

Docket Item #7
SPECIAL USE PERMIT #2005-0032

Planning Commission Meeting
June 7, 2005

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

APPLICANT: Catering by Charlene
by Charlene Dantzer-Henry

LOCATION: 104 N. West Street (Parcel address: 1401 King Street)

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.

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

I. DISCUSSION

REQUEST

The applicant, Ms. Charlene Dantzler-Henry, requests special use permit approval for the operation of a carry-out restaurant located at 104 N. West Street.

SITE DESCRIPTION

The subject property is one lot of record located on the northwest corner of King Street and North West Street, with 22.1 feet of frontage on King Street, 100 feet of frontage on North West Street, and a total lot area of 2,210 square feet. The site is developed with a two-story, 2,744-square foot brick building built in the late 19th century. Entrances to the first floor of this building include a front entrance and a rear entrance; a separate side entrance provides access to the second floor office suite directly from North West Street. Vehicular access to the property is from an alley that runs in the rear of the 1400 block of King Street, from North West Street to North Peyton Street. The rear of this property contains a surface parking area containing three marked parking spaces.

Currently, the building at 1401 King Street contains a retail store (K. Aubrey Flowers) on the ground floor and an architectural firm, James L. Brown & Associates, on the second story. The remainder of the north side of the 1400 block of King Street is mostly in personal service and office uses, with K. Aubrey Flowers as the only current retail establishment. The south side of this block contains a mixture of retail and office uses.



North of this property, beyond the shared rear alley, is a private residence (108 North West Street). The west side of the 100 block of North West Street is entirely residential, while the east side of the street contains an 18,000-square foot office building and a 4,500-square foot retail building.

The proposed restaurant location consists of approximately 250 square feet of space in the rear of the building's ground floor – in part of the space currently occupied by K. Aubrey Flowers. The proposed restaurant will have its customer entrance at the rear of the building, while the flower shop and the restaurant will connect within the building's interior.

PROJECT DESCRIPTION

The applicant requests approval to operate a carry-out “food bar” restaurant in a 250-square foot space that is to be created from space currently occupied by a retail florist. The florist will continue to operate once the restaurant is established, and the two enterprises will function closely, according to their respective proprietors. This restaurant will provide sandwiches, luncheon meats, fruits and

vegetables, and platters of the same for pick-up and carry-out service, and will also offer catering services (amounting to approximately 20 percent of gross receipts, according to the applicant). The applicant anticipates approximately 20 restaurant customers per day at the initial stages of the restaurant’s operation. No alcohol service is proposed.

This proposed restaurant’s main entrance would be at the existing rear entry to the building – the applicant intends to improve the appearance of this entrance to make it more retail-appropriate. The applicant, Ms. Charlene Dantzer-Henry, has been in the food service business in Old Town for two decades, most recently running a catering and “chef-on-site” business named Catering by Charlene. Ms. Dantzer-Henry’s proposal to establish a carry-out restaurant at 1401 King Street is an effort to expand her existing venture by operating as a restaurant in a permanent location.



Seats: None. The restaurant will be carry-out only.

Hours: Restaurant hours of operation will be Monday through Friday from 9:00 a.m. to 5:00 p.m., with the peak hours anticipated at lunchtime and in the hours following lunchtime.

Catering: Catering operations may take place at other times, including evenings and/or weekends, not to extend beyond 10:00 p.m. According to the applicant, approximately 20 percent of gross receipts are estimated to come from catering, and that any vehicles used for catering delivery purposes will be passenger vehicles or light-duty commercial vehicles.

Employees: The applicant anticipates two full-time employees per day.

Trash: The applicant anticipates generating the equivalent of approximately one standard garbage bag (4 to 5 cubic feet) of trash per day. Trash containers are located at the back of the building, however the applicant advises that employees will take refuse daily to the City refuse collection site on Eisenhower Avenue.

PARKING

The proposed restaurant's location within the City's Central Business District exempts the applicant from requirements to provide off-street parking, as per Section 8-300(B) of the Zoning Ordinance.

According to the applicant, much of the restaurant's retail business will result from patrons who walk to the restaurant from nearby residences or offices. For patrons who drive, there are metered on-street parking spaces in front of the building.

ZONING/MASTER PLAN DESIGNATION

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 King Street/Eisenhower Avenue Metro Station chapter of the Master Plan, which designates the property for commercial downtown use.

Additionally, the subject property is located within the area covered by the proposed *King Street Retail Strategy* and by the proposed King Street Urban Retail (KR) zone. As with the CD zone, the proposed King Street Urban Retail zone will allow restaurants only with a special use permit, as per § 6-702(A)(2)(k) of the proposed text amendment to the Zoning Ordinance. The proposed use is consistent with the King Street Retail Strategy, which advocates active retail uses on the ground floor of buildings along King Street.

II. STAFF ANALYSIS

Staff supports the special use permit for a carry-out restaurant at 1401 King Street for three principal reasons:

- This action would place an "active" retail/restaurant use in a ground-floor location and would promote a small, independent business. This is in concordance with the goals of the *King Street Retail Strategy*, which states that King Street's image "is heightened by the presence of many smaller locally-owned businesses."
- The compact size of the proposed establishment (250 sq. ft.) means that there will be few negative externalities (i.e., parking, heavy customer traffic, etc.) to nearby residential areas.
- The proposed location within an existing retail store (K. Aubrey Flowers) suggests that there will be little or no modifications to the King Street streetscape. The proposed entrance to the restaurant at the rear of the building would improve the streetscape along North West Street.

