet for a short distance when the dining area is in place.

ZONING/MASTER PLAN

The subject property is located in the CD, Commercial Downtown zone. Section 4-503(W) of the Zoning Ordinance allows a restaurant in the CD zone only with a special use permit. Section 4-502(M) permits retail establishments in the CD zone.

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 is recommending approval of the proposed encroachment for outdoor dining and believes the outdoor dining area will add a positive element of activity on this block of South Washington Street. This portion of South Washington Street has wide sidewalks and staff believes there will be adequate room for pedestrian travel and supports the request for the encroachment.

III. STAFF RECOMMENDATION

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

1. **CONDITION AMENDED BY PLANNING COMMISSION:** A minimum of 6 7 feet of unobstructed sidewalk shall be maintained. (T&ES) (PC)
2. 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. (T&ES)
3. 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)
4. 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. (T&ES)

STAFF: Faroll Hamer, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Mary Christesen, 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 Maintain minimum 6' wide unobstructed sidewalk. (T&ES)
- R-2 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. (T&ES)
- R-3 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)
- R-4 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. (T&ES)

Code Enforcement:

- C- 1 The proposed space used for outdoor seating with tables must provide a minimum of 15 square feet per person.
- 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.
 - o Daily Sweeping/washing of outdoor dining area is recommended to control rodent activity.
 - o Fire Hydrants shall not be obstructed by tables, chairs or other fixtures.
 - The configuration of any outdoor seating shall not obstruct or diminish the required egress from the structure or any adjacent structures.

Health Department:

- F-1 No Comment

Parks and Recreation:

- F-1 No comment

Planning and Zoning-Board of Architectural Review

- F-1 277 South Washington Street is located in the Old and Historic Alexandria Historic District and is under the jurisdiction of the Old and Historic Alexandria Board of Architectural Review (BAR). The application is for a restaurant use at this location including approval of seasonal outdoor seating. To ensure compatibility with the surrounding neighborhood and the existing streetscape, the outdoor dining area and all its components shall comply with the King Street Outdoor Dining guidelines. While no exterior alterations to the building are discussed with this application, the applicant is reminded that any exterior changes to the buildings visible from a public-right-of-way, including but not limited to new signage, window replacements, roofing or siding materials replacement, fencing, exterior light fixtures, and any exterior demolition or encapsulation greater than 25 square feet requires approval by the Board of Architectural Review. It is the applicant's responsibility to inform BAR Staff should such issues develop.

Police Department:

- F-2 The Police Department has no objections to the encroachment.

APPLICATION: ENCROACHMENT

ENC # 2010-0003

PROPERTY LOCATION: 277 South Washington Street, Alexandria, Virginia

TAX MAP REFERENCE: 074.02 13 03

ZONE: CD/Commercial Downtown

APPLICANT'S NAME: Cathal Armstrong and Meshelle Armstrong

ADDRESS: 110 South Pitt, Alexandria, Virginia 22314

PROPERTY OWNER NAME: Atrium Building LLC, c/o Carr Properties

ADDRESS: 1776 Eye Street, N.W., Suite 500, Washington, D.C. 20006

PROPOSED USE: Request for adoption of an encroachment ordinance to permit the encroachment of

INSURANCE CARRIER (copy attached) TO BE PROVIDED POLICY # _____

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.

[X] 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.

[X] 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.

[X] 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.

[X] 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.

Land, Clark, Carroll, Mendelson & Blair, P.C.
Duncan W. Blair, Esquire



Print Name of Applicant or Agent

Signature

524 King Street, Alexandria, Virginia 22314

703 836-1000

703 549-3335

Mailing Address

Telephone Number

FAX Number

dblair@landclark.com

February 23, 2010

Email Address

date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____

Date and Fee Paid: \$ _____

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

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OWNERSHIP AND DISCLOSURE STATEMENT
Use additional sheets if necessary

1. Applicant. 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. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. Cathal Armstrong	8325 Old Mount Vernon Road Alexandria, VA 22309	50%
2. Meshelle Armstrong	8325 Old Mount Vernon Road Alexandria, VA 22309	50%
3.		

2. Property. State the name, address and percent of ownership of any person or entity owning an interest in the property located at _____ (address), unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1.		
2.		
3.		

3. Business or Financial Relationship. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose any business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review.

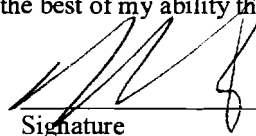
Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. Cathal Armstrong	None	Planning Commission, City Council, Board of Architectural Review (OHAD)
2. Meshelle Armstrong	None	Planning Commission, City Council, Board of Architectural Review (OHAD)
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

February 22, 2010
Date

Cathal Armstrong
Printed Name


Signature

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. 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. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

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3.		

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Name	Address	Percent of Ownership
1.		
2.		
3.		

3. Business or Financial Relationship. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose any business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review.


Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. Cathal Armstrong	None	Planning Commission, City Council, Board of Architectural Review (OHAD)
2. Meshelle Armstrong	None	Planning Commission, City Council, Board of Architectural Review (OHAD)
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

February 22, 2010
Date

Meshelle Armstrong
Printed Name


Signature

OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

1. Applicant. 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. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1.		
2.		
3.		

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Name	Address	Percent of Ownership
1. Atrium Building, LLC	1776 Eye Street, NW Suite 500. Washington DC 20006	100%
2.		
3.		

3. Business or Financial Relationships. Each person or entity listed above (1 and 2), with an ownership interest in the applicant or in the subject property is required to disclose any business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review.

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. The Atrium Building, LLC ownership has no business or financial relationship with any of the people mentioned.		
2.		
3.		

NOTE: Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

(See Name below)

Matthew T. Maccaroni, CCIM
Vice President
Carr Properties
202-303-3070 (p)
202-303-3088 (f)
mmaccaroni@carrprop.com

See signature in owner's authorization statement.

Date	Printed Name
	<u>Alexandria City Council</u>
	William Euille, Mayor
	Kerry Donnelly, Vice Mayor
	Frank Fannon IV
	Alicia Hughes
	Rob Krupicka
	Redella "Del" Pepper
	Paul Smedberg

Signature
<u>Planning Commission</u>
John Komoroske, Chair
H. Steward Dunn, Vice Chair
Donna Fossum
J. Lawrence Robinson
Mary Lyman
Jesse Jennings
Eric Wagner

Board of Zoning Appeals
Harold Curry, Chair
Mark Allen, Vice Chair
Geoffrey Goodale
David Lantzy
Jennifer Lewis
Eric Zander
John Keegan

**Board of Architectural Review
Old and Historic District**
Thomas Hulfish, Chair
Oscar Fitzgerald
Arthur Keleher
Wayne Neale
Peter Smeallie
James Spencer
John Von Senden

**Board of Architectural Review
Parker-Gray District**
Christina Kelley, Chair
William Conkey
H. Richard Lloyd, III
Thomas Marlow
Douglas Meick
Philip Moffat
Deborah Rankin

Definition of business and financial relationship.

Section 11-305 of the Zoning Ordinance defines a business or financial relationship as any of the following:

- (1) a direct one;

SUP # 2010-0009

PROPERTY OWNER'S AUTHORIZATION

As the property owner of 777 S Washington St, Alexandria, VA 22314, I hereby
(Property Address)

grant the applicant authorization to apply for the _____ use as
(use)

described in this application: Attrium Building LLC, a Delaware limited liability company

Name: By: Columbia Equity LP, its manager Phone 202-303-3080
By: Carr Properties LLC, its general partner

Please Print
Address: 1776 Eye Street NW Ste 500 Email: N/A
Washington DC 20006

Signature: [Signature] Date: 2/16/10
Vice President

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.

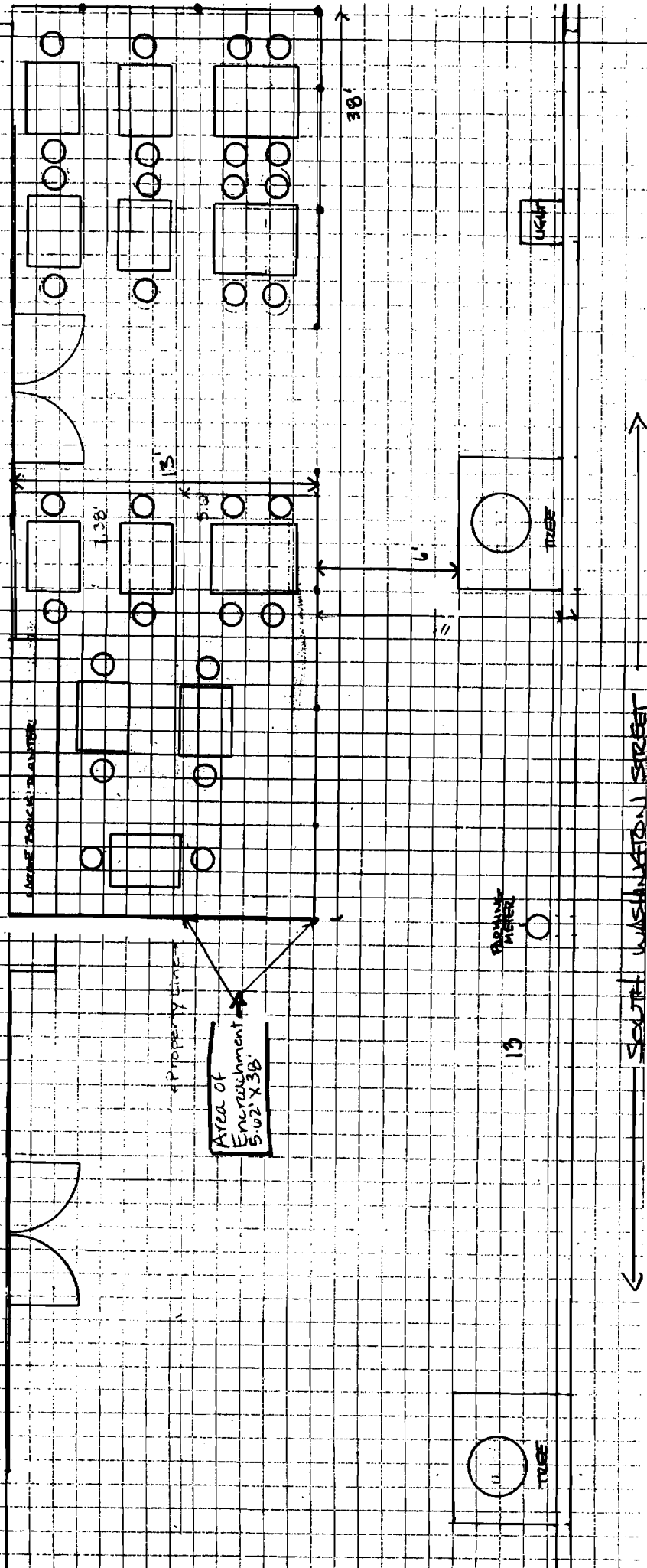
- Required floor plan and plot/site plan attached.
- Requesting a waiver. See attached written request.

