

Docket Item #10
SPECIAL USE PERMIT # 2005-0117

Planning Commission Meeting
January 3, 2006

ISSUE: Consideration of a request for a special use permit to operate a day labor agency.

APPLICANT: Ace Temporaries, Inc.
by M. Catherine Puskar, attorney

LOCATION: 444 Swann Ave

ZONE: I /Industrial

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

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

I. DISCUSSION

REQUEST

The applicant, Ace Temporaries, Inc. requests special use permit approval for the operation of a day labor agency located at 444 Swann Avenue, Unit D.

SITE DESCRIPTION

The subject property is one lot of record with 548 feet of frontage on Swann Avenue, 104 feet of frontage on Jefferson Davis Highway and a total lot area of 87,005 square feet. The site is developed with a one story industrial building as part of the Oakville Industrial Park. Access to the property is from Swann Avenue.

The surrounding area is occupied by a mix of industrial and commercial uses. Immediately to the north is an industrial building, which is also a part



of the Oakville Industrial Park. To the south, across Swann Avenue are industrial uses and a used car operation. To the east is Jefferson Davis Highway and vacant land to be developed as part of the Potomac Yard project and to the west are industrial uses. The closest residential use to the proposed use is approximately 450 feet to the southwest.

BACKGROUND

The applicant has operated a day labor agency in the City for the past 11 years. Its current business is at 717 Pendleton Street, where it has been located since 1998. In 1999, the City passed an ordinance allowing day labor agencies in certain zoning districts only with a Special Use Permit. Existing day labor agencies, such as this one, were required to either obtain a Special Use Permit or cease operations.

The applicant requested a SUP in November 2000 for the continued operation of a day labor agency at 717 Pendleton Street. That application was denied and the applicant was given a 90 day period to relocate the business. Subsequent to the SUP denial in 2000, the applicant challenged the City's zoning regulations, through appeals to the Board of Zoning Appeals and the Circuit Court for the City of Alexandria. The Circuit Court overturned the 1999 day labor ordinance on procedural grounds in July 2003.

In January 2004, the City amended its zoning regulations with regard to the requirements for operation of a day labor agency in the City. All day labor agencies which existed on October 7, 2003 for which a Special Use Permit was not granted were deemed to be nonconforming uses and were to be discontinued. The City passed an Ordinance in February 2004 that required the discontinuance of such day labor agencies within 12 months of the date that the use was first notified of its nonconforming status. In February 2004, the City advised the applicant that it had 12 months to cease its day labor agency operations at 717 Pendleton Street. The applicant appealed the City's determination to the Board of Zoning Appeals, which upheld the City's decision. In February 2005, the applicant requested an extension of the 12 month period. In June 2005, the City Council denied the applicant's extension request.

The applicant and the City are currently in litigation with regard to the applicant's ongoing operations at 717 Pendleton Street. By this application, the applicant is now seeking to relocate its business from 717 Pendleton Street to 444 Swann Avenue.

PROPOSAL

The applicant proposes to operate its day labor agency business in a 5500 square foot space at 444 Swann Avenue, within the Oakville Industrial Park. The applicant proposes to provide temporary laborers to construction and industrial clients and anticipates that a maximum of approximately 100 laborers will report each morning in person, between 4:30 a.m. and 8:00 a.m., to receive assignments for work.

Others will call in or meet at off-site locations for assignment. The number of day laborers on-site at any given time is expected to be approximately 20. The laborers usually receive work assignments within about 20 minutes. Following assignment to work, the laborers are expected to travel to their worksites by their own vehicles or public transportation.

At the end of the workday, between 3 p.m. and 6 p.m., most of the day laborers will report to the office to be paid. The applicant estimates that a maximum of 150 laborers will report daily to be paid. The number of laborers on-site at any one time waiting for payment is expected to be approximately 20.

