

The memorandum date April 22, 2005 regarding the proposed amendments to the King Street Retail Strategy and the Outdoor Dining Overlay zone is available in the Planning and Zoning office.

Docket Item #6D & E
TEXT AMENDMENT #2005-0003 (D)
REZONING #2005-0005 (E)
Outdoor Dining Overlay Zone

Planning Commission Meeting
May 3, 2005

ISSUE: Consideration of a request for an amendment for: (1) enactment of Section 6-800 of the Alexandria Zoning Ordinance pertaining to the King Street Outdoor Dining Overlay zone; and (2) amendments to the City of Alexandria zoning map to reflect the King Street Outdoor Dining Overlay zone.

APPLICANT: Department of Planning and Zoning

LOCATION: Properties adjoining King Street, from the Potomac River to the intersection of King Street and Daingerfield Road, and along all intersecting streets north to Cameron Street, and south to Prince Street, and along a portion of the south side of Diagonal Road.

PLANNING COMMISSION ACTION, APRIL 5, 2005: Without objection, the Planning Commission closed the public hearing and deferred action on the request.

Reason: The Planning Commission felt that more time was needed to consider the request.

Speakers:

Michael Hobbs, representing the Old Town Civic Association, spoke to recommend eliminating the provision in the proposed text amendment that reduces permitted sidewalk width to 4 feet around certain obstructions.

Roger Fons, proprietor of Old Town Theater, 815½ King Street, spoke in support of the text amendment. Mr. Fons stated that it is important for his business to be able to offer outdoor seating.

Larry Grossman, 1123 Powhatan Street, spoke in opposition to the text amendment. Mr. Grossman stated that he believes the sidewalks are too narrow for outdoor dining.

Margaret Ticer-Janowski, proprietor of La Bergerie restaurant, 218 N. Lee Street, spoke to defer the proposed text amendment until the fall season. Ms. Ticer-Janowski stated that the pilot programs have not been tested during peak periods of the year in terms of tourism and sidewalk traffic. Ms.

Ticer-Janowski also indicated that she views the proposed text amendment as giving restaurants land to use tax free and that the City should consider charging a fee for the use of sidewalk space.

Poul Hertel, 1217 Michigan Court, spoke in opposition to the text amendment. Mr. Hertel stated that he believes that 4 feet is inadequate space for sidewalks and maintains that the City is “handing over” the sidewalks to the business community. In addition, Mr. Hertel opposes the sight of bar stools or related fixtures on King Street.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission, on its own motion, initiate and approve the following text and map amendments:

1. Enactment of Section 6-700 of the Alexandria Zoning Ordinance pertaining to the King Street Outdoor Dining Overlay zone; and
2. Amendment to the City of Alexandria zoning map to reflect the King Street Outdoor Dining Overlay zone.

BACKGROUND:

This text amendment will create a permanent mechanism for the approval of sidewalk cafe dining on the public right-of-way along King Street and its intersecting streets in Old Town. In September 2004, City Council passed an ordinance establishing a pilot program for sidewalk cafe dining along the King Street corridor. This pilot program remained in effect through the end of 2004 and was designed to see if sidewalk cafe seating dining would be successful, as well as to identify potential issues and gauge input from the public on the desirability of this outdoor dining. City Council passed an extension of the pilot program in February 2005.

These pilot programs have been very successful – helping to produce a lively and active street scene that has been favorable to businesses and enjoyable for residents and visitors. Both residents and business owners have been generally enthusiastic about the program, and there appears to be strong support to warrant continuing such a program on a permanent basis.

Restaurant owners have been pleased to see a simplified administrative process to obtain outdoor dining approval, increase sales and provide a more exciting environment for their customers. Likewise, many residents have stated that outdoor dining has added a favorable new aspect to King Street’s retail scene – a very important and unique component of the City’s overall quality of life.

