

Docket Item #28
SPECIAL USE PERMIT #2004-0032

Planning Commission Meeting
June 1, 2004

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

APPLICANT: Jimmy John's
by Karl W. Finkelnburg

LOCATION: 330 John Carlyle Street

ZONE: CDD-1/Coordinated Development District

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

I. DISCUSSION

REQUEST

The applicant, Karl Finkelnburg, requests special use permit approval for the operation of a restaurant located at 330 John Carlyle Street.

SITE DESCRIPTION

The subject property is one lot of record with 233 feet of frontage on John Carlyle Street, 95 feet of depth and a total lot area of 21,639 square feet. The site is developed with the Society for Human Resource Management (SHRM) building, a multi-story office building that faces John Carlyle Square. The proposed restaurant will occupy a 2,675 square feet ground floor space, on the northeast corner of Jamieson Avenue and John Carlyle Street.

The subject building is part of the 70-plus acre Carlyle development planned for a mix of office, residential and retail uses. The Burke and Herbert Bank is located immediately to the east, and Charles Schwab offices are located in the adjacent tenant space to the north. The Patent and Trademark Office is in the near vicinity and currently under construction. Additional office buildings with ground floor retail space are also located in the immediate vicinity. The Carlyle development was originally approved in Special Use Permit #2253 in 1990, and the approval has been amended several times since.

PROPOSAL

The applicant proposes to operate a “Jimmy John’s” restaurant, a franchise based in the Chicago area. According to the applicant, the restaurant is an upscale eatery offering deli-style sandwiches and gourmet club sandwiches (see attached menu). A detailed account of the applicant’s proposal is as follows:

Hours: The hours of operation are proposed to be 10:00 a.m. to 10:00 p.m. Monday through Friday and 11:00 a.m. to 10:00 p.m. Saturday and Sunday.

Seats: The applicant proposes to have both indoor and outdoor seats. The applicant proposes 72 indoor seats, and 12 outdoor seats on private property. Outdoor tables will be located at the front of the restaurant, on the John Carlyle Street frontage.

Delivery and Catering: The applicant proposes to offer delivery and catering service to area offices for meetings or other events. The applicant anticipates that most of these deliveries can be done on foot or by bicycle, but that there will occasionally be larger orders that may require use of a vehicle.

Employees: Two to eight employees will be present at any given time, with another one to three delivery personnel as business dictates.

Trash: Trash is collected daily by the landlord. The proposed restaurant's trash will be stored in a dumpster managed by the building owner. A porter service monitors litter in the area.

Parking: The applicant proposes to lease up to five parking spaces as needed for employee use. The applicant anticipates that customers during weekdays will almost exclusively walk to the restaurant from within the Carlyle area.

Loading: Loading will occur two times a week between the hours of 10:00 a.m. and 4:00 p.m. two times a week at the loading dock located adjacent to the garage entrance on George Lane.

Neither alcohol service nor live entertainment are not proposed.

PARKING

The parking requirements for the subject building were specified in the Transportation Management Plan (Special Use Permit #2254), and these parking requirements were met for the subject site in the development of the on-site parking garage. The parking garage provides parking for the building's retail and office uses. The applicant is thus not required to provide parking beyond that already provided at the subject site. The final site plan for the subject building shows that there are 17 retail parking spaces and 155 office parking spaces within the on-site parking garage. The applicant proposes to lease five off street spaces for employee use as needed.

ZONING

The subject property is located in the CDD/Coordinated Development District zone. Section 2-602 (A) of the Zoning Ordinance identifies OC/Office Commercial zone as the underlying zone which allows a restaurant only with a special use permit.

MASTER PLAN

The proposed use is consistent with the King Street/Eisenhower Avenue Metro Station Small Area Plan chapter of the Master Plan which designates the property for a use consistent with the CDD.

II. STAFF ANALYSIS

Staff is concerned about this application because it proposes to occupy important Carlyle retail space with a fast food chain restaurant, instead of a full service restaurant, or high end retail or personal service use, consistent with the overall quality of Carlyle and the need to attract additional desirable uses. All three of the restaurants that have opened in Carlyle over the last year have been fast food lunch establishments intended to serve workers in the area, including PTO employees. (Subway Café, SUP# 2002-0095; Uptowner Cafe at 333 John Carlyle, SUP#2003-0070; and Plaza Gourmet at 1940 Duke Street, SUP#2003-0081) Although serving an immediate need, and filling previously vacant space, staff would prefer to see a diverse mix of eating options occupying these important retail spaces, to include sit down dinner establishments that would attract patrons in the evening and contribute to the long term economic viability of the area.