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.

Film # 713

Scale 1 square = 1 foot



TC Docket Items

Old Town Civic Association, Inc.

P.O. Box 1213

Alexandria, Virginia 22313

#6 SUP 2010-0002

#7A SUP 2010-0004

#7B ETC 2010-0003

#8A SUP 2010-0010

#8B CC Sec 9.06 #210-0006

Dear Chairman Komoroske and Members of the Planning Commission :

The Old Town Civic Association wishes to address the Restaurant Special Use Permits on the Docket in context of the 1992 Small Area Plan as amended in 1993 (commonly referred to as the Old Town Restaurant Policy). We will start out by proposing a unified longer-term perspective and then address the individual applications on the immediate term.

DISCUSSION WITH PLANNING DEPARTMENT (Medium Long term)

We thank the City Staff for taking time to discuss the overwhelming interest in converting retail space into restaurant space that is potentially altering the balance between the residential, restaurants, retail and commercial in Old Town.

The 1992 Small Area Plan was very specific in curtailing the proliferation of the restaurants by not allowing any new ones. This was reasonably amended by allowing for new ones under the condition that the City takes into consideration, not only parking, drunkenness, trash but also diversity. Furthermore, the amended plan accentuates this further by requiring that the City Council separately adopt criteria for determining the extent to which each criterion is met. This was set in place to ensure that the vision of Old Town would prevail, namely a criterion that was included in the King Street Retail Strategy that was adopted in 2004.

<p>POLICIES FOR OLD TOWN</p> <p>Old Town is unique in that it maintains a very fine residential area in close proximity to the commercial establishments on King and Washington Streets. While both the residential and the commercial areas are currently strong, there is a fragile balance which must be preserved if both are to remain strong and if the ambience of Old Town is to be preserved. Further, the commercial areas contain a mix of activities that is unique within the metropolitan area, and that mix needs to be protected if the character of Old Town is to be preserved.</p>
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Since being adopted in 1993, there have been no attempts at quantifying how each group has evolved over the years. As a result, assumptions as to whether or not the diversity and balance has been compromised rests on anecdotal evidence. (The Parking Study is a good beginning to understand the availability of such, but we will get back to that later). What is not in dispute is the economic and social benefit of the small retailers that inhabit Old Town as has been demonstrated in

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numerous studies across the country.

Keep in mind that Old Town became "Old Town" only after King Street was reinvented and populated by the small retailer. By adopting the King Street Retail Strategy, the City embarked on a restaurant-friendly policy, first by encouraging the apportionment of the public realm to the restaurants by allowing them to increase in size through administrative Special Use Permit (SUP), and second, by adopting the Small Business Facilitation Plan that encouraged the increase in the interior size through administrative SUPs. However, we do recognize and appreciate that Old Town did retain an SUP for new restaurants, and in so doing, is allowing us to have this conversation.

While the City might have embarked on a "vibrancy quest" that under current market conditions strongly favors restaurateurs, it has set in motion a process that discards the market mechanism by discouraging the pricing component from clearing the rental market. Instead, the policy encourages restaurants to take over valuable retail space in favor of restaurants as witnessed by the plethora of SUP applications for just that purpose. Moreover, once it is gone, retail space has a hard time coming back.

A speculative bubble in restaurant usage is not inconceivable. It is likely to be taking place already. Although ultimately it will lead to cannibalism among the group, in the long term, it will also diminishes the vitality of the retail segment if it has not already done so by crowding them out both physically and economically.

