

Docket Item #18
SPECIAL USE PERMIT #2005-0081

Planning Commission Meeting
September 8, 2005

ISSUE: Consideration of a request for a special use permit amendment to reallocate a portion of the indoor seating to outdoor patio of a restaurant.

APPLICANT: Afghan Restaurant
by Harry Hart, attorney

LOCATION: 2700 and 2706 Jefferson Davis Highway

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, Afghan Restaurant, requests special use permit approval for the reallocation of a portion of the indoor seating to the outdoor patio located at 2700 and 2706 Jefferson Davis Highway.

SITE DESCRIPTION

The subject property is two lots of record with approximately 166 feet of frontage on Jefferson Davis Highway, 93 feet of frontage along Calvert Avenue, 160 feet of frontage on East Raymond Avenue, and a total lot area of 28,610 square feet. The site is developed with a single-story restaurant. Access to the property is from East Raymond Avenue.



The surrounding area is occupied by a mix of commercial uses. Immediately to the north is National Tire and Battery (NTB). To the south is a self-storage facility. To the east is the future Potomac Yard development and west is a restaurant equipment supplier and a pizza carry-out restaurant.

BACKGROUND

A restaurant has operated in this location since the 1940s. On September 19, 1993, City Council granted Special Use Permit #2719 to Qasam Abassi to reestablish the former restaurant use. After his original approval, the applicant had obtained additional approvals to allow live entertainment, increase the number of seats inside the restaurant, and reduce the parking requirement.

In June 2001, City Council considered revoking the special use permit for this restaurant, based on a series of violations. Specifically, the restaurant was renting out the facility to others who held entertainment events, including GoGo dances on weekends. In addition to being a violation of the then applicable entertainment condition, and the conditions regarding noise and hours, one event resulted in a stabbing and the arrest of two others for disorderly conduct. Staff recommended that the permit be revoked because the violations were similar to violations involving entertainment events which had occurred in the 1994-1996 time period, and because such events create a nuisance for the neighborhood and an unfair demand for police resources.

The restaurant was reviewed in December 2001 successfully, in that there had been no violations or incidents at the restaurant between June and December 2001. At that time, the applicant requested that its hours of operation be extended until 1:00 a.m., but the request was not granted.

On June 15, 2002, City Council granted Special Use Permit #2002-0025, as a review of the previous Special Use Permit #2001-0065. As part of SUP#2002-0025, the approved closing hours were revised from midnight to 11:00 p.m., except on Friday and Saturday evenings during scheduled wedding events, when the restaurant is permitted to operate until 1:00 a.m.

The restaurant was inspected in August 2003, and no violations were found. In September 2003, the restaurant was issued a ticket after the City received a complaint that the restaurant was operating later than 11:00 p.m. on a Sunday. After the ticket was issued, no further complaints were received.

In August 2005, inspections were made at the subject property to determine if the business was in compliance with the conditions of its special use permit. Several violations were identified, including landscaping which was not free of weeds or kept in good condition (condition #17 and 18), lack of signage directing patrons at the parking lot entrances to additional parking at the adjoining NTB (condition #27), debris in the parking lot (condition # 10). Once notified, the applicant began to correct the violations.

PROPOSAL

The restaurant has requested to move 35 of the 280 indoor seats to the outdoor patio area when the weather permits. No other changes to the operation have been requested.

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|---------------------|---|
| Hours: | The applicant does not propose any changes to the existing approved hours of 7:00 a.m. to 11:00 p.m. daily and until 1:00 a.m. on Fridays and Saturdays for scheduled wedding events. |
| Seating: | The request is to move 35 seats from the indoor dining area to the outdoor patio when weather permits. The total number of seats for the restaurant would remain 280. |
| Alcohol: | The restaurant would continue to serve alcoholic beverages, beer, and wine for on-premises consumption. |
| Live Entertainment: | Live entertainment would continue to be permitted for scheduled wedding ceremonies only. |
| Noise: | Significant additional noise is not expected from patrons. The outdoor seating area faces the parking lot and commercial buildings. |
| Trash/Litter: | The applicant will continue its practice of picking up litter within 75 feet of the premises at least twice a day. Trash shall be emptied regularly. |

PARKING

According to Section 8-200 (A)(8) of the Zoning Ordinance, a restaurant requires one parking space for every four seats. A restaurant with 280 seats is required to provide 70 off-street parking spaces. The adjacent parking lot provides 59 spaces, and the restaurant has an agreement with National Tire and Battery across East Raymond Avenue for use of an additional 11 parking spaces in order to meet the requirement.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the I/Industrial zone. Section 4-1203 of the Zoning Ordinance allows a restaurant in the 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.

NEIGHBORHOOD OUTREACH

On August 11, 2005, staff attended the Del Ray Land Use Committee meeting. Committee members expressed concern over late-night dining and the condition of the landscaping and litter on the site, but were generally supportive provided the violations were corrected and conditions placed on the outdoor dining.

II. STAFF ANALYSIS

Staff supports seasonal outdoor dining at this restaurant.

Although supportive, staff is mindful of the violations at the site and the need to protect the surrounding community from potential impacts of outdoor dining at this location. Staff has notified the applicant of the violations and although the applicant has worked toward correcting them, staff has revised several of the conditions to put deadlines on when the conditions must be met. Staff and the community has some concern over the use of the outdoor dining area late at night. To address this concern, the condition of permitted hours of operation has been amended to restrict the hours of the outdoor dining to 10:00 p.m. daily, with cleanup of the area required by 10:30 p.m. In addition, only seated dining would be permitted within the outdoor dining area.

Staff generally supports outdoor dining opportunities and believes that outdoor dining at this location may encourage the applicant to better maintain the property.