In fact, coincident with the Jimmy John's application, staff is recommending approval of an SUP amendment for Carlyle to provide for desirable retail uses in the limited retail space available there. The SUP amendment, for example, will no longer permit offices to occupy ground floor retail space in Carlyle. As to restaurants, full service restaurants and outdoor restaurant seating will be permitted by administrative permit, not SUP, to provide an incentive for these important uses. While fast food restaurants without full service will still be allowed, the SUP requirement remains in order to ensure that the restaurant is designed to be compatible with the character and design standards required for the Carlyle area.

When Subway approached the City about the space at 1800 Duke Street, around the corner, staff was clear that it would not support the use without extensive upgrades to the interior and exterior design. The success with design improvements at that location motivated staff to take a similar approach in this case.

In the case of Jimmy John's, a sandwich restaurant, with quick, cafeteria style dining, staff has discussed its concerns with the applicant, franchisee, and his landlord, and been assured that the high quality design standards for Carlyle can be achieved in this restaurant space through a series of elements. First, the exterior of the SHRM building will provide an attractive exterior for the business. In addition, the applicant proposes outdoor seating along John Carlyle Street, contributing to an active streetscape. Finally, although the Jimmy John's chain includes some identity defining interior design features of concern to staff (see attached photos and proposed layout sketch), the applicant is willing to work with the City to address its design requirements.

Design Improvements

The application already proposes a decor that includes wooden tables and chairs, exposed brick wall coverings, attractive menu boards and tile flooring. Although the interior decor is an improvement over the plastic tables, chairs, and menu boards typically associated with other fast food restaurants, some elements are still problematic. For instance, the proposal includes a number of signs cluttering the interior of the restaurant. In addition, the service counter is a highly prominent feature of the restaurant, with a flashy stainless steel finish and transparent panels to easily view all aspects of the fast food preparation. After discussing a series of specific ideas for improving the design, to achieve a warmer ambiance and more attractive interior space, the applicant has indicated a willingness to meet design requirements, staff believes it will improve the appearance. Therefore, staff is recommending approval of the proposed restaurant but its approval is expressly conditioned on complying with a series of interior design elements, including the necessity for:

- wood furniture
- softer, nonflourescent lighting
- nonmetallic materials
- enclosed food preparation area, and
- removal of the miscellaneous signs, display cases, and beverage machines from prominent view

With these improvements in design and material, the restaurant itself will be more compatible with its Carlyle surrounding and will also be more likely to help attract additional high quality retail tenants for Carlyle.

Deliveries

Staff does not support a full-service delivery operation at this location, and has included a condition limiting the delivery service to bicycles or by foot, except that a vehicle may be used for very large catering orders only on an infrequent basis, as the applicant requested. To limit the potential for any such vehicle to be parked at the front of the store for advertising purposes, staff also included that the vehicle shall not have store advertising mounted to it.

Staff has included a condition requiring a one year review of the restaurant to ensure that the proposed design elements are enough to ensure that it does not cause any negative economic impacts in the Carlyle development. Staff has also included the standard restaurant conditions. Although the applicant requested more limited hours of operation, staff recommended allowing longer hours, consistent with what was approved at other restaurants in Carlyle, to provide for flexibility if and when the market supports a more upscale eating establishment. The hours are consistent with those approved for the Subway restaurant at 1800 Duke Street and the Uptowner deli at 333 John Carlyle Street.

With these conditions, staff recommends approval of the special use permit.