The proposed restaurant is not a “restaurant” in the traditional sense of the term. At 250 sq. ft., the applicant labels the proposal as a “food bar,” offering quick carry-out service for items such as sandwiches, fruit platters, and small dinners. Nearly all of the proposed store area would be used for food preparation, with one three-bay sink, one commercial-grade oven and one commercial-grade refrigerator. The customer area will be limited to standing room at a counter immediately within the existing rear entrance to the building.

Situated in the back of an existing retail store, the proposed food bar would be unobtrusive to the King Street streetscape and would not likely contribute to parking supply issues or bring about other potentially negative effects of traditional restaurants. The applicant anticipates that much patronage would result from walk-in traffic from nearby residents or employees, or from customers of the co-located flower shop.

This proposal contains a catering element as well, which would operate at times of peak catering demand, most often on evenings or weekends when the retail food bar is closed. Because of the small size of the proposed operation, staff does not anticipate negative impacts on the nearby community that could potentially result from larger-scale catering businesses, such as heavy delivery traffic. According to the applicant, the vehicle used to make the catering deliveries would be parked in the property’s rear lot.

Generally, an establishment with a catering component would not be favored on a retail-intensive street such as King Street, but the small scale of this proposed business and the fact that it is not a stand-alone operation but rather one that is co-located within an existing retail shop mitigates the potential concerns arising from larger restaurant or catering establishments.

Staff recommends a number of special conditions pertaining to this application. Since the proposed use contains a catering component, which would only be permitted as an ancillary use to the carry-out restaurant, staff will require that the applicant provide evidence, after the use is operational for one year, that the restaurant use is the primary use and that catering is a subordinate use (such evidence could be in the form of gross receipts from each of the two components). Staff will also require that any vehicle used for the catering component of this proposed business will be no larger than a light-duty commercial vehicle, so to reduce any potential disruption to the nearby residential area. In addition, since the restaurant will be in the rear of the building, staff would like to see that the public will be able to determine that a restaurant exists on the property. The applicant should provide a means of showing this, such as a sign on the front or side of the building identifying the restaurant by name.

This proposed business would complement the existing retail offerings of King Street, and due to its small size, would generate minimal negative impacts. Therefore, 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. No interior seating shall be provided for patrons. (P&Z)
3. No live entertainment shall be provided at the restaurant. (P&Z)
4. The hours of operation of the restaurant shall be limited to between 9:00 a.m. and 8:00 p.m. daily. Ancillary food preparation for catering shall be permitted until 10:00 p.m. daily. (P&Z)
5. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)
6. No alcoholic beverages shall be sold. (P&Z)
7. No food, beverages, or other material shall be stored outside. (P&Z)
8. Trash and garbage shall be stored inside or in a dumpster. (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. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)

12. 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. (T&ES)
13. All loudspeakers shall be prohibited from the exterior of the building and no amplified noise shall be audible at the property line. (T&ES)
14. Applicant shall provide \$850/ea to the Director of T&ES for the purchase and installation of City standard street cans along the public streets. (T&ES)
15. 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)
16. 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)
17. 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)
18. The applicant shall require that its employees who drive use off-street parking. (P&Z)
19. Approval of this special use permit is contingent upon the applicant's compliance with all Code requirements and Change of Use requirements listed under Code Comments at the back of this document. (P&Z)
20. After the business has been operational for one year, the business shall provide to the Director of Planning and Zoning evidence that the preponderance of gross receipts generated by the establishment over the course of the one-year period has been generated by restaurant sales, as opposed to any and all other ancillary uses, including but not limited to catering operations. (P&Z)
21. Any vehicle used by or at the direction of the applicant, on or adjacent to the property known as 1401 King Street for purposes related to catering must have a Gross Vehicle Weight Rating (GVWR) no greater than 8,500 lbs. (P&Z)
22. The applicant must display one or more permanent signs, containing the name of the restaurant, clearly visible to pedestrians and motorists on North West Street. (P&Z)

23. The Director of Planning and Zoning shall review the special use permit one year after the business is operational 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;
Richard Josephson, Deputy Director;
Eric Forman, Urban Planner.

Staff Note: In accordance with § 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 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 noise shall be audible at the property line.
- R-4 Applicant shall provide \$850/ea to the Director of T&ES for the purchase and installation of City standard street cans along the public streets.

Code Enforcement:

- F-1 The current space is classified a B, Business. The proposed SUP requests a subdivision of the space for a catering business. The configuration of the new space will effect current rear egress conditions and a change of use. The following conditions shall apply to this application:
- C-1 The current use is classified as B, Business; the proposed additional tenant 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 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-3 The proposed use constitutes a change in use group classification. New Certificates of Occupancy are required (USBC 119.1). The space contains mixed uses and each certificate must specify use group, type of construction, and occupant load (USBC 119.4).
- C-4 This structure contains mixed use groups (B, Business; F, Factory) and is subject to the mixed use and occupancy requirements of USBC 302.3.
- C-5 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-6 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-7 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-8 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-9 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.
- C-10 A Certificate of Use of Occupancy is required prior to opening (USBC 119.1).
- C-11 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-12 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 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 plans review of food facilities.
- C-3 Permits must be obtained prior to operation.
- C-4 The 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.
- R-1 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 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.
- R-3 The applicant is not seeking an “ABC” permit. The Police Department concurs.

SUP#2005-0032

104 N. West Street (Parcel Address: 1401 King Street)

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