The Parking Study is a good beginning, but it is too narrowly focused on the restaurant hours and geographically diffuse to provide a realistic appraisal of how much activity can reasonably be handled in specific areas of King Street in order to maintain a balance between the users. If Old Town is to remain the heart and soul of the City, we must not only respect the public realm, but also ensure that do not become just a restaurant destination, but keep the diversity alive.

Five points were brought up at the meeting with the City Staff that are well suited to gauge the evolution In Old Town and could serve as guide for adhering to the 1992 Small Area Plan as amended in 1993.

1. Inventory of conditions
2. Information
3. Metric system
4. Restaurant Frontage guide
5. Policy discussion group

During the discussion, it became clear that the City does not have an inventory except for the bottom two blocks of King Street, which they agreed to forward to us

4

(point #2). However, even there, they do not know the evolutionary trajectory. Therefore, while they work at figuring that out, we urged them to follow the following points, such as:

Use of simple industry standards for parking requirements in conjunction with the knowledge of available parking, which could set the stage for understanding just how much of each grouping can reasonably be handled in any one area.

Furthermore, that this should be tied to the use of the simple concept of measuring the percent of restaurant frontage and comparing the result to a goal that can be easily quantified by asking the following question; if you could develop from scratch how much restaurant frontage would be reasonable for the Old Town King Street area. (Some jurisdictions actually codify the amount of restaurant frontage allowed).

The City should also form a policy discussion group to look at the overarching issues emanating from the market conditions or departure from the rudimentary matrix evaluations from the parking Matrix or the restaurant frontage rule.

IMMEDIATE Short term

OTCA has taken a pragmatic approach that recognizes the different locations character and needs in framing its position on these three restaurants.

Item 6:

SPECIAL USE PERMIT #2010-0002 - (DEVELOPMENT)

923 KING STREET- (THE KING BUILDING AT 923)

OTCA Board supports the application to expand the building because of the potential benefit the development can provide by filling a hole on Patrick Street and thereby improve the streetscape. The Board did not have an issue with the restaurant SUP, since the location already an approved restaurant SUP.

Items 7A/7B:

(A) SPECIAL USE PERMIT #2010-0009 (ENCROACHMENT)

(B) SPECIAL USE PERMIT #2010-0003 - 277 SOUTH WASHINGTON STREET (SOCIETY FAIR RESTAURANT)

The OTCA Board supports the application with two recommendations that we encourage you to adopt. However, we must first express our deep gratitude to the City Staff for setting the stage for the potential tenant using the parking garage connected to the building. Furthermore, the application will restore retail use in the building.

While the parking arrangement is commendable, the temptation for patrons to use the Lyceum parking lot will be overwhelming. We therefore request that the applicant be required to get a Lyceum Parking Only sign for the lot that is approved by the BAR and satisfactory to the Office of Historic Alexandria, in the hopes that the Lyceum staff will not be forced to become parking enforcers.

The encroachment leaves only 6 feet for pedestrians in certain spots. Given the large area, OTCA must reiterate the need for sidewalks to be of a reasonable width; notably that two people should be able to walk side by side while a person travelling the opposite direction can pass by as well, which is 7 feet. The OTCA Board does not see that this will affect the applicant's ability to fit the same numbers of seats in the encroachment area, but does see it as a test of the City's ability to respect the public realm.

Items 8A/8B:

SPECIAL USE PERMIT #2010-0010

(A) CITY CHARTER SECTION 9.06

(B) CASE #2010-0002 106 SOUTH UNION STREET

This case severely tests the restaurant policy. While the City Staff again deserves kudos for their parking approaches, the fact that the lot is open to anyone makes it a less attractive solution. However, the OTCA Board is also very concerned about the loss of an important retail location to another restaurant in a section of Old Town that is not underserved. Furthermore, the Wales Alley seating works counter to our desire to the Waterfront being more accessible.

There was very little support for the proposal, but we nevertheless request that you defer this item until such time that it can be properly be assessed in the context of the Waterfront Plan.

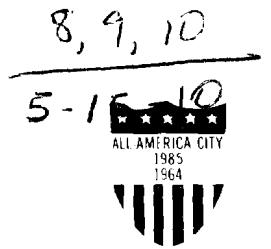
Furthermore, the solution being sought in order to accommodate the Boat Club concerns, could irrevocably harm the ability to create a continuous walkway along the Strand. Either way, OTCA having had neither the opportunity to see the "Waterfront" nor the Boat Club solution, would be most appreciative if both could be reviewed prior to this application being heard. Finally, as the Mayor of Charleston, Joseph P. Riley, Jr. said at a recent speech at the Kennedy Center, "people always tell me that I need to do something with empty buildings....anything! But when I am sick, I do not go to the doctor and ask him to do any available surgery, do I? "

Poul Hertel

President , Old Town Civic Association



City of Alexandria, Virginia



MEMORANDUM

DATE: May 14, 2010

TO: The Honorable Members of City of Alexandria City Council
James Hartmann, City Manager
James Banks, City Attorney
Faroll Hamer, Director, Department of Planning and Zoning