Further, the aggregate results of the pilot program are consistent with the guiding principles of the *King Street Retail Strategy*. This major planning effort, led by a task force of citizens, businesspeople and property owners, focuses on increasing the overall competitiveness of King Street’s retail sector in the face of new competition elsewhere in the Washington region. The *Strategy* advocates, among other things, increasing street-level vitality, specifically outdoor dining, in order to create a more interesting retail experience for shoppers and restaurant patrons. The outdoor dining pilot programs have achieved this goal.

This text amendment proposes a new Outdoor Dining Overlay zone for King Street and adjoining streets, including specific standards for outdoor dining that incorporate the assessment of the pilot programs.

PROPOSED TEXT AND MAP AMENDMENTS:

In order for restaurant operators along the King Street corridor to provide outdoor dining within the public right-of-way, staff recommends a new Outdoor Dining Overlay zoning and applying the new zone to properties along King Street and the intersecting side streets.

General Aspects

The proposed overlay zone would be applied to properties that abut King Street (from the waterfront to the King Street Metro Station), on the immediate blocks to the north and south of all intersecting streets and along the south sidewalk of Diagonal Road (see map). It is intended that outdoor dining be concentrated along King Street, with opportunity for additional dining on the side streets in the first block immediately adjoining King Street. Only legally operating restaurants will be permitted to operate outdoor dining facilities.

The application procedure has been kept simple. Restaurants will submit an application for a permit, that will include a plan with dimensions showing the layout of the outdoor dining area, depicting the design, location, size and space of the dining area. The plan will also locate the chairs, tables, barriers, umbrellas and any other improvements. Applications will be reviewed by Code Enforcement and Planning and Zoning. City staff will visit the site to verify dimensions and to mark the sidewalk with inconspicuous markers designating the maximum extent of the outdoor dining area.

Program Conditions

This text amendment makes possible an administrative review of outdoor seating proposals, thereby removing the need for each restaurant to pursue an encroachment permit to use the public right-of-way and a special use permit for the addition of restaurant seats. In order for such an administrative review to be possible, specific standards must be followed. These include:

- **Number of Seats:** The total number of seats (both outdoor and indoor) may not exceed the restaurant's previously approved maximum number of seats by more than 20. (Note: If diners are already seated/served outside and it starts to rain, diners may be relocated inside, which may create a dangerous overcrowding issue if the restaurant is already full. During the review process, restaurant owners should consult with Code Enforcement about Building Code requirements for egress capacity, number of exits, and the number and type of restroom facilities to make sure that potential overcrowding will not occur.)
- **Hours of Service:** Outside dining may take place anytime between 6:00 a.m. to 11:00 p.m., seven days a week.
- **Sidewalk Space:** Restaurants utilizing outdoor dining must leave adequate accessible space on the sidewalk in order to ensure a clear pedestrian passageway, as follows:
 - At least 5 feet of unobstructed corridor space must be maintained past the outside dining area. Exceptions may be granted on a case-by-case basis to reduce the sidewalk corridor

space to 4 feet for short spans not to exceed 30 inches. City inspectors will monitor the restaurants to ensure that the 5-foot distance is maintained.

- A space at least 44 inches wide, for unobstructed ingress/egress space, must be maintained between restaurant doorways and the pedestrian traffic corridor.
- Outdoor dining areas located near the curb must leave at least two feet of unobstructed space between the curb and the seating area.
- Umbrellas or other protrusions may not project into the pedestrian way.
- **Accessibility:** Outdoor dining areas must comply with the Americans with Disabilities Act and Uniform Federal Accessibility Standards, as well as any city or state standards for accessibility. Accordingly, outdoor dining areas must be contained by barriers that meet these standards.
- **Public Health:** Outdoor dining areas must be kept neat and clean at all times; restaurants must participate in an approved rodent control program. In addition, no food preparation is permitted in the outside dining area.
- **Design and Appearance:** The design of outdoor dining areas (including types of furniture and fixtures) must comply with any design guidelines approved by the Board of Architectural Review (BAR). These design guidelines are being developed that will recommend a palette of approved types of furniture and fixtures to give restaurateurs maximum flexibility while ensuring quality and appropriate design. Additionally, steps will be taken to keep the outdoor dining areas attractive throughout the year, including:
 - All furniture and fixtures must be readily removable without damage to the surface of the right-of-way.
 - There may be no penetration of the public sidewalk surfaces, except that the City will mark the corners of the approved outdoor dining area with conspicuous markers.
 - Furniture and enclosures must be removed and may not be stored on the public right-of-way for extended periods, such as during the winter months.