Following is a brief summary of the proposed operation:

Hours:	4 a.m. to 7 p.m. Monday through Saturday
Number of employees:	The applicant indicates that there will normally be between 2-4 staff present at the business, but that the number may increase to six (6) at certain times.
Noise:	The applicant indicates that noise levels will comply with the City Code. All employees will be required to remain indoors when on-site.
Trash/Litter:	The applicant indicates that approximately 15 cubic feet of trash per week will be generated and will be collected through private means. Receptacles will be provided for disposal of outdoor trash. Outdoor areas will be policed by Ace on a regular basis.
Lighting and Safety:	Lighting will be provided for the site and video surveillance equipment will monitor the interior and exterior of the site.

PARKING

According to Section 8-200(A)(20) of the Zoning Ordinance, the proposed day labor agency is required to provide 14 parking spaces. By SUP # 2688, adopted by City Council on April 17, 1993, an overall reduction in parking was granted to the Oakville Industrial Park, allowing a reduction that resulted in 239 parking spaces being provided for the industrial park. As part of the reduction, an encroachment ordinance was adopted allowing parking within the public right-of-way. Parking for the proposed day labor agency will be provided along Swann Avenue in front of the building as well as in a parking area west of the building. There are a sufficient number of parking spaces to accommodate the proposed use.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the I-Industrial zone. Section 4-1203 (F.1) of the Zoning Ordinance allows a day labor agency in the I-Industrial zone only with a special use permit.

The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for industrial use.

COMMUNITY ASSOCIATION INPUT

The Del Ray Citizens Association Land Use Committee held a meeting on November 17, 2005 to discuss, consider and recommend approval of the proposed use with certain conditions. On December 12, 2005, the Del Ray Citizens Association voted to support the proposed use with conditions, which included: operating the agency in accordance with all proffers; posting a sign near or on the entrance requesting quiet during the early morning hours and to discourage the use of foul language; providing city issued trashcans on the property; providing bathroom fixtures to accommodate the peak number of users; encouraging commercial vehicles with an audible reverse gear warning device to refrain from using the device prior to 7 a.m.

II. STAFF ANALYSIS

The proposed day labor agency provides a useful service in employing day laborers in jobs in the area. The applicant indicates that many of the day laborers are City of Alexandria residents. The location of the business in an industrial park setting is an appropriate place to conduct such a business. The business will be located approximately 450 feet from the nearest residence, thereby providing an appropriate buffer between the proposed use and the adjacent residential area. Swann Avenue does not connect to the adjacent residential area. Pedestrian access within the industrial park is limited. A gate at the end of Swann Avenue prohibits pedestrian access through to the adjacent residential area. Use of this gate should be restricted. There is sufficient parking to accommodate the proposed use. Parking is available along Swann Avenue and to the west of the building for the laborers who will be coming to the business at any given time. According to the applicant, many of those will be using public transportation.

The Del Ray Citizens Association has endorsed the proposed day labor agency and has asked that reasonable conditions be imposed on the operation of the business.

The applicant has agreed to place conditions on the use of the business for a day labor agency that are aimed at discouraging inappropriate behavior, such as requiring day laborers to sign an agreement regarding rules of conduct. The applicant has also agreed to install security cameras on the exterior of their building for use in identifying any inappropriate conduct. The applicant has offered to allow space within their building to be used for a police substation, if so desired by the Police Department. A community liaison will be designated by the applicant as the point of contact in case any issues arise with regard to operation of the business. This contact person should be available at all times during which the business is in operation.

Based on the above, 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 corporation in which the applicant has a controlling interest. (P&Z)
2. The day labor agency shall maintain a waiting room with a seating capacity large enough to accommodate all employees and potential employees on the site at any given time. The waiting room shall be heated and/or cooled to a temperature suitable and comfortable for the agency's employees and shall contain sufficient rest room space to accommodate those on site at any given time. (P&Z)
3. The hours of operation of the day labor agency shall be limited to between Monday through Saturday, 4 a.m. to 7 p.m.. (P&Z)
4. No alcohol or drugs shall be permitted on the premises. (P&Z)
5. The agency's employees will be required to enter the building upon their arrival. The agency's office will not close until all employees have left the premises. (P&Z)
6. The applicant shall prohibit employees and potential employees from waiting or gathering outside the building or in the vicinity of the subject property. The applicant shall require such persons standing outside the building to disperse or to enter the premises. (P&Z)
7. All litter on the site, on the public right-of-way, and on spaces adjacent to or within 100 feet of the premises of the use 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. (P&Z)
8. No vending machines or pay telephones shall be installed outside the building. (P&Z)
9. The applicant shall not establish transport pick up locations within the City other than at Metro stations, inside homeless shelters or other such locations that staff approves. (P&Z)
10. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
11. The applicant shall post a sign at the entrance to the building requesting quiet during early morning hours, especially between 4 a.m and 7 a.m. (P&Z)