FROM: The Honorable William D. Euille, Mayor, City of Alexandria

SUBJECT: Saturday's Work Session/Public Hearing
Docket Items: SUP #2010-0009 - 277 S. Washington St. - Society Fair Restaurant
SUP #2010-0010 (A) - 106 S. Union St. - Restaurant
SUP #2010-0011 - 2312 Mt. Vernon Ave. HOG THAID t/a Pork Barrel BBQ

Colleagues,

Please be advised that I have a business relationship with the applicants for the above SUPs in that I am a minority partner/investor (less than 10% ownership) via my participation in a Limited Liability Corporation (LLC) or another business structure, for which I have no direct involvement in the day-to-day management or policy making decisions as follows:

- 1) Mango Mike's Restaurant, owned by Mike Anderson, General Partner via the Alexandria Restaurant Group.
- 2) The Majestic Restaurant, owned by the 711 King Street, LLC. The management/operator of the restaurant is Cathal and Meshelle Armstrong (The Restaurant Eve Group) who are not investors in the LLC.

The 106 Union Street restaurant and the 277 S. Washington Street- Society Fair Restaurant will be managed and operated by Cathal and Meshelle Armstrong.

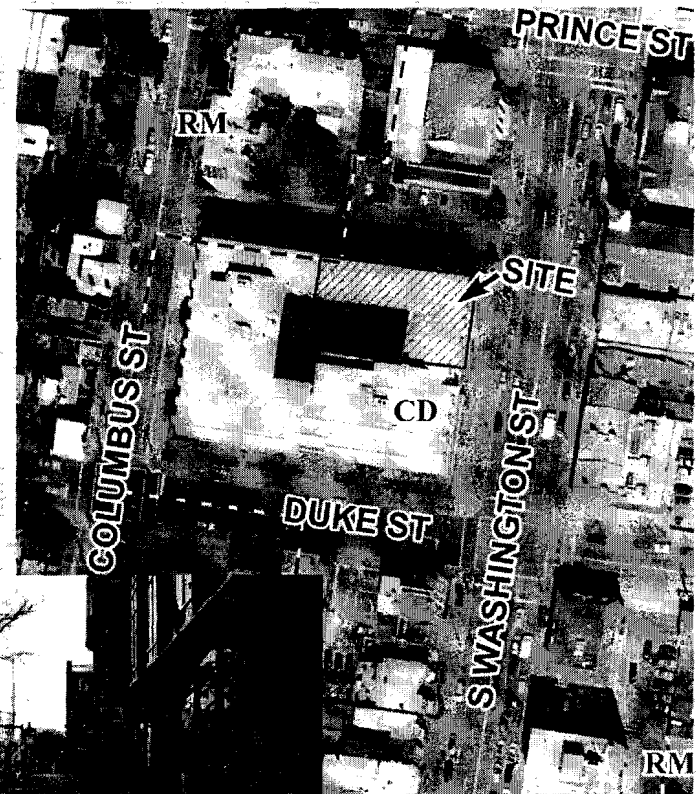
The Pork Barrel BBQ Restaurant applicant is Mike Anderson and an ownership group that is unrelated to the ownership group for Mango Mike's Restaurant.

Thus, I have no potential conflict of interest involving these three SUPs and accordingly, I will be participating in the discussion and voting.

