

Docket Item #5
SPECIAL USE PERMIT #2003-0123

Planning Commission Meeting
March 2, 2004

ISSUE: Consideration of a request for a special use permit amendment to add twenty four outdoor seats.

APPLICANT: Serendipitous Inc., trading as Bittersweet
by John P. Manor Jr.

LOCATION: 821, 823 King Street; 103 North Alfred Street
Bittersweet Restaurant

ZONE: CD/Commercial Downtown

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

I. DISCUSSION

REQUEST

The applicant, Serendipitous Inc., trading as Bittersweet, by John P. Manor Jr., requests approval of an amendment of the existing special use permit to add 24 outdoor seats to the restaurant to be located along Alfred Street.

SITE DESCRIPTION

The subject property is one corner lot of record with 29.3 feet of frontage on King Street, 100 feet of frontage on Alfred Street and a lot area of 2,930 square feet. The site is developed with a commercial building occupied by the restaurant, Bittersweet, and its offices. It is located in the heart of Old Town Alexandria and surrounded by commercial uses.

RESTAURANT CHARACTERISTICS

Bittersweet restaurant has been in business at this location for more than six years and serves American cuisine. Currently, the restaurant offers 60 indoor seats to its patrons. The existing special use permit allows the restaurant to operate between 8:00 A.M. to 8:00 P.M., daily. In actuality, the applicant closes the restaurant at 4:00 P.M. daily. Its peak hours of business are generally during breakfast and lunch time. The business is operated by a total of 22 employees, serving approximately 350 customers per day. Although the restaurant's location within the Central Business District of Historic Alexandria exempts the applicant from the requirement to provide off-street parking, condition # 13 of the special use permit requires the applicant to provide free off-street parking for employees who drive to work.

PROJECT DESCRIPTION

The applicant is requesting approval for 24 outdoor seats to be located at the west side of the restaurant along North Alfred Street. The 24 proposed seats to be located outside will be in addition to the existing indoor seats and not be permanent in nature. The area will be set up everyday at 8:00 A.M. and taken down every day at closing. Customers will access the outdoor seating area from the main entrance on King Street. Employees will clean and maintain the area; wait service is not provided.

No changes are proposed to the menu, hours of operation or number of employees.

SUP HISTORY

A restaurant has been located at this location since November 15, 1982, when City Council granted a Special Use Permit for the operation of a carry-out restaurant. In 1984, City Council approved the addition of 60 seats and expansion of the restaurant into the unit at 823 King Street, which was never implemented. In 1997, City Council granted Special Use Permit #1701-A to change the ownership of the existing restaurant with catering service, followed by an approval to allow the physical expansion of the restaurant, additional seats and later hours of operation. Finally, Council granted

Special Use Permit #2000-0118 on November 18, 2000 to allow the restaurant to expand into the adjacent retail store fronting King Street, and to sell beer and wine for off-premise consumption.

On February 3, 2004, staff visited the subject property and found that the business is in compliance with the conditions of its special use permit.

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. The proposed use is consistent with the Old Town small area plan chapter of the Master Plan which designates the property for commercial downtown use.

II. STAFF ANALYSIS

Staff strongly supports this request to add outdoor seating to a successful daytime restaurant in the heart of Old Town Alexandria. The proposed outdoor seating will add vitality to the street, thereby attracting more visitors and customers for area businesses, and create a visible symbol of activity and economic health. The additional seating will not cause negative impacts in that it will be removed daily and simply provide a convenience in good weather for existing customers. In addition, there will be no alcohol service outdoors or late evening hours.

The applicant has also filed an encroachment application requesting approval for the use of 300 square feet of public sidewalk right-of-way for the restaurant's outdoor seating. See ENC #2004-0011 for details regarding the encroachment and recommended permit conditions.

Staff has retained the SUP condition requiring a review of the restaurant one year from this approval so that if there are problems with the operation of the restaurant, including the outdoor seating, additional conditions may be imposed.

