

Docket Item #31
SPECIAL USE PERMIT #2004-0041

Planning Commission Meeting
June 1, 2004

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

APPLICANT: Potbelly Sandwiches Works
by Kitty Carlson

LOCATION: 721 King Street

ZONE: CD/Commercial Downtown

STAFF RECOMMENDATION: Staff recommends **denial** of this application. If this application is approved by City Council, staff recommends the approval be subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

I. DISCUSSION

REQUEST

The applicant, Potbelly Sandwiches Works, represented by Kitty Carlson, requests special use permit approval to operate a restaurant located at 721 King Street.

SITE DESCRIPTION

The subject property is one lot of record with 27 feet of frontage on King Street, and a lot area of 2,700 square feet. The site is developed with a one-story 1,920 square feet commercial building currently occupied by a newspaper retail business. It is located in the heart of Old Town Alexandria and surrounded by commercial uses, predominantly restaurants.

PROJECT DESCRIPTION

This application is a request to operate a restaurant with carry-out and delivery service, offering seats to 60 patrons. Potbelly Sandwiches Works is a Chicago restaurant business with more than 50 restaurants in seven states, including Illinois, Minnesota, Wisconsin, Michigan, Virginia, Washington D.C. and Maryland. It caters mainly to the lunch customer and specializes in toasted sandwiches and milkshakes in addition to selling ancillary food items such as soup, chili, chips and beverages. The applicant anticipates a total of approximately 300 customers each day during lunch time. In addition, the applicant seeks permission to allow entertainment during lunch hours in the form of small musical ensembles or soloists. No alcohol service is proposed.

Hours of Operation: The restaurant is proposed to be open between 11:00 A.M. and 10:00 P.M. daily. Its peak hours of business are generally during lunch time.

Employees: The restaurant is proposed to be operated by approximately eight employees per shift, with two shifts daily. A maximum of ten employees will be present at any one time.

Trash: Trash will be collected on a daily basis and littering outside the restaurant will be monitored by the business management.

Loading/Unloading: Loading and unloading operations will occur during the mornings between 7:00 A.M. and 10:00 A.M., three times a week.

The applicant proposes to improve the existing building structurally and aesthetically and to apply the restaurant's antique theme to its interior design (see attached photos). The applicant is aware that all exterior alterations and facade improvements require BAR (Board of Architectural Review) approval.

PARKING

The restaurant's location within the Central Business District of Historic Alexandria exempts the applicant from the requirement to provide off-street parking.

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 recommends denial of this restaurant application based on the City's the Old Town Restaurant Policy adopted by City Council as part of the City's Master Plan. That problem stipulates goals and criteria to be used in order to determine if a new restaurant has a significant impact on a nearby residential neighborhood. It also directs City Council to consider the cumulative impact of the restaurant, including the number of already established restaurants, carryouts, and fast food establishments, and the availability of off-street parking. Finally, it states clearly that:

“The City should do whatever possible to retain a mix of restaurants and shops providing a diversity of goods and services in the King Street area.”

The proposed restaurant would replace a retail store with a restaurant use. In order to assess how the addition of a new restaurant would affect the diversity and balance of uses on this part of King Street, staff conducted an analysis of the number and distribution of existing restaurants along King Street, particularly within the 700 block. The count on both sides of King Street between Columbus and Washington Streets shows a total of 18 properties, eleven of which are occupied by restaurants. The attached map demonstrates that even by extending the perimeter of the count by one block to the west and east, the presence of restaurants is prevailing. The high preponderance of restaurant uses in this part of Old Town suggests that the mix is already out of balance in favor of restaurants and that the City must be vigilant to retain the remaining non-restaurant spaces for other uses. A healthy mix of uses is a significant factor in creating and maintaining a vibrant business district.

Furthermore, the proposed restaurant will, if approved, replace a popular newsstand, thus making a future conversion into a desirable retail use difficult. In this regard, staff finds that an additional restaurant at 721 King Street will not only add to the imbalance of retail and restaurant uses within the core of Old Town Alexandria, but also sets a precedence for restaurant chains to replace local retail businesses. Finally, staff finds that the proposal might create an added parking and litter impact on the neighborhood.

For these reasons, staff recommends denial of the application.

In the event that the application is approved, staff has included the standard restaurant conditions and a condition requiring a review of the restaurant after it has been operational for one year. Although the restaurant's location within the Central Business District of Historic Alexandria exempts the applicant from the requirement to provide off-street parking, staff also recommends a condition that requires the applicant to provide free off-street parking for employees who drive to work, and a condition that required the applicant to encourage public transportation and car pooling.

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)
2. Seating may be provided inside for no more than 60 patrons. (P&Z)
3. The closing hour shall be 12:00 midnight daily. (P&Z)
4. Meals ordered before the closing hour may be served, but no new patrons may be admitted, and all patrons must leave by one hour after the closing hour. (P&Z)
5. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)
6. Indoor live entertainment shall be permitted in form of small musical ensembles to the extent that no amplified sound is audible outside the restaurant. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. (P&Z)
7. No alcohol service shall be permitted. (P&Z)
8. The applicant shall provide free off-street parking for employees who drive to work. (P&Z)
9. 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)

10. No food, beverages, or other material shall be stored outside. (P&Z)
11. The applicant shall install at least one trash container within the restaurant for customers' use. (P&Z)
12. 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)
13. 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)
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. Loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line. (T&ES)
17. 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 and a robbery awareness program for all employees. (Police)
18. 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. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)

20. 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 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, (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 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.

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 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 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-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.

Code Enforcement:

- C-1 The current use is classified as M-Merchantile; the proposed use is A-Assembly. Change of use, in whole or in part, will require a certificate of use and occupancy (USBC 119.4) and compliance with USBC 119.2. 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-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 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-4 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 When a change of use requires a greater degree of structural strength, fire protection, exit facilities or sanitary provisions, a construction permit is required.
- 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. This facility is currently operating as Bittersweet under Alexandria Health Department permit issued to Serendipitous, Inc.
- C-2 Food must be protected at 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 The applicant shall 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.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- R-3 Recommend “ABC On” 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 seeking an A.B.C. permit. The Police Department concurs with this. If the applicant seeks an A.B.C. permit in the future, recommendation number three listed above would be the Police Department’s recommendation.

REPORT ATTACHMENTS AVAILABLE IN THE PLANNING AND ZONING OFFICE