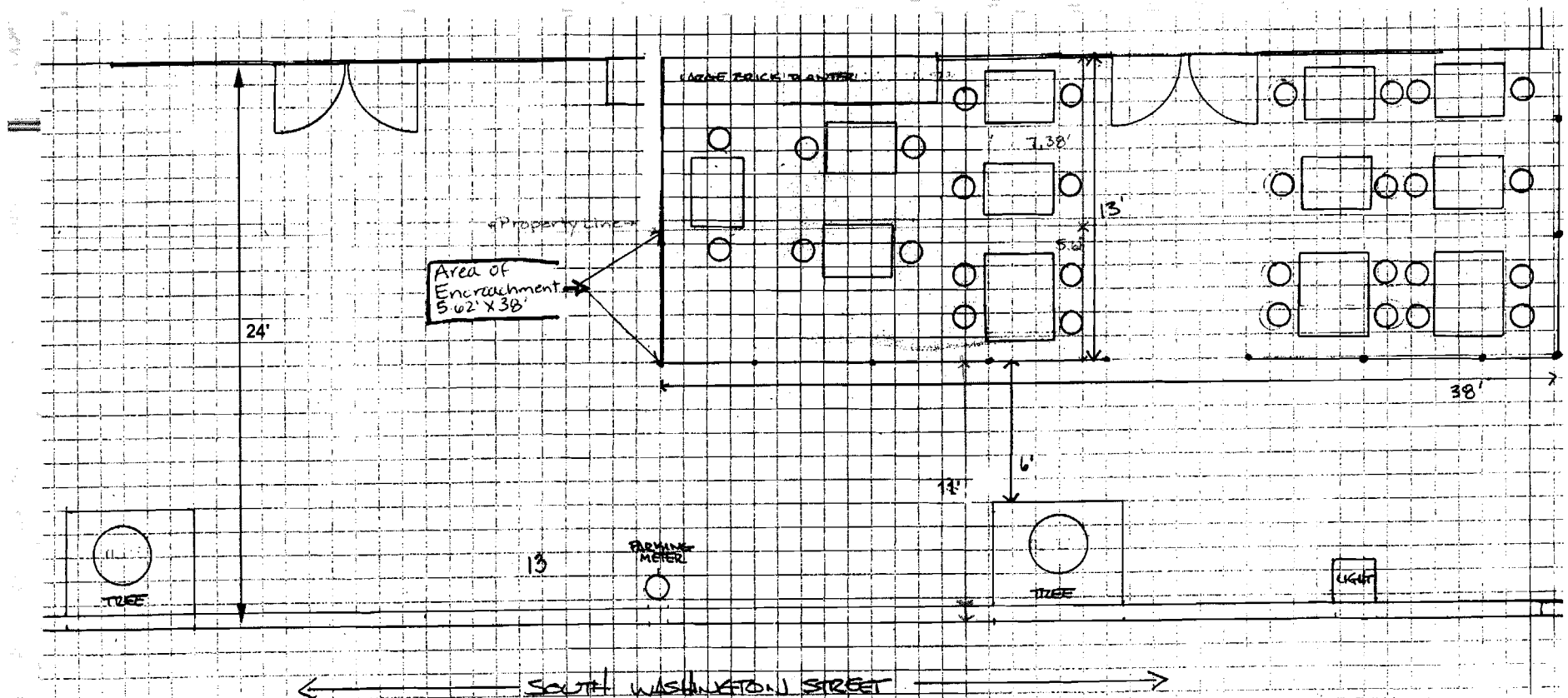
The City Attorney has concurred with my position on these matters.

277 South Washington Street Society Fair Restaurant SUP2010-0009/ ENC2010-0003

- New gourmet market and restaurant
- Staff and Planning Commission recommend approval
- Benefits
 - Occupies vacant store front and enlivens South Washington Street
 - Strong retail component
 - Proposed hours are not late and no live entertainment is proposed
 - Parking provided in private garage facility within the building



Outdoor Seating



- Sidewalk Dimensions From Planned Seating Area:
 - To closest obstacle: 6 ft.
 - To curb: 11 ft
- Full sidewalk width without seating area: 24 ft.

APPLICATION for SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2010-0009

PROPERTY LOCATION: **277 South Washington Street, Alexandria, Virginia**

TAX MAP REFERENCE: **74.02 13 03** ZONED: **CD/Commercial Downtown**

APPLICANT Name: **Cathal Armstrong and Meshelle Armstrong**
110 South Pitt Street, Alexandria, Virginia 22314

PROPERTY OWNER Name: **Atrium Building LLC, c/o Carr Properties**
1776 Eye Street, N.W., Suite 500, Washington, D.C. 20006

PROPOSED USE: **Special Use Permit to operate a restaurant.**

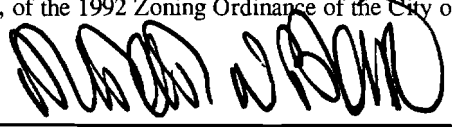
[X] **THE UNDERSIGNED** hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

[X] **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.

[X] **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.

[X] **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 Commission 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 #
dblair@landclark.com

(703) 549-3335
Fax #

Alexandria, Virginia 22314
City and State Zip Code

February 23, 2010
Date

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

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

ACTION - PLANNING COMMISSION: Rec Approval w/Amendments ⁷⁻⁰ DATE: 5/4/10

ACTION - CITY COUNCIL: Approved PC recommendation 7-0 DATE: 5/15/10

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APPLICATION: ENCROACHMENT

ENC # 2010-003

PROPERTY LOCATION: **277 South Washington Street, Alexandria, Virginia**

TAX MAP REFERENCE: **074.02 13 03**

ZONE: **CD/Commercial Downtown**

APPLICANT'S NAME: **Cathal Armstrong and Meshelle Armstrong**

ADDRESS: **110 South Pitt, Alexandria, Virginia 22314**

PROPERTY OWNER NAME: **Atrium Building LLC, c/o Carr Properties**

ADDRESS: **1776 Eye Street, N.W., Suite 500, Washington, D.C. 20006**

PROPOSED USE: **Request for adoption of an encroachment ordinance to permit the encroachment of**

INSURANCE CARRIER (copy attached) **TO BE PROVIDED** POLICY # _____

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.

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.

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.

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 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.