12. 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)
13. The applicant shall conduct employee training sessions with permanent staff on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements. (P&Z)
14. The applicant shall require day laborers to sign an agreement identifying rules of conduct, including but not limited to, hours of operation, procedures for where to go once they arrive at the site, prohibition on the use of alcohol and drugs, and standards of behavior regarding noise and inappropriate language.(P&Z)
15. The applicant shall install exterior mounted security cameras on their building, which shall be used to identify any inappropriate behavior by day laborers coming and going to the building. (P&Z)
16. The applicant shall identify a person or persons who will act as the community liaison and shall provide contact information to the City and the community. The community liaison shall be available at all hours that the business is in operation. (P&Z)
17. If the applicant uses commercial vehicles in their business, they are encouraged to refrain from using any audio reverse gear warning device prior to 7 a.m. (P&Z)
18. The applicant shall ensure that no day laborers shall use the gate at the end of Swann Avenue for pedestrian access to and from the day labor agency. (P&Z)
19. Applicant shall provide the City \$1000.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES)
20. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
21. The applicant is to provide space within the interior of the day labor agency for a police substation if requested by the Police Department. (P&Z)
22. The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703 838-4520 regarding a security survey for the business. (Police)

23. The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703 838-4520 regarding a robbery Awareness program for all employees. (Police)
24. The Director of Planning and Zoning shall review the special use permit after it has been operational for six months and again after one year, and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the director has received a request from any person to docket the permit for review, 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;
Richard Josephson, Deputy Director

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

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1 Applicant shall provide the City \$1000.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES)
- R-2 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
- 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:

- F-1 The current building is a single use structure which is vacant. The proposed use includes subdivision of the space and the creation of a new tenant space within the structure.
- C-1 Prior to the issuance of a demolition permit or land disturbance permit, a rodent abatement plan shall be submitted to Code Enforcement that will outline the steps that will be taken to prevent the spread of rodents from the construction site to the surrounding community and sewers.
- C-2 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-4 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.

- C-5 The proposed use is a change in use group classification; a new Certificate of Occupancy is required (USBC 119.1).
- C-6 Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Drawings prepared by a licensed architect or professional engineer shall accompany the permit application. These plans shall show provide existing conditions, construction type data, and a plot plan. In addition, these plans shall show proposed conditions and provide data by the design professional which details how the proposed use will comply with the current edition of the Virginia Uniform Statewide Building Code for the new use in the area of structural strength, means of egress, passive and active fire protection, heating and ventilating systems, handicapped accessibility and plumbing facilities.
- C-7 A Certificate of Use of Occupancy is required prior to opening (USBC 119.1).
- C-8 This structure will contain mixed use groups (types of use groups to be determined at time of each building permit application) and is subject to the mixed use and occupancy requirements of USBC 302.3
- C-9 Certification is required from the owners or owner's agent that the building has been inspected by a licensed asbestos inspector for the presence of asbestos (USBC 112.1.4).
- C-10 Required exits, parking, and accessibility within the building for persons with disabilities must comply with USBC Chapter 11. Handicapped accessible bathrooms shall also be provided.

Health Department:

- F-1 No Comment

Police Department:

- R-1 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703 838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703 838-4520 regarding a robbery Awareness program for all employees.

SUP#2005-0117
444 Swann Ave

**REPORT ATTACHMENTS
AVAILABLE IN THE PLANNING AND ZONING OFFICE**