STAFF ANALYSIS:

Staff recommends approval of the proposed text amendment to establish a process and standards for outdoor dining in the public right-of-way and, through the map amendment, to apply the outdoor dining zone to properties along King Street and on surrounding streets on a year-round basis. The text amendment builds upon the City's experience gained during the two pilot programs and represents a popular initiative that is in agreement with the principles of the *King Street Retail Strategy*, seeking to make King Street a more active and vibrant pedestrian corridor.

Specifically, the proposed text amendment supports the goals of the *King Street Retail Strategy* on the following aspects:

- ***Increases street-level activity:*** A major thrust of the *King Street Retail Strategy* has been the desire to make the pedestrian experience as interesting as possible for retail patrons along King Street. Outdoor dining adds a liveliness to the sidewalk, which helps to ensure to a pedestrian-oriented urban retail corridor.
- ***Increases King Street's competitiveness:*** Many other retail/restaurant districts in the region, including some of King Street's most notable competition, offer outdoor dining. Outdoor dining has become a signature offering in places such as Shirlington, Clarendon and Bethesda, Md., and has become an amenity that restaurant patrons expect to see in urban settings such as King Street.
- ***Benefits businesses and residents alike:*** Restaurant owners have been pleased to be able to offer outdoor dining, and the program has generally received positive feedback from residents as well

This proposed text amendment will continue to help achieve these goals while at the same time addressing concerns that were raised by members of the community during the course of the pilot programs. These concerns included the following:

- ***Sidewalk width:*** Staff has received comments from individuals concerned that inadequate sidewalk width was maintained by some restaurants during the pilot programs. This issue has been addressed in this text amendment and in the King Street Urban Retail zone text by requiring a five-foot minimum sidewalk width, by having city inspectors verify restaurants' site drawings, by having city staff mark the sidewalks with identifying markers to make enforcement easier, and by authorizing the director to revoke a restaurant's outdoor dining permit based on violations. Staff believes that these measures will safeguard against restaurants using more sidewalk space than permitted.

Concern has recently been raised by one of the civic associations about the provision to allow the sidewalk width to be reduced on a case-by-case basis to four feet for short distances not to exceed 30 inches. The intent of this provision is to provide some flexibility in limited cases for obstructions such as a fire hydrant or tree, where it is not possible to have a layout that meets the standard. The concern expressed by the civic association representatives is that this will further reduce the sidewalk width below the five feet requirement, which they considered to be the very minimum needed to accommodate pedestrian flow along King Street.

- **Health concerns:** Staff received complaints about the possible negative effects of outdoor dining on public health, specifically resulting from potential increased rodent activity. This proposed text amendment stipulates that restaurants offering outdoor dining participate in a rodent control plan, which staff believes should mitigate any rodent issues resulting from outdoor dining.
- **Accessibility issues:** Members of the public were concerned about the effect of outdoor dining areas on persons with disabilities – including the ability of persons using wheelchairs to navigate narrow sidewalk areas and the ability of visually impaired persons to detect the outdoor seating area. This text amendment addresses these concerns. Sidewalk width regulations, as described above, will be actively enforced to ensure that all individuals will be able to use the public right-of-way. In addition, this text amendment requires restaurants to enclose outdoor dining areas with barriers that are detectable to visually impaired persons.

The outdoor dining pilot programs have been very successful, popular with businesspeople and with residents, and have given the City an understanding of the major issues involved with outdoor dining. This text amendment will be beneficial to the King Street retail corridor and to all Alexandrians.

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Kimberley Fogle, Chief, Neighborhood Planning and Community Development;
Eric Forman, Urban Planner.

TA #2005-0003
REZ #2005-0005
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**REPORT ATTACHMENTS
AVAILABLE IN THE PLANNING AND OFFICE OFFICE**