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

Duncan W. Blair, Esquire



Print Name of Applicant or Agent

Signature

524 King Street, Alexandria, Virginia 22314

Mailing Address

703 836-1000

Telephone Number

703 549-3335

FAX Number

dblair@landclark.com

Email Address

February 23, 2010

date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____

Date and Fee Paid: \$ _____

ACTION - PLANNING COMMISSION: Recommended Approval w/Amendments 7-0 5/14/10

ACTION - CITY COUNCIL: Approved PC recommendation 7-0 5/15/10 (see attachment)

SOCIETY FAIR RESTAURANT

Public Hearing and Consideration of (A) a request to operate a restaurant and (B) an encroachment into the public right of way for outdoor seating; zoned CD/Commercial Downtown. Applicant: Cathal and Meshelle Armstrong represented by Duncan Blair, attorney.

PLANNING COMMISSION ACTION:

SUP Recommend Approval w/amendments 7-0

ENC Recommend Approval w/amendments 7-0

City Council closed the public hearing and approved the Planning Commission recommendation with an acknowledgment of an amendment to the parking plan adding, "Society Fair shall contact nearby business and organizations about the availability of off-street evening parking located at the Atrium Building," and an amendment to condition 25(d) by striking the word "leasing" and inserting the word "parking."

Council Action: _____

9. SPECIAL USE PERMIT #2010-0010 (A)
CITY CHARTER SECTION 9.06 CASE #2010-0002 (B)
106 SOUTH UNION STREET
RESTAURANT

Public Hearing and Consideration of (A) a request to operate a restaurant and (B) consideration of a change in use of public property pursuant to Section 9.06 of the City Charter; zoned KR/King Street Urban Retail. Applicant: 106 Union Dublin, LLC represented by Duncan Blair, attorney (SUP #2010-0010 and the City of Alexandria, Department of Planning and Zoning CC Sec. 9.06 #2010-0002)

PLANNING COMMISSION ACTION: SUP Recommend Approval 6-1
9.06 For Council's Information Only

City Council closed the public hearing and approved the Planning Commission recommendation.

Council Action: _____

10. SPECIAL USE PERMIT #2010-0011
2312 MOUNT VERNON AVENUE
PORK BARREL BBQ
Public Hearing and Consideration of a request to operate a restaurant; zoned CL/Commercial Low. Applicant: Hog Thaid, LLC by Michael Anderson

PLANNING COMMISSION ACTION: Recommend Approval 7-0

City Council closed the public hearing and approved the Planning Commission recommendation with the following amendments: (1) amend condition #3 to state, "The hours of operation of the restaurant shall be limited to between 7 a.m. and 11 p.m.,

8
5-15-10

May 15, 2010: Docket No. 8 SUP#2010-0009

Mayor Euille, Vice Mayor Donley, Members of Council:

My name is Bill Doying, a 35-year resident of 817 Duke Street, within a block or so of the proposed restaurant/retailer. I sent a statement earlier this week to Council, as well as to Mr. Blair, and he and I have spoken as well.

I won't read you what you've already seen – I'd just like to stress a point or two and take a little different slant.

I believe the applicants here, the Armstrongs, are a source of pride to our City, and are doing their best to play a responsible role with regard to the parking issue. I also believe they shouldn't be doing it alone.

Parking for Old Town residents, I hardly need tell you, is bad and getting unbearable. I'm not sure, though, that you have a sense of how many residents, even long-timers like me and my wife, are near the end of their tether. This is not the sort of crisis that announces itself with a bang; more with a series of whimpers, each perhaps not loud enough to be heard. One and then another home-owner gets fed up and sells out, or tries to. Only the long-term effect will be obvious.

Maybe the Staff Parking Report – I haven't seen it – will be enough to push the City to create strong incentives for all parties – restaurant owners, retailers, landlords, customers – to truly maximize the use of off-street parking.

Exhortation and hand-wringing aren't going to do it. At present most retailers, restaurants, and landlords simply externalize the cost of the scarce parking resource – they may not realize their own cost in lost patronage – sloughing it off on the residents and, for that matter, their fellow merchants. (As you probably know, economists call this "the Tragedy of the Commons.")

A real solution would internalize these costs – bring them home to roost where their benefit lives. The applicants' parking plan here is a very responsible attempt to do just that, but I believe the applicants are also concerned that they will not be able to realize the benefits they're attempting to create, if the incentives for patrons to use them are not strong enough. And ironically, if they clear spaces on the streets for increased patronage of competitors, the competitors have benefited from what they didn't pay for – and the residents are perhaps no better off!

(I suspect applicants may also be concerned that their would-be landlord doesn't want to participate in the cost-bearing, though it benefits through signing the lease and providing an amenity for its other tenants.)

What's needed, we submit, is a comprehensive plan, for which this plan could be part of a model, so that everybody participates in cost-bearing and an economically sensible investment is made.