With the following 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) (SUP #2719)
2. **CONDITION AMENDED BY STAFF:** Seating shall be provided ~~inside~~ for no more than 280 patrons. Up to 35 of the total 280 seats may be provided in an outdoor dining area in front of the restaurant. The outdoor dining area shall only be used for seated patrons. (P&Z) (SUP #95-0101)
3. **CONDITION DELETED BY STAFF:** ~~No outside dining facilities shall be located on the premises.~~ (P&Z) (SUP #2719) (P&Z)
4. **CONDITION AMENDED BY STAFF:** The hours of operation shall be limited to 7:00 a.m. to 11:00 p.m. daily, except that the restaurant may stay opened until 1:00 a.m. on Fridays and Saturdays for scheduled wedding events. The hours for the outdoor dining area are 7:00 a.m. to 10:00 p.m. daily. Clean up of the outdoor seating area is to be completed by 10:30 p.m.(PC) (P&Z)
5. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #2719)
6. 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) (SUP 96-0029)
7. No music or amplified sound shall be audible at the property line. (P&Z) (SUP #2719)
8. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #2719)
9. At least one trash container shall be located in the parking area for the use of patrons, the container shall not be permitted to overflow, and the area around it shall be kept clean. (P&Z) (SUP #96-0166)

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 more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (SUP #2719)
11. No live entertainment shall be allowed except for scheduled wedding ceremonies. (P&Z) (SUP#2001-0053)
12. The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of T&ES. (P&Z) (SUP #2001-0065)
13. Kitchen or other types of equipment shall not be cleaned outside, nor shall any cooking residues or wastes be washed into the streets, alleys, sidewalks or storm sewers. (T&ES) (SUP #2001-0065)
14. Private security guards shall be provided from 10:00 p.m. to one hour after the closing hour for weddings or special events. (CC) (SUP #2001-0053)
15. Condition deleted. (P&Z) (SUP #97-0077)
16. On each anniversary of the approval of the special use permit, in November of each year, the applicant shall provide to the Director of Planning and Zoning a copy of the lease or other arrangement by which the applicant makes 11 off-site parking spaces available. If at any time the off-site parking becomes unavailable, the applicant shall remove 44 seats. (P&Z) (SUP #96-0029)
17. **(CONDITION AMENDED BY STAFF):** The applicant shall maintain the landscaping according to the approved plan in good condition within 30 days of approval. (P&Z) (~~SUP #96-0029~~)
18. The applicant shall keep the site and landscaping free of weeds. (P&Z)(SUP #95-0101)
19. No untagged vehicles shall be parked on the lot at any time. (P&Z) (SUP #95-0101)
20. Lighting shall be installed in the parking lot to the satisfaction of the Director of Transportation and Environmental Services and the Police Department. (T&ES) (Police)(SUP #95-0101)
21. Street address numbers shall be maintained. (T&ES) (SUP #95-0101)

22. The pad and enclosure for the dumpster shall be maintained to the satisfaction of the Director of Planning and Zoning and Director of Department of Transportation and Environmental Services. (T&ES) (P&Z) (SUP #96-0029)
23. The shed shall be painted and maintained to the satisfaction of the Director of Planning and Zoning. (PC) (SUP #96-0029)
24. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit ~~one year after approval~~ 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 has received a request from any person to docket the permit for review, ~~as a result from 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) (~~SUP #2002-0025~~)
25. **CONDITION AMENDED BY STAFF:** 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. Patrons within the outdoor dining area must leave, and the outdoor area must be cleaned one-half hour after the closing hour of the outdoor dining area. (P&Z) (~~SUP #2002-0025~~)
26. The use of loudspeakers outside of the building shall be prohibited. (T&ES) (SUP #2002-0025)
27. **CONDITION AMENDED BY STAFF:** The applicant shall post signs at the parking lot entrances indicating that additional parking is available on the other side of ~~Hume Avenue~~ East Raymond Avenue at NTB. Signs are to be posted within 30 days of approval. (~~PC~~) (~~SUP #2002-0025~~) (P&Z)
28. 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)
29. 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, and on how to prevent underage sales of alcohol. (P&Z)

30. All required inspections and approvals shall be completed for permit # BLD2004-01362 and final approval of the front deck shall be obtained prior to use. (Code)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
Lorrie Pearson, 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:

F-1 No new comments, carry forward current conditions

Code Enforcement:

F-1 The referenced deck in this application has not been approved by Code Enforcement. No building final inspections for building permit BLD2004-01362 have been completed. Several outstanding building code issues have not been resolved per the permit record. The applicant shall resolve all building permit issues and obtain all required final inspections and approvals for the deck prior to continuing with the SUP application.

F-2 The applicant is proposing shifting 35 approved seats from the interior of the structure to the exterior of the structure on a seasonal basis. The current approved occupant load shall remain in effect and shall apply to the combined total of exterior and interior seating. No increase in occupant load shall occur without approval of the Code Official and conformance with the requirements of the USBC.

C-1 All required inspections and approvals shall be completed for permit # BLD2004-01362 and final approval of the front deck shall be obtained prior to use.

Once approved, the following conditions shall apply:

- C-2 Any configuration of outdoor seating shall comply with the following conditions:
- Fire Dept. Connections must remain accessible - not be blocked by tables or fixtures.
 - Daily Sweeping/washing of outdoor dining area is recommended to control rodent activity.
 - Fire Hydrants shall not be obstructed by tables, chairs or other fixtures.
 - The configuration of any outdoor seating shall not obstruct or diminish the required egress from the structure or any adjacent structures.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Food must be protected to 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 plans review of 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.

Police Department:

- F-1 The Police Department has no objections.

SUP#2005-0081
2700 and 2706 Jefferson Davis Highway

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