III. RECOMMENDED CONDITIONS

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

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z)
2. Seating shall be provided for no more than 75 patrons. Outdoor seating is subject to the following:
 - (a) Outdoor seating shall not encroach upon the City right-of-way or the public sidewalk access easement area.
 - (b) Litter shall be picked up as it is generated.
 - (c) The outside dining area shall be cleaned at the close of each day of operation.
 - (d) Any outdoor seating areas, including umbrellas, shall not include advertising signage. (P&Z)
3. The design of the restaurant shall reflect the character, quality and high standards established for Carlyle. The applicant shall prepare an design plan for both interior and exterior areas, to include interior finishes, colors, materials, furniture, lighting and specifications, which shall be to the satisfaction of the Director of Planning and Zoning, and which shall include the following elements:
 - (a) All tables and chairs shall be constructed of wood material and seating areas shall maximize floor areas.
 - (b) Lighting shall be prohibited in the dining and food preparation area. Lighting in these areas shall be kept at low levels to create a warm, attractive ambiance.
 - (c) The vertical face of the food preparation and service counter shall be a high-quality non-metallic surface material, such as wood, that minimizes its visual impact.
 - (d) The screening or sneeze guards above the service counter shall include framing and be composed primarily of opaque elements to minimize visibility of the food preparation area.
 - (e) The self-service beverage machine shall be relocated so that it is minimally visible from the exterior of the restaurant.
 - (f) Racks of chips shall not be prominently displayed in the restaurant. Small containers or baskets of chips are permitted in minimum quantities.

- (g) Interior signage shall be minimized. Decorative signs, except for a few black and white Jimmy John's signs and required directional signs, shall not be permitted along the food service counter but may be consolidated in areas not visible from the street.
 - (h) Refrigerator cases and similar items shall not be placed in visually prominent locations.
 - (i) Menu boards shall be plain, lettered panels without pictures of food.
 - (j) The outdoor dining area shall include planters with four seasons of decorative plant material.
4. No live entertainment shall be provided at the restaurant. (P&Z)
 5. The closing hour shall be no later than 12:00 midnight daily. (P&Z)
 6. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)
 7. No alcoholic beverages shall be sold. (P&Z)
 8. No food, beverages, or other material shall be stored outside. (P&Z)
 9. 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)
 10. 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. (P&Z)
 11. Window signs or posters shall not block the visibility of the interior of the store from the street. Shelving, boxes, coat racks, storage bins, closets, and similar items shall be located where they do not block the windows. All window coverings shall remain open as much as possible and some interior accent lighting shall be provided when the business is closed. The front of the business may not be illuminated by flood lights placed on the sidewalk, trees or poles. (P&Z)
 12. Delivery service is permitted by foot or bicycle only, except that a vehicle may be used infrequently for large orders. The vehicle used for delivery shall not have store advertising mounted to it. (P&Z)

13. Delivery to the business shall not take place between the hours of 7:00 a.m. and 9:30 a.m., or between 4:00 p.m. and 6:00 p.m., Monday through Friday. (P&Z)
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 and Environmental Services. (T&ES)
16. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
17. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey and a robbery awareness program for all employees prior to operation. (Police)
18. 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. (P&Z)
19. The applicant shall conduct employee training sessions on an ongoing basis, and shall discuss all SUP provisions and requirements, as part of that training. (P&Z)
20. The applicant shall require that employees who drive to work use off-street parking. (P&Z)
21. The applicant shall post signs directing patrons to the availability of parking at the on-site underground garage. (P&Z)
22. The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z)

23. 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 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 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)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Valerie Peterson, Urban Planner.

Staff Notes: 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.

Significant exterior changes to the property require review and approval by the Carlyle Design Review Board.

Prior to the commencement of operation the applicant must obtain a business license from the Business Tax Branch.

Signs must conform to Article IX of zoning ordinance and the coordinated sign program approved for Carlyle.

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers.
- R-2 The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- R-3 All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line.
- R-4 The proposed outdoor seating shall not encroach upon the city right of way.
- 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.

Code Enforcement:

- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 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-3 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-5 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC.
- C-6 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-7 The following code requirements apply where food preparation results in the development of grease laden vapors:
 - (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
 - (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.
- C-8 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
 - (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
 - (b) How food stuffs will be stored on site.
 - (c) Rodent baiting plan.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Five sets of plans are to 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-3 Permits must be obtained prior to operation.
- C-4 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-5 Certified Food Managers must be on duty during all hours of operation.
- C-6 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business. This is to be completed prior to opening the business.
- R-2 The applicant is to contact the Crime Prevention Unit of the of the Alexandria Police Department at 703 838-4520 regarding a robbery awareness program for all employees.
- R-3 Recommend “ABC On” license only. License only. If “ABC Off” is approved we recommend the following conditions:
1. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
 2. That the SUP is reviewed after one year.
- F-1 The applicant is not applying for an A.B.C. permit. The Police Department concurs with this. If in the future an A.B.C. permit is sought the Police Department would expect the applicant to abide by recommendation three listed above.

REPORT ATTACHMENTS AVAILABLE IN THE PLANNING AND ZONING OFFICE