COA Contact Us: May 15 Mtg Dkt #8- SUP#2010-0009

william.euille, frank.fannon,
kerry.donley, alicia.hughes, council,

William and Carolyn Doying to: delpepper, paulcsmedberg,
rose.boyd, jackie.henderson,
elaine.scott, rob.krupicka

05/11/2010 01:27 PM

Please respond to William and Carolyn Doying

8

5-15-10

Time: [Tue May 11, 2010 13:27:00] Message ID: [21527]

Issue Type: Mayor, Vice Mayor, and Council Members
First Name: William and Carolyn
Last Name: Doying
Street Address: 817 Duke Street
City: Alexandria
State: VA
Zip: 22314
Phone: 703-549-8177
Email Address: cwdoying@aol.com
Subject: May 15 Mtg Dkt #8- SUP#2010-0009
CITY COUNCIL PUBLIC HEARING MEETING OF MAY 15, 2010:
Reports of Boards,

Commissions and Committees, Agenda Items 8(A) and (B):
Special Use Permit

#2010-0009 and Encroachment #2010-0003
Submission to City Council from

William A. and Carolyn B. Doying, 817 Duke Street, Alexandria
Mayor, Vice

Mayor, Members of Council:
Respecting the demands on your time, we will

be as brief as we can.
We have lived at the same address for 35 years,

and in Old Town for more than 40. We have seen the parking situation in

our neighborhood go from not-so-great to nearly unbearable, under the

growing pressure of the King Street restaurant population and the local

churches (which are commendably active many days and evenings of the week

beyond Sunday morning). Several neighbors have told us of returning from

work daily to park blocks away, and have suggested that they are

approaching the point of selling out. We have the same concerns ourselves. The Armstrongs are unquestionably a source of pride for our city – we have enjoyed their restaurants, as we have most other local establishments. We don't doubt the proposed "Society Fair" restaurant/retailer would be a welcome new choice. City staff advise that the Armstrongs are good people to work with. But none of us can ignore the fact that their customers will mostly arrive in cars. The papers before

Comments: you show how heavily Staff's favorable recommendation relies on the benevolent effects of applicants' off-street parking plan, including extending hours for the Atrium garage and validating for Majestic Café and Eamonn's customers. We may wonder whether customers will still not exhaust street parking before resorting to this, but at least we can hope. It was alarming, then, to arrive at Planning Commission to find applicants' modification of the SUP proposal that limits parking commitments to a one-year trial period (without mention even of the minimum parking requirements attendant to the retail use – see Staff report). The SUP without the planned parking improvements would represent an entirely different – we would urge, unacceptable – balance of values. We understand that staff's report on Old Town parking will (or does) rely very heavily on expanded use of existing off-street parking facilities. Without the imposition of actual requirements to implement such an expansion, however, the report will be nothing more than a wistful hope. We ask Council, at a minimum, to condition the grant of the SUP on a review to take place before applicants are allowed to abandon their parking undertakings as (in the worst case) a failed experiment. Residential Old Town simply cannot be converted to a hollowed-out stage set for an ever-increasing array of restaurants, but we submit that is the current tendency of city government's deference to such applications. Respectfully

submitted, William and Carolyn Doying

SPEAKER'S FORM

DOCKET ITEM NO. 8

**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:** William Doying

2. **ADDRESS:** 817 Duke Street, Alexandria
TELEPHONE NO. 703-549-8177 **E-MAIL:** cwdoying@aol.com`

3. **WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF?**
wife, neighbors

4. **WHAT IS YOUR POSITION ON THE ITEM?**

5. **NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY,
LOBBYIST, CIVIC INTEREST, ETC.):**
nearby resident

6. **ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE
COUNCIL?**
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.

SPEAKER'S FORM

DOCKET ITEM NO. 8

**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:** Duncan W. Blair, Esquire

2. **ADDRESS:** 524 King Street, Alexandria, Virginia 22314
TELEPHONE NO. 703 836-1000 **E-MAIL:** dblair@landclark.com

3. **WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF?**
Cathal and Meshelle Armstrong

4. **WHAT IS YOUR POSITION ON THE ITEM?**
For

5. **NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY,
LOBBYIST, CIVIC INTEREST, ETC.):**
Attorney

6. **ARE YOU RECEIVING COMPENSATION FOR THIS APPEARANCE BEFORE
COUNCIL?**
Yes

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.

SPEAKER'S FORM

DOCKET ITEM NO. 8

**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: Paul Hertel

2. ADDRESS: 1217 Michigan Court

TELEPHONE NO. 7036845378 E-MAIL ADDRESS: PaulHertel@comcast.net

3. WHOM DO YOU REPRESENT, IF OTHER THAN YOURSELF? _____

OTCA

4. WHAT IS YOUR POSITION ON THE ITEM?
FOR: AGAINST: _____ OTHER: _____

5. NATURE OF YOUR INTEREST IN ITEM (PROPERTY OWNER, ATTORNEY, LOBBYIST, CIVIC INTEREST, ETC.):

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.