Staff recommends approval of the special use permit.

III. RECOMMENDED PERMIT CONDITIONS

1. The special use permit is granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP #1701-A)
2. Seating may be provided inside for no more than 60 patrons. (P&Z) (SUP #1701)
3. **CONDITION AMENDED BY STAFF:** ~~No outside dining facilities shall be located on the premises.~~ 24 outdoor seats may be provided on the west side of the restaurant along Alfred Street, provided that a clear pedestrian pathway of five (5) feet is maintained. When outside dining facilities are provided, (1) litter shall be picked up as it is generated, and (2) the outside dining area shall be cleaned at the close of each day of operation, (3) the arrangement of tables, chairs and other decorative features shall not obstruct or impair handicap access, emergency egress, or access to fire department connections for the structure. ~~(P&Z) (SUP #1701)~~ (P&Z)
4. **CONDITION AMENDED BY STAFF:** The hours during which the business is open to the public shall be limited to 8:00 A.M. to 8:00 P.M., daily. The outdoor dining area shall be cleared of all tables and chairs by 8:00 P.M. and the area shall be cleaned and washed by 8:30 P.M. ~~(P&Z) (SUP #2000-0056)~~ (P&Z)
5. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #1701)
6. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP #97-0065)
7. Condition deleted. (P&Z) (SUP #97-0065)
8. Litter on the site and on public right-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up by the applicant at least twice a day, and more often if necessary, to prevent an unsightly and unsanitary accumulation on such day that the business is open to the public. (P&Z) (SUP #1701-A)
9. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #97-0065)
10. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #97-0065)

11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #97-0065)
12. **CONDITION AMENDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sound shall be audible at the property line. (~~P&Z~~) (~~SUP #97-0065~~) (T&ES)
13. The applicant shall provide free off-street parking for employees who drive to work. (P&Z) (SUP #97-0065)
14. **CONDITION DELETED BY STAFF:** ~~The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey for the business and a robbery awareness program for all employees.~~ (~~Police~~) (~~SUP #97-0065~~)
15. The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighbors. (Health) (SUP #97-0065)
16. **CONDITION AMENDED BY STAFF:** Alcohol is permitted for on-premise indoor consumption. Consumption of alcoholic beverages in the outdoor seating area is not permitted. Off-premise alcohol sales shall be limited to catering operations and to the sale of bottles of wine in quantities not less than 750 ml or beer in quantities not less than a six pack, with a minimum cost of \$7.00 per bottle or six pack. (~~P&Z~~) (~~Police~~) (~~SUP #2000-0118~~) (P&Z)
17. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval 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, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, 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~~) (~~SUP #2000-0118~~) (P&Z)

18. **CONDITION ADDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements. (P&Z)

19. **CONDITION ADDED BY STAFF:** The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Bettina Irps, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

Meals ordered before the closing hour may be served, but no new patrons may be admitted and no alcoholic beverages may be served after the closing hour, and all patrons must leave by one hour after the closing hour.

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 A minimum pedestrian pathway of 5 feet shall be maintained. Distance to be measured from the face of the curb to encroachment.
- R-2 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-3 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.
- R-4 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-5 The applicant (and his/her successors, if any) must obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his/her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment.
- R-6 Neither the City nor any Private utility company will be held responsible for damage to the private improvements in the public right-of-way during repair, maintenance or replacement of any utilities that may be located within the area of the proposed encroachment.
- R-7 In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any obstruction encroaching into the public right-of-way, within 60 days, upon notification by the City.

Code Enforcement:

- C-1 The location and arrangement of chairs and tables shall not obstruct or impair handicap access, means of egress or access to fire department connections for the structure.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. This facility is currently operating as Bittersweet under Alexandria Health Department permit issued to Serendipitous, Inc.
- C-2 Food must be protected to the point of service.
- C-3 If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-4 Permits or approval must be obtained prior to use of the new area(s).
- C-5 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions both indoors and at the outside dining areas.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- F